

11.1 1976 Peter Potter: The first person to do something

In 1967 Peter Potter moved with his family from Victoria to a farm near Katanning where he still lives. He commenced a longstanding involvement in the scouting movement in 1968 and ultimately became "District Scouter" for the Great Southern Region. In 1976 he was the Scoutmaster of the "First Katanning Scouts" and also responsible for overseeing a second Scout troop in the town. This required him to attend scout meetings approximately three nights per week at various scout halls in Katanning.

Mr Potter remembers that prior to Dennis McKenna becoming Warden at St Andrew's Hostel a few of the Hostel boys were members of Katanning Scout troops. He also remembers a particular incident involving two of those boys when McKenna was still "new" at the Hostel. He believes that this happened during 1976.

The two Hostel students were members of a Scout Patrol comprising six or eight boys. They were not mixing well with the other members of the Patrol and one night Mr Potter spoke to them about this while they were outside a scout hall waiting to be collected to return to the Hostel:

"A. I was trying to encourage them to join in activities. They got talking about what Mr McKenna had been doing to them and they told me he had been molesting them..."

Q. Did they use the word "molesting", was that their word?

A. Yes. Originally "molesting". When I tried to get out what (he was) doing, they said "Doing things to us that we don't want to do". That was virtually what they said.

Q. Did they elaborate?

A. No...I tried to pump them a bit but they wouldn't (say) anything more. They got very ashamed.

.....

Q. What did you say to them about that?

A. I just said "You should tell someone else in authority, tell your parents or tell someone" and they just clammed up. They...wouldn't answer me back or say anything, either of them. I actually pushed them back in the shell, I'd say. Probably did the wrong thing." (t 3596-7, 3598-9)

Mr Potter was unwilling to let the matter rest and within a week of his conversation with the two boys he approached three local ministers of religion for advice on how to handle the situation. He took this step because he considered that the ministers were like doctors and police and could be "trusted". He also thought that the ministers were "supposed to be protectors of the community" (t 3600). Accordingly, he visited in turn the Anglican minister, the Uniting Church minister, and the Catholic priest in Katanning, but they all gave him the same answer. Their advice was to the effect that McKenna was:

“...doing great work around town. He’s got the kids in all sorts of sports and that and you will be into defamation of his character, and you will cause trouble, you will end up in court” (t 3599)

Mr Potter remembers that the Uniting Church minister in particular “couldn’t care less” and brushed him aside (t 3601). The Catholic priest got “really wild” and for some reason thought that Mr Potter was “really, really bad” (t 3600).

The impression that Mr Potter gained from his discussions with the ministers and the priest was that they all thought he was “a nutter”. Virtually all of them said that Mr Potter would “end up having a defamation case”, which concerned him because he did not “want to end up in court” (t 3600). Nevertheless, Mr Potter decided to pursue the matter with a local policeman who happened to be the father of one of his scouts. When the policeman next came to the scout hall to collect his son Mr Potter approached him and sought his advice. The policeman was not “angry or anything” about Mr Potter’s approach but told him that he was “putting his neck on the line” because of McKenna’s reputation in the community. The policeman also said that:

“If you were going to go this way, you are going to have to get backup, or you are putting your neck out on the line yourself” (t 3603).

By this stage Mr Potter was scared that he was “getting into hot water” so he decided to follow the policeman’s advice and “get the boys to talk”. However, when he spoke to the two boys again and suggested that they go with him to see the ministers or the police, they each refused to do so (t 3603).

Without any “backup” from the two boys Mr Potter worried about the risk of defamation proceedings, and felt that he could do nothing more. He decided not to contact the parents of the boys because he thought it would be “just about impossible” to approach anyone he did not know to say: “Hey, your son is being molested” (t 3611).

Because these events occurred more than 35 years ago Mr Potter is unable to recall the identities of any of the two ministers, the priest or the policeman that he spoke to. During 1976 there were three successive ministers in the Anglican Parish of Katanning. Michael Harford was the first of those Anglican ministers and he departed the Parish in February 1976. Reverend Harford was then succeeded by a “locum” priest (who remained in Katanning until late November) and Mr Potter believes that it was that priest whom he spoke to (t 360). The locum priest (Reverend W. E. Henn) is now deceased.

It was not until June 1977 that the Uniting Church was formed, so it was probably either a Methodist, Presbyterian, or Congregational minister that Mr Potter spoke to from that denomination. There were three Catholic priests who were possibly at Katanning at different times during 1976. All of them are now deceased.

The actions taken by Mr Potter would seem to be the earliest attempt by anyone to respond to allegations of sexual misconduct by McKenna. However, he ceased these attempts because of his fear of defamation proceedings (which is a factor which was to deter many others over the following 14 years). Nevertheless, Mr Potter set a very high standard by which to compare the conduct of others and displayed commendable qualities of citizenship. It is obvious that he also cared for the wellbeing of the young people under his care and it is a great pity that there were not more people like him in the local community. The response that Mr Potter received from the local religious leaders was very disappointing, but also

typical of a similar lack of action by other community leaders during the years which were to follow. Regrettably there were many "trusted" people who were "supposed to be protectors of the community" who failed to fulfil those roles. They not only let down the community as a whole, but more importantly failed to take the lead in ensuring that the children at the Hostel were not being sexually molested.

Conclusion

None of the individuals who Mr Potter approached with the allegations were "public officials". Nevertheless their failure to respond appropriately to what he told them was a major contributing factor to McKenna's ability to continue offending over the following 14 years.

11.2 1975-1978: Maude Bruce the Hostel laundress

Between 1965 and 1978 Maude Bruce (now deceased) was employed as the laundress at the St Andrew's Hostel. After Mrs Bruce's husband passed away in 1974 she experienced some financial stress, and the income she was earning from the Hostel became very important to her.

Mrs Bruce had a daughter Susan (now Mrs Susan Cox) who moved out of the Bruce household in 1973 but returned to live with her mother in 1975. By then Mrs Cox was aged 18 years and was an unemployed single mother. However she would "still hang around" with some of the girls from the high school and for that reason was often at the Hostel.

It is Mrs Cox's evidence that some of the boys at the Hostel would often confide things to her mother, and that whenever Dennis McKenna suspected that this was happening "he would sneak down to the laundry to eavesdrop on what was being said". Mrs Cox herself caught McKenna eavesdropping in this way on a number of occasions (t 3620).

One day Mrs Cox told her mother that she thought McKenna was "queer" because he did not like any of the women or the girls at the Hostel. Mrs Bruce did not immediately comment on that suggestion, but later told her daughter that she was right. Mrs Bruce also said: "he doesn't like women, he likes little boys, the ones that are here" (t 3620). In that regard:

"Mum once told me that some of the boys would often talk to her and they would tell her that after lights out Dennis would come and get four to seven boys out of bed and take them to his room where he would get them to dress up in female dresses, high heels, wigs and make-up.

He would then judge them and then he would keep one or two of them in his room. The rest (he) would send back to their beds.

The boys who had to stay back would be forced to do sexual favours on Dennis.

Mum reckons that a number of the boys would speak with her about the abuse at least every week, but she never gave me names." (t 3621)

Mrs Cox also clearly remembers asking her mother "why people were not doing anything about what Dennis was doing to those boys". Her mother responded that "she tried to raise the issue with people, but she was told that because she did not have any kids residing at the Hostel, there was nothing she could do". Amongst the people that her mother said she had seen about this were Mrs Cox's uncle, her cousin, and a minister of a church (t 3620-1).

McKenna obviously became alarmed that some of his victims may have been disclosing sexual abuse to Mrs Bruce. At one point he banned all boys from visiting the laundry before 4pm (which was the time at which Mrs Bruce ceased work). Ultimately McKenna took the unjustified step of terminating Mrs Bruce's employment on the pretext that the laundry was being privatised.

Although the above information concerning Mrs Bruce is hearsay evidence, I consider it to be reliable. I am satisfied that she did seek advice from relatives and from a minister of a church on what she should do about the disclosures from the Hostel boys who had confided in her. It can be assumed that the response she received from the church minister would have been similar to that given to Mr Peter Potter, a scout leader at around the same time. Another factor that probably deterred Mrs Bruce from taking further action is that her financial situation required that she keep her employment. In all of these circumstances her approach to the church minister was perhaps the most that reasonably could have been expected of her.

Conclusion

1. As Mrs Bruce was an employee of the State Government she was also a “public official” within the meaning of the PSM Act (even though that legislation did not exist at the time). Accordingly her response to the allegations of sexual abuse which were made by the boys who confided in her was conduct which falls within the scope of the present Inquiry.
2. In her capacity as a laundress Mrs Bruce could not be expected to respond in the same way as a public official such as a child protection officer. In reality her response was that of an ordinary decent citizen. In my view, Mrs Bruce did all that could be reasonably expected of her.

11.3 1976: Keith Stephens - the father who found his son in bed with McKenna

11.3.1 Kerry Stephens' evidence

Keith Stephens became the Chairman of the St Andrew's Hostel Board in 1975. At that time his sons Kerry and Darryl (in Years 10 and 8 respectively) were boarding at the Hostel. Towards the end of that year Dennis McKenna was engaged as a housemaster at the Hostel and then went on to become Acting Warden.

Kerry Stephens may well have been the first student to fall victim to McKenna. Although Kerry Stephens is unable to recall when and how the sexual abuse commenced, he remembers that by Easter 1976 he was being regularly abused approximately three times per week. The abuse included sexual acts of the worst kind, but Kerry Stephens naively believed at that time that this behaviour by McKenna was "normal" (t 22).

However the abuse continued into 1977, and by then Kerry Stephens had developed a different attitude towards what was happening. He recalls that during the May school holidays in 1977 he was at home on the family farm and feeling in a "pretty sad state". His father asked him why he was "so doughy and useless", and Kerry responded by describing (in explicit terms) exactly what McKenna was doing to him. According to Kerry Stephens, his father then said that he would "have to talk to (Dennis) about it" (t 25-26).

When the school holidays came to an end Mr Stephens drove his two sons back to the Hostel. When they arrived Mr Stephens went off to McKenna's office, and Kerry Stephens assumed that he was going there to raise the issue of sexual abuse with Dennis. While this was happening, Kerry Stephens took his bags to the dormitory, and then returned to the car park so that he could speak to his father before Mr Stephens left. It is Kerry's evidence that when his father emerged from McKenna's office and returned to the car park he said:

"stop telling lies and get on with it, you've got to be at school" (t 28)

Kerry Stephens then realised that he was on his own, "that he had no choice", and just had to "continue on". He felt that if he was a liar in his father's eyes then he had nowhere else to go.

Over the following few days Kerry noticed that there had been a significant change in his relationship with Dennis McKenna. He was ostracised by McKenna, who told other students not to talk to him. He was basically put into "coventry", and it took some time before his relationship with Dennis returned to "normal" (t 28-29).

According to Kerry Stephens he and his father did not speak about McKenna's sexual abuse ever again. It is also important to note that (during his interview with the Inquiry's investigators) Kerry Stephens was adamant that there was never any incident when his father saw him in bed with McKenna.

11.3.2 Keith Stephens' confession to his local MLA

Keith Stephens' wife Shirley passed away in 2005, and by that time they had sold the family farm and moved to Albany. The local Member of the Legislative Assembly for Albany is Peter Watson, and Mr Watson met Mr Stephens one day while he was out doorknocking. It would seem that from then on the two men became casual acquaintances.

Late last year after the present Inquiry had been publicly announced, Mr Stephens visited Mr Watson to discuss the subject matter of the Inquiry. During that first visit Mr Stephens told Mr Watson of his connections with the St Andrew's Hostel including the fact that he had been Chairman of the Hostel Board when McKenna was first appointed warden. Thereafter Mr Stephens continued to visit Mr Watson to discuss matters to do with the Hostel, and his general demeanour indicated that "he wanted to get things off his chest" (t 323). Mr Watson's evidence as to these subsequent conversations is as follows:

"Q. So the subject matter when you saw him on those occasions was what?"

A. The main subject matter was that he walked in on...Dennis McKenna and has found him in bed with his son Kerry.

.....

Did he say when that was, in relation to that event?

A. He didn't give me a specific date, he just said that he was at the hostel and he wanted to go and see Mr McKenna and he knocked on the door but no-one answered and he just walked in.

.....

Q. Did he say anything more about that particular incident?

A. You know, he said, look, he wanted to know what was going on. McKenna threatened him; said that "I will take away your farm, I'll have your children taken away from you and I will ruin you".

Q. Did he say anything as to what context Mr McKenna made that threat?

A. No, but he believed him. He believed that the power he had in the town and the contact(s) he had in the town that he could ruin him.

Q. Can you just clarify: did he say that that conversation with McKenna was at the time of walking into the bedroom --

A. It was. And he asked -- you know, he said "Kerry will deny it and you will look a fool. No-one will believe you over me."

Q. Can you recall Mr Stephens' demeanour when he was telling you this?

A. He was very emotional. He said it had ruined his life, affected his relationship with his wife and his boys and his daughter.

Q. Did he say anything to you about his feelings about not taking any action in relation to what he saw at that time?

A. He said he regrets it to this day but at the time he thought it was the right decision because he felt that the threat would come true." (t 324-5)

Mr Watson thought it appropriate to notify this Inquiry of these conversations, and as a result Mr Stephens was contacted by the Inquiry's investigators.

11.3.3 Keith Stephens' versions of events

Keith Stephens agreed to participate in interviews with the Inquiry's investigators on three occasions. During the first interview on 7 February 2012 Mr Stephens denied that his son Kerryn Stephens had at any time disclosed to him that he was being sexually abused (or had been sexually abused) by McKenna. He also chose not to answer the question whether he ever saw, walked in on, or caught McKenna in a compromising position with "any boy" at the Hostel. However he said that McKenna had threatened him on occasions (but did not elaborate on the nature of those threats). At one point Mr Stephens was questioned about his relationship with Kerryn Stephens at the material time, and he responded:

"It's not just the family relationship you're delving into here. It's like in a private discussion. I told our member for Parliament but this was very, very difficult for me and for Shirley and to see and we were pretty close and, yes, so it was not just our immediate five kids. It was - - there's about 100 other kids or 50 other kids that were our hostel family and they were getting hurt and bad things got really bad and it's just been one continuous nightmare, you know" (interview t 45)

When Mr Stephens was asked how he would describe himself as a father towards his sons and daughter he said:

"Terrible. Down near the bottom of the list, weak. Yeah, just terrible. Just terrible...I had...that thought of myself being weak for a very, very long time." (interview t 46)

During the second interview on 24 April 2012 Mr Stephens spoke of McKenna spending weekends at his family farm during the time that he was the Hostel Board Chairman. He also said that while McKenna was with them on those weekends he and his wife Shirley "didn't know he was having it off with a bloke's son" (interview t 46).

During the third interview on 1 May 2012 Mr Stephens continued to deny that he ever had any discussion with Kerryn concerning sexual abuse by McKenna. However, he acknowledged (for the first time to the Inquiry's investigators) that when Kerryn Stephens was about 15 or 16 he found his son in McKenna's bedroom:

"MR STEPHENS: I went to the hostel one day and asked the kids where Dennis was. They said, "He's in his bedroom." We were having a - you know, we were getting on good as friends and everything. I'd went down there. Now, I can't remember whether I knocked on the door or just opened the door and walked in, and I saw him in bed with my son, blanket over them. I couldn't see whether they were naked or not. I couldn't - there was about a foot between them, and Kerryn seemed quite happy, didn't seem at all distressed, and it was after that that Dennis said to me what he said. I think I told you what he said.

INVESTIGATOR: No, you didn't.

MR STEPHENS: Oh, he just said to me, "if you open your mouth", or words to that effect, "I'll have your everything - your farm, your family, you, everything". That's not the way he put it, but I suppose I better get it pretty closer.

INVESTIGATOR: *However you recollect it, Keith.*

MR STEPHENS: *He just said, "Look, if you say anything, I will have your farm, I will destroy your family, I will destroy you, I will destroy your marriage and you'll have nothing left, so shut your bloody mouth."*

.....

MR STEPHENS: *I went home to Shirley and told her what I'd seen. And I said to her, "I feel as weak as water. I should have done something about that. What do you think?", and she said, "Look, he's – we're all good friends, we're just good friends, just look – just let it go, shut your mouth", and that was what was – you know, and you shouldn't say bad about the dead, but she was my love, my wife. It was her son too, you know." (interview t 9-10)*

Later in the interview Mr Stephens clarified that McKenna would "often threaten defamation proceedings against people" and that that was "the whole thing I was scared of". He also said that he had been "dumbfounded" when he found his son and McKenna in bed together. Mr Stephens was also unsure as to the timing of the threats made by McKenna. (i.e. whether they were made when he entered the room or some time later).

In Mr Stephens' formal evidence to the Inquiry (at a hearing on 9 May 2012) he described the "bedroom incident" in substantially the same terms as he had during his third interview, but elaborated as follows:

"Q. Well...what did you think when you first saw that here's your teenage son - -

A. I just thought that they were very, very good friends, and I just thought that if they had been touching one another or anything like that, then I would have acted differently, but they weren't doing that...so I just thought, "Well, they're good friends, they're just laying there talking", or, you know, and – naïve, sure; mistake, yes, but I made it, and I have never denied that...I did the thing that I thought was right for my son and the hostel at the time, and it was wrong, very wrong, and I know that now, but I didn't know it then.

Q. What you saw, I suggest to you, would at least have looked suspicious to you?

A. I've already answered this a couple of times. Of course it looked suspicious.

Q. Did you...subsequently ask your son about it?

A. No.

Q. Did you subsequently ask Dennis McKenna about it?

A. No, I didn't.

Q. Why didn't you ask your son about it?

A. I have no idea why I didn't ask my son about it. No idea at all." (t 2844-5)

Consistent with his first answer above, Mr Stephens also testified (in the context of what view he took of the incident in hindsight once McKenna was arrested):

"...like I said earlier, I really believed that it was just a friendly thing, you know. We were...brought up during the Second World War and boys and girls slept in the same bed, and boys slept with boys, and it just didn't occur to me that – I'd never heard – I

didn't know what a paedophile was, I had to get the blooming dictionary out, find out. I said to Shirley, "What's a bloody paedophile?" She said, "I don't know", so we got the dictionary out, find out what it was." (t 2861)

During his evidence Mr Stephens stated for the first time that the incident had occurred in the middle of an afternoon. In relation to that I asked him the following:

"Q. ...did it occur to you why they would be in bed in the middle of the afternoon together – you know, with bedclothes covering them?"

A. Yes, it did. Yes, it did. But, your Honour, I – I've thought this over a million times over the last 10-odd years and I can't give myself an answer to that. I really just can't answer why they were there. I can't answer why I didn't do more about it, and I knew that – and as I've said, I held considerable guilt over that, and I can't do any more." (t 2847)

It is also Mr Stephens' evidence that following that incident he gave no consideration to putting Kerry Stephens in a different school or arranging for his two youngest sons to attend a different hostel. According to him it was only very recently that he learned that one of those other sons was also sexually abused by McKenna (t 2858).

Mr Stephens does not agree that when speaking to Mr Watson about the matter he was "getting it off his chest". However it is very clear from the following passage of his evidence that Mr Stephens does carry a great burden of guilt:

"Q. Well, when you learned in 1990 of what Dennis had done, did you think back to this incident?"

A. Of course. Of course.

Q. What did you think then?"

A. Oh, horror. Absolute horror. Absolute horror. Tore my – tore me to bits. Just too hard. Just too hard. Of course it did, you know.

Q. When you were in that situation of 1990 did you ever think, well, you should have done something different when you'd seen your son in bed with Dennis?"

A. When we saw Dennis being arrested in Katanning?"

Q. Yes.

A. Yeah, of course we should. Oh, gee. Yeah, Shirley and I sat down and we cried and cried.

Q. So what did you think about at that stage?"

A. Oh, gee. What – what – what have – what have we done? What have we allowed to happen? We should have just gone ahead and nailed him, but we would have lost so we wouldn't have nailed him anyway. So – you know, that's just how it is. We were pretty much struck, all those kids, all those lives and all those families." (t 2860-1)

Nevertheless, it is fair to point out that those sentiments do not appear to be consistent with remarks that Mr Stephens made in 1991 when interviewed by a newspaper:

“Nyabing farmer Keith Stephens, who was acting chairman of the St Andrew’s Hostel board when McKenna was appointed warden...believes the hostel is a ‘tribute’ to McKenna...

Mr Stephens says that at no stage did he suspect that there was anything amiss at the hostel.

He was shocked when he heard the news of McKenna’s charges late last year.

“I’ve been asked many times since I left the board if there were any complaints like that.

“There was no complaint made to the board.

“I never heard any rumours that he was a homosexual.”

“A lot of people had a lot of good living and pleasure out of the hostel, but I feel terribly sad for those who had the other experience.

“Until this bubble burst, he was held in the highest esteem.” (Great Southern Herald 31 July 1991 – Exhibit 15)

11.3.4 Findings

The conflicts in the evidence of Keith and Kerryn Stephens are quite extraordinary. Given the nature of what they have each separately described, it can be expected that despite the passage of years each of the alleged incidents would be vividly remembered by both of them. It is also difficult to conceive any motive why either of them would deny the incident alleged by the other.

Kerryn Stephens impressed me as a careful and honest witness. Apart from his father’s denial that he had disclosed McKenna’s sexual abuse during the May school holidays in 1977, there was nothing about the manner in which he testified to make me think that he might not be telling the truth about that matter.

However it is clear that Kerryn Stephens has some significant gaps in his memory of relevant events. He cannot recall how McKenna’s sexual abuse started, and his first memories are around Easter 1976 by which time he was being regularly abused approximately three times per week. When interviewed, Kerryn Stephens also could not remember a complaint that was made to him (as head prefect) in 1977 by another boy who was being sexually abused. As a result of that complaint the boy was immediately expelled from the Hostel and driven home by McKenna to his parents’ farm approximately 300km away.

Kerryn Stephens was with McKenna in the vehicle when the boy was driven home, but he has no memory of that or of any of the surrounding circumstances. In all probability that expulsion was the direct result of Kerryn Stephens informing McKenna of the boy’s complaint. That being so, the boy’s immediate expulsion may well have been a traumatic event not only for the boy but also for Kerryn Stephens.

It is reasonable to assume that McKenna’s initial acts of sexual abuse must also have been traumatic experiences for Kerryn Stephens. Likewise, it may well have been another traumatic experience when and if his father discovered him in bed with McKenna. If so, then

the psychological trauma experienced at the time of these three separate events offers a possible explanation for the gaps in Kerry Stephen's memory.

In this regard there are numerous studies in the field of clinical psychology which establish that complete or partial memory loss is a frequently reported consequence of child sexual abuse. Appendix 4 to this report is a review of the relevant literature compiled in June 2010 by the Mental Health Co-ordinating Council, and it identifies "dissociation" as the likely cause of this traumatic amnesia. The paper describes dissociative amnesia in the following terms:

"Dissociative amnesia is "characterized by an inability to recall important personal information, usually of a traumatic or stressful nature, that is too extensive to be explained by normal forgetfulness," (American Psychiatric Association, 2005, p. 519). Dissociative amnesia is suspected if there are gaps or blank periods in a person's autobiographical memories.

During a traumatic experience such as an accident, disaster, or crime victimization, dissociation can help a person continue to function and tolerate what might otherwise be too difficult to bear. A person may dissociate the memory of the place, circumstances, or feelings about the overwhelming event; mentally escaping from the fear, pain and horror. This may make it difficult to later remember details of the experience, as reported by many disaster and accident survivors.

For people repeatedly exposed to traumatic events, especially in childhood, dissociation is an extremely effective coping 'skill' which characteristically becomes reinforced and conditioned. It can protect them from awareness of the pain in the short-term. However, over time, frequent dissociation affects a person's sense of their history and who they are."

In light of this research, I consider it possible that if Mr Stephens did discover his son in bed with McKenna, this caused psychological trauma to Kerry Stephens which resulted in dissociative amnesia. From Kerry Stephens's perspective it is reasonable to assume that any such trauma would have been accentuated by his father's failure to bring the sexual abuse to an end.

Regardless of the reasons why Kerry Stephens might have forgotten the "bedroom incident" I accept his evidence of the other incident during the May school holidays of 1977 as being truthful and reliable.

Although there are many flaws and inconsistencies in Mr Stephens' evidence, it is hardly likely that any father would falsely admit to having seen his son in bed with a man now known to be a paedophile, unless that had really happened. In my view Mr Stephens' motive in making that admission is his longstanding guilt and anguish that he did nothing in response to what he saw. Accordingly, I am satisfied that the "bedroom incident" did indeed occur. Given Mr Stephens' evidence that his son was 15 or 16 years old at the time, I am also satisfied that it occurred in 1976, and prior to the school holidays conversation described by Kerry Stephens.

Beyond my findings as to those fundamental facts, I do not consider Mr Stephens' varying accounts of the details of what happened to be accurate or reliable. There are many contradictions both within his evidence and when that evidence is compared to his earlier statements to Mr Watson and to the investigators. In particular, his claim that he did nothing

because he believed that his son and McKenna were “just good friends” cannot be reconciled with his evidence that he feared doing anything because of a threat from McKenna.

I also consider that Mr Stephens’ varying descriptions of the precise nature of McKenna’s threat are inherently incredible. The threat as described to Mr Watson was that his farm and children would be taken away and that he would be ruined. Mr Stephens told Mr Watson that he believed that threat because of “the power that McKenna had in the town”, but during the third interview said that “the whole thing” that scared him was that McKenna would “often threaten defamation proceedings”.

In 1976 McKenna was only 30 years old, at the very start of his career as Hostel Warden, and had not yet become a man of any power or influence in the town. Furthermore, any fear that Mr Stephens had of defamation proceedings must necessarily have evaporated once McKenna was convicted of sexual offences in 1991. It is therefore difficult to understand why Mr Stephens subsequently offered relatively glowing comments about McKenna during his newspaper interview that year.

I also doubt Mr Stephens’ evidence that he consulted with his wife on how he should respond to the “bedroom incident” and to the threats he says had been made by McKenna. If there really was a threat to take away his farm and to destroy his marriage and family, it seems most unlikely that Mrs Stephens would have advised him to “let it go” because “we’re all good friends”. In my view Mr Stephens’ comment many years later to Mr Watson that the incident had “affected his relationship with his wife” is probably much closer to the truth.

I also consider Mr Stephens’ evidence that the “bedroom incident” occurred in the middle of an afternoon to lack credibility. Kerry Stephens’ evidence is that the sexual abuse at the Hostel occurred at night time, which was consistent with McKenna’s modus operandi for nearly all of the offending against other victims. The reason why McKenna committed the offences in his flat at night time is that the door to the dormitory area was locked, and there was no opportunity for outsiders to walk in. I simply do not believe that McKenna would have been so careless as to sexually abuse Kerry Stephens during a mid-afternoon when students and others were about, and there was a substantial risk of being discovered by someone walking into his room.

The evidence does not indicate why Mr Stephens might lie about the time at which the “bedroom incident” occurred, and it is not appropriate for me to speculate about what those reasons might be. In the end, I can only find that Mr Stephens did see his son in bed with McKenna in compromising circumstances, and that for some unknown reason (against his better judgment) he decided that he would keep that fact a secret.

The consequences of that fateful decision are obvious. If Mr Stephens had done the right thing and reported what he had seen to either the police or to the Hostel Board, then almost certainly McKenna would not have been able to continue offending against his son, or against any other Hostel students over the following 14 years. In failing to act appropriately, Mr Stephens breached not only his responsibility as a parent, but also the very high responsibility that he owed to other Hostel students as Chairman of the Hostel Board. It is therefore very understandable why Mr Stephens carries such a heavy burden of guilt.

11.3.5 Conclusions

1. As Chairman of the St Andrew's Hostel Board, Keith Stephens was a "public official" (within the meaning of the PSM Act) exercising a high degree of responsibility for the wellbeing of the students at St Andrew's Hostel.
2. The reasonable standards of conduct for a public official (in Mr Stephens' position in 1976 and 1977) required that he report to the Police or to the Authority any evidence of behaviour by the Warden indicative of sexual misconduct towards any student.
3. Mr Stephens failed to do this on two occasions (firstly when he saw his son in bed with the Warden, and secondly when his son told him that he was being sodomised by McKenna). These were gross breaches of Mr Stephens' responsibilities as a public official for the wellbeing of the Hostel students.

11.4 1976: Livia Bentley – the teacher who tried to tell her principal

Livia Bentley is currently the Deputy Principal of a Perth metropolitan primary school. She commenced her teaching career in 1976 when she was 21 years of age, and her first posting was to the Katanning Primary School. She taught at Katanning Primary School for two years in 1976 and 1977.

For most of that period Mrs Bentley (then working under her maiden name of Livia Pallotta) boarded at the St Andrew's Hostel rent free in return for tutoring Hostel students during the evenings. Mrs Bentley initially occupied a "bedsitter" in the dormitory buildings but later shared accommodation with other teachers in what ordinarily would have been the warden's house. However the warden Dennis McKenna chose to live in quarters adjacent to the boy's dormitory.

Mrs Bentley had frequent opportunities to observe McKenna's interaction with the students and it troubled her that his behaviour towards the boys was "a little bit inappropriate". In this regard he always had boys "hanging off him, off his shoulders, touching his hand, and often when he was sitting down there would be boys sitting on his lap." Although Mrs Bentley did not see anything of a sexual nature she considered that McKenna's physical interactions with the boys were "too close" for what she believed an educator could properly have with a child (t 43).

Mrs Bentley also noticed that McKenna would treat some boys differently to others. Selected boys were able stay up later, seemed to have authority, and were "sort of semi-bosses themselves" (t 44).

Although McKenna's accommodation was "out of bounds" to students he would sometimes take boys in there. When she enquired of those boys why they went there she was told: "It's a treat, it's a reward for doing the right thing. We're allowed to watch television and stay up late". Mrs Bentley also recalls that when one boy responded to this question he seemed to be saying something in a less than direct fashion, and (in hindsight) she "never picked up on it strongly enough" (t 46).

Mrs Bentley was sufficiently troubled by what she saw to think that she should perhaps do something about it. She first spoke to her mother who advised her that "you are trying for permanency, be careful". Consequently it took her a long time to decide that she should raise the matter with her primary school principal whenever the opportunity arose (t 44). From Mrs Bentley's perspective it required some courage to broach the subject of McKenna's behaviour with her principal. In those days principals behaved in a much more formidable way towards a 21 year old than they would today, and junior teachers always did as they were told (t 50). Nevertheless when she next had a face to face meeting with her principal (for the purposes of a performance review) she raised the subject of McKenna's behaviour. It is her evidence that:

“I brought up that I was homework tutoring at the Hostel and that I felt that Dennis was getting a little bit too close to the boys, or he was allowing the boys to get too close to him, and I was going along those lines when he said , “What are you saying young lady? You need to be careful. You’re new to town” (t 51)

According to Mrs Bentley she didn’t get a chance to discuss the matter any further because that was the end of the matter. The principal (Brian Downes) is now deceased and there is no way of ascertaining what his version of his conversation with Mrs Bentley might have been. However, Mrs Bentley was a very credible witness and I have no hesitation accepting her evidence as being truthful and accurate.

Obviously it is a great pity that the hierarchical culture within the education system at that time created barriers between junior teachers and their principals. Had Mr Downes been more willing to discuss the sensitive topic raised by Mrs Bentley it may well have led to enquiries about what was happening at the Hostel, and exposure of the sexual abuse that was then occurring.

Conclusions

1. At the time of Mrs Bentley’s conversation with Mr Downes they were both “public officials” within the meaning of the PSM Act. By going to her Principal with her concerns Mrs Bentley did all that reasonably could have been expected of her as a young school teacher.
2. Although Mrs Bentley was attempting to raise matters which did not directly affect the primary school students under Mr Downes’ care, a reasonable response to her approach would have been to pass the information on to the high school principal.
3. By failing to ask Mrs Bentley to elaborate on her allegation, and by failing to pass the allegation on to the high school principal, Mr Downes’ conduct fell short of what reasonably could be expected of a public official in his capacity in 1976.

11.5 Bruce Carmichael's request to John Renk

In the late 1970s and early 1980s Bruce Carmichael was a farmer at Jerramungup. He was married with four children, and during 1979 and 1980 his two eldest daughters were boarders at St Andrew's Hostel.

It would seem that Mr Carmichael had a close and open relationship with his daughters because they were willing to tell him "stories" about what was happening to some boys at the Hostel. The substance of those stories was that Dennis McKenna had favourite or selected boys (described by the Carmichael girls as "pretty boys") who were regularly invited to his quarters late at night. During those visits these boys were permitted to drink alcohol and to view pornographic films. According to Mr Carmichael this was:

"something that was well known amongst the students at the Hostel. They discussed it amongst themselves and it came home to us." (t 610)

Mr Carmichael's daughters also told him that McKenna had a strict rule that "anything that happened at the Hostel had to stay at the Hostel and nothing was to go home" and if any students did take stories home to their parents then they faced "weird and wonderful punishments" (t 610). One such punishment that McKenna had imposed on a Carmichael girl was to put her on two days duty washing headstones in the Katanning cemetery (t 608).

Mr Carmichael was very concerned about what his daughters had told him and decided that he should inform a Hostel Board member whom he knew. That Board member was John Renk, an officer with the Commonwealth Development Bank whom Mr Carmichael had met as a result of applying for a loan.

Mr Carmichael duly telephoned Mr Renk and relayed to him what he had been told by his daughters. According to Mr Carmichael:

"I would have told him about the special boys spending time in his rooms at night time, late at night, the porno videos and the grog that he was feeding to them. They were my concerns at that time, that I thought that was not appropriate for a man in that position of authority in the Hostel" (t 611-612)

Mr Carmichael told Mr Renk about these allegations because as a Board member he was in the position to at least "check it out and see what he could find out" (t 611). It is Mr Carmichael's evidence that Mr Renk "heard me out and said he would look into it" (t 612).

Approximately two or three weeks later Mr Renk telephoned Mr Carmichael to say that "he had checked it out, and as far as he was concerned there was not a problem" (t 612). Mr Renk did not explain what he had done by way of checking that there was not a problem, but he said words to the effect that "he hadn't found a ripple on the water and everything in the garden was lovely" (t 613).

Mr Carmichael believes that his telephone conversations with Mr Renk took place either at the end of 1979 or the beginning of 1980 but he is not completely sure of this. His eldest daughter was at the Hostel for only one year (1979), and his second daughter commenced during the last term of 1979 and continued through until 1981. The second daughter did not

complete 1981 at the Hostel because McKenna rang Mr Carmichael to say that she was no longer welcome. This telephone call was made while the daughter was home for a week, and she and her father were both quite happy for her to leave. When they went to the Hostel to collect her belongings she discovered that some personal items including her diary were missing from her locker. The diary had recorded the daughter's observations of "the things that had happened" at the Hostel (t 614-615).

Mr Renk was summonsed to give evidence to the Inquiry but he testified that he had no recollection whatsoever of any involvement with St Andrew's Hostel or of Dennis McKenna, or of the Hostel Board. Mr Renk claimed that he had suffered this loss of memory notwithstanding documentary evidence (including Board minutes) showing that he was a Board member for a total of 13 years between 1973 and 1986. During that period Mr Renk was responsible for taking minutes, and he was one of the most regular attenders at Board meetings.

Mr Renk is now 76 years of age and during his evidence attributed his claimed loss of memory to a stroke or "transitory ischemic attack" (TIA) which occurred in 2000. It was his evidence that as a result of that stroke he was hospitalised for three days. He received no further medical treatment or attention for the stroke but since then has come to realise that he has lost his memory about certain specific things including his time of service on the Hostel Board.

However, Mr Renk displayed a detailed memory of his activities with the Commonwealth Development Bank during the same period that he was serving on the Hostel Board. He was also able to recall the details of significant family events (such as weddings) during that same period. For this reason I was initially very sceptical about his claimed loss of memory.

Furthermore, Mr Renk's evidence that he has lost his memory about Board matters seemed to be inconsistent with the testimony of James Laffer. During his younger years Mr Renk coincidentally attended the same agricultural college in South Australia as Mr Laffer and the two men met at a reunion function at the college in 2005. They had not seen each other for many years and the only experience that they had in common was their service on the Hostel Board. Accordingly, they had a lengthy discussion "revisiting old times" and reminiscing about the Hostel Board and McKenna. They also discussed the sexual abuse and the fact that "Dennis had been locked up". It is Mr Laffer's evidence that Mr Renk did not appear to have any difficulty in remembering these matters (t 3219-3220).

The Inquiry obtained (with Mr Renk's consent) the medical records of Mr Renk's admission into Katanning Hospital (which was not in 2000 but on 1 December 2001). Mr Renk presented at the hospital feeling generally unwell and with symptoms of chest tightness and pins and needles in the left hand. Although the results of an ECG were normal, Mr Renk was admitted for observation in case he had suffered a stroke or TIA. Over the following two days no abnormalities were noted other than in a blood test which revealed a mild diabetic condition. There was no diagnosis of either a stroke or TIA, and Mr Renk was discharged on 3 December 2001 after being provided with advice on diet and exercise for his diabetic condition.

When Mr Renk was informed that the hospital records did not support his claim that he had lost his memory, he put forward an alternative reason why this might have happened. He forwarded a letter from a physician advising that he had been diagnosed earlier this year

with a condition known as sleep apnoea. The letter also stated that "sleep apnoea can be associated with poor memory and concentration".

In response to that letter the Inquiry requested further and more specific information from the physician on whether the sleep apnoea was capable of causing selective memory loss as claimed by Mr Renk. However, the physician declined this request for a more substantial report which made it difficult to accept that Mr Renk's sleep apnoea had caused the claimed memory loss.

Nevertheless Mr Renk's wife and daughter have since provided written statements which give convincing accounts of the problems that he has been experiencing with his memory in recent years. It would also seem that he was very wrong about some details of the family events he was able to recall while testifying. In the end I feel that fairness requires that I should accept his evidence that he is unable to remember the relevant events.

Mr Carmichael was a very credible witness and his evidence is uncontradicted. I have no hesitation in accepting his account of his conversations with Mr Renk as being truthful and accurate. However in the absence of evidence from Mr Renk outlining the enquiries that he made in response to Mr Carmichael's request and the results of those enquiries, I am unable to make any findings as to what he in fact did. Whatever enquiries Mr Renk may have made they obviously were not effective in bringing to light the ongoing offending of Dennis McKenna.

Conclusions

1. In 1979 or 1980 Mr Carmichael informed the Hostel Board member Mr Renk of allegations that the Warden was supplying alcohol and showing pornographic movies to boys at the Hostel.
2. Approximately two weeks later Mr Renk reported back to Mr Carmichael that there was no basis for those allegations.
3. It is not possible to determine what investigations or inquiries (if any) were made by Mr Renk before coming to that conclusion.

11.6 1980 onwards: Noel Parkin – the parent who told anyone and everyone

11.6.1 The background to Mr Parkin's complaints

During the 1970s Noel Parkin was a wool buyer living in Ongerup with his wife and three sons. His children were educated at Katanning and his eldest son Stephen commenced to board at St Andrew's Hostel in 1977. His middle son Bradley followed in 1979.

While visiting the Hostel to see his children Mr Parkin's suspicions were aroused by Dennis McKenna's behaviour. This was because McKenna's behaviour seemed very similar to that of a paedophile Mr Parkin had encountered during his own school days. In this regard, McKenna was "always handling boys" and it didn't look right to Mr Parkin that he would "handle the boys the way he did" (t 580).

Mr Parkin was also troubled by the school report that his eldest son brought home at the end of third term in 1979. The report stated that Stephen had been away from school for a total of 17 days during that term, and this was the first that Mr Parkin and his wife had known about it. When their son and McKenna failed to give satisfactory explanations for this absenteeism, the Parkins removed Stephen from both the school and Hostel and placed him in employment at Ongerup.

The Parkins also experienced difficulties with Bradley who had trouble settling in at the Hostel. These problems culminated in Bradley breaking out of the Hostel during the night time on 29 May 1980 and walking home to Ongerup (where he arrived two days later).

It is Mr Parkin's evidence that the school then arranged for Bradley to see a "psychiatrist" (who was most probably a psychologist) in Perth. Mr Parkin later drove Bradley to see the psychiatrist in Kings Park Road, Perth where he was examined or assessed over the course of four days. At the end of that period Mr Parkin kept an appointment with the psychiatrist to learn the results of the assessment. The psychiatrist advised that "you have to get your boy out of that Hostel", but would not give any reason for that advice (t 580). When Mr Parkin asked if McKenna was interfering with boys, the psychiatrist said "I can't tell you that". Mr Parkin interpreted that answer as confirmation that McKenna was indeed a paedophile (t 580).

11.6.2 The incident at the Country High Schools Hostel Authority office

It is Mr Parkin's evidence that he felt very angry after leaving the psychiatrist, and decided that he would visit the "Country High School Hostels" head office straight away to lodge a complaint about McKenna "interfering with boys". He found the address of the head office in a telephone book at a nearby telephone box and immediately went there with Bradley.

When Mr Parkin entered the Authority office he asked to see the Chairman of the Authority Colin Philpott, but was told that he was not there. According to Mr Parkin, he then told the man behind the counter that he was there to complain about McKenna interfering with boys and the man replied "you're off your head".

By this time another man had approached from "out the back" and during the conversation which followed Mr Parkin said to the first man: "are you his bum boy as well?"

Mr Parkin was told that if he didn't leave at once the police would be called but he insisted on staying "until you hear someone about it". The man behind the counter then asked the other person to call the police and after two or three minutes Mr Parkin decided that it would be best to leave. He was feeling very upset and angry, and as he left he saw a police car arrive. Mr Parkin and Bradley then drove back to Ongerup (t 581-583).

At that time the Authority was operating from an office in St Georges Terrace Perth where it employed an administrative officer Mr Peter Hepper (who is now deceased). The Chairman of its Board was Colin Philpott. It is Mr Philpott's evidence that Mr Hepper was the only person who worked in the Authority's office, and that there could not have been two people there as claimed by Mr Parkin. Mr Philpott is also certain that Mr Hepper would have told him about the incident involving Mr Parkin if it had ever occurred but he was never told about it (t 2481). Accordingly, Mr Philpott is "just so sure that he never made that complaint" (t 2573).

It is also Mr Philpott's evidence that if he had heard of a complaint along the lines alleged by Mr Parkin he "would have done something about it". He would have contacted the Industrial Relations section of the Education Department for advice on how to handle the situation (t 2482). In this regard the Authority relied upon the Education Department for the resourcing of its operations, and Mr Hepper had been seconded from that department.

However there is evidence from Alan Parks (who was a Hostel Board Member between 1979 and 1992) which contradicts Mr Philpott's assertions. Mr Parks recalls that "around 1980" he became aware that an incident involving Mr Parkin had occurred at the head office of the Authority. This subject was discussed by the Board over the space of what Mr Parks believes were two consecutive board meetings. At the first meeting McKenna informed board members that Mr Parkin had gone to the Authority and "caused a stink". McKenna did not name Mr Parkin at first but simply said that "a parent had been to the Authority and caused a stir". It was at a later stage of the meeting that McKenna named that parent as Mr Parkin. Mr Parks believes that it was probably at the next meeting that the subject was raised once again:

"Q. What did you find out about it at the next meeting?"

That Noel had been to the Authority's office and made such a noise that they were getting the police in to have him removed.

Q. Who conveyed this information to you at the next meeting?

A. Dennis. We got it through Dennis. We guess it came from head office.

Q. ...did he say what the stir was about?

A. I don't remember. I don't remember...whether it was brought up or not. I think it was, yes.

.....

Q. But you can't remember what it was?

A. No.

Q. Mr Parkin has told...the Inquiry that the stir he was causing at the head office was that he was accusing Mr Dennis McKenna of sexually interfering with boys.

A. Mmm-hmm.

Q. Does that jog your memory as to what you were told this stir was about?

A. No, we weren't told what it was about, not by Dennis, no. That came out later.

Q. When did it come out later?

A. Well, I think one of the board members brought it up and said that Noel had been going around telling people that Dennis was interfering with boys.

Q. Can you remember when that was, Mr Parks?

A. I couldn't say offhand.

Q. Was it before Dennis McKenna had been charged in 1990?

A. Oh, it was well before, yes. It was around about the time that Todd was put out. I'd say around '82."(t 1430-1)

(Mr Parks' reference to "the time that Todd was put out" relates to his own son Todd being expelled from the Hostel. According to Minutes of a Special Board Meeting that event occurred in March 1982).

11.6.3 The Pingrup incident

After returning to Ongerup, Mr Parkin followed the psychiatrist's advice and removed Bradley from the Hostel. From that time on Bradley lived at home again.

According to Mr Parkin, Bradley got into trouble with the police in 1981 or 1982 when he threw a rock through the window of a bus being driven by McKenna. This occurred at Pingrup where earlier that day Bradley had played cricket with the Ongerup cricket team. It is Mr Parkin's evidence that on the day after the cricket match, a policeman visited him at home and said that he had come to arrest his son for "wilful damage and grievous bodily harm". Bradley was not at home at the time, but in answer to Mr Parkin's questions the policeman gave some limited information about the alleged incident. Mr Parkin guessed that the incident had involved McKenna and told the policeman that if his son had broken the window of a bus driven by McKenna: "I'll go to court and tell them why he did it...that bloke is a paedophile" (t 588). The policeman then went away, but returned later in the day to tell Mr Parkin that "all charges are dropped" (t 589).

The Ongerup police occurrence book records an incident on 29 October 1980 which almost certainly is the incident described by Mr Parkin. The record shows that at 9:20am a police constable received the following complaint from Dennis MacKinnon(sic) a warden at St Andrew's Hostel:

“Last Sunday 26/9/80 at Pingrup a person called Brad Parkin threw a stone at our bus causing a small dent in the side of the bus. I saw him do this. At the time the bus was driving past the Pingrup Hotel. Can you warn him not to do it again please. I don’t want him charged or anything but he shouldn’t get off scot free”

The occurrence book also records that:

“Attention promised. Inquiries at Ongerup with father Noel Parkin revealed that Bradley Parkin had been in Ongerup on Sunday 26/10/80 and played cricket at the Ongerup sports ground all day. He had then attended at the Bowling Club at Ongerup with his parents. It would appear the complainant made a mistake identifying Parkin. Complainant advised of inquiries made and thanked police for their attention. NFIN at this stage.”

At the Hostel Board meeting approximately three weeks later on 19 November 1980 the Warden’s Report raised the following item (which perhaps indicates that the damage to the bus was more than a small dent):

“4. The buses are still being fixed, the MTT bus was collected last Thursday by myself. A run down on the buses will be given with this report”

11.6.4 The evidence of the many complaints made by Mr Parkin to others

It is Mr Parkin’s evidence that soon after returning to Ongerup from the Authority’s office in Perth he telephoned the police at Katanning. He asked for the “bloke in charge” but is not sure who he spoke to. When he told the policeman on the other end of the line that McKenna was interfering with boys “he wasn’t nice to me”. Mr Parkin was told that he was telling lies and that if he kept on making up complaints like that “we’ll come over and lock you up” (t 584).

The Inquiry’s research staff have combed through the Katanning Police occurrence book for 1980 but cannot find any record of Mr Parkin’s phone call. However, the police procedure at the time was that a telephone call of the type described by Mr Parkin would not necessarily be recorded. In the absence of any specific complaint of an offence, it was a matter of discretion for the police officer whether or not to record the call.

It is Mr Parkin’s evidence that he also telephoned various Hostel Board members to complain about McKenna. He remembers ringing Keith Stephens who said “you’re telling lies” and put down the phone. When asked to recall who else he called it is Mr Parkin’s evidence:

“I don’t know. I don’t – the one, he was manager of a BWK Co-op at Katanning, I ring him and told the same story and he hung up on me as well. I rang the bloke from a bank, I guess it was the Commonwealth Bank, I think, and told him and he wouldn’t listen to me and thought I was sick in the head and they also – I guess the other one I rang was a newsagent, I think he was on the board. There was another – one more in Katanning, I think he was a newsagent, but I can’t be sure of that.” (t 585)

It is Mr Stephens' evidence that he has no recollection of Mr Parkin's telephone call, and that he would remember if it had occurred. Furthermore Mr Stephens would have been "horrified" to be told that McKenna was interfering with boys and if that had happened he would have immediately contacted the then Board Chairman and told him to do something about it (t 2875-6).

The Board Member who was a manager of the BWK Co-op around that time was Len Wilkinson. According to Mr Wilkinson he has no recollection of a telephone call from Mr Parkin. If Mr Parkin had telephoned him to say that McKenna was interfering with boys, Mr Wilkinson would have "wanted to get to the bottom of it". It is also Mr Wilkinson's evidence that it is not in his nature to hang up the telephone on people (t 3100-3).

The Hostel board member from the Commonwealth Bank was John Renk, and it is his evidence that he has no recollection of Mr Parkin's telephone call. I have already found that shortly prior to the time of Mr Parkin's alleged call, Mr Renk received a very similar telephone call from Bruce Carmichael. Therefore, if Mr Renk did receive Mr Parkin's call he would have had good reason to treat it very seriously. However for the reasons expressed in Chapter 15, I have accepted Mr Renk's claim that he is unable to remember Mr Parkin's call.

The Inquiry's investigators have been unable to identify the Hostel board member who Mr Parkin believes to have been a newsagent at the time.

I have already noted Mr Parks' evidence that in about 1980 the Hostel Board was informed by Dennis McKenna of the incident involving Noel Parkin at the Authority's head office. Mr Parks has also testified that in about 1982 a Board Member told the Board that "Noel had been going around telling people that Dennis was interfering with boys". If that statement was reported to the Board it would be consistent with Mr Parkin's evidence that by 1982 he was going to "all the parents" and telling them that McKenna was interfering with boys. Mr Parkin generally received a hostile reception to this assertion. It is Mr Parkin's evidence that no one believed him, and "they just thought I was soft in the head" (t 593).

Mr Parks believes that the board member who informed the other board members of what Mr Parkin was saying was Garth Addis (now deceased). However Mr Parks must be mistaken with that recollection because Mr Addis did not become a Board member until 1985. By 1982 Mr Parks was the Chairman of the Board and he has given the following evidence of the Board's response when it heard of Mr Parkin's allegation:

"Q. What did the Board do about that?"

I'm not sure whether they contacted the Authority or not.

Q. Well, if you were the Chairman of the Board - -

A. would have passed it on to - to the Country Hostel Authority.

Q. Do you know if that was done though?

A. Couldn't tell you. Can't say. I don't recall.

Q. Did you not think that the Board itself should undertake some investigations of its own?

A. Well, I don't think the Board believed it.

....

Q. Including you. You didn't believe it?

A. No, I didn't believe it.

Q. How would you know whether there's any truth to it or not, unless it's investigated?

A. I wouldn't know.

....

Q. You now say that the Board was told about the very subject matter that Mr Parkin was complaining about. Would it be unfair to suggest at the very least you, as Chairman of the Board, should have contacted Mr Parkin?

A. Not really. Noel could be very abusive and that, so no, I didn't contact him.

Q. Because you were concerned he might be abusive towards you?

A. Yes, and the fact that he'd go on a lot about it, because his son was put out and that was it, we took Dennis's word for what he'd said.

Q. What, regarding the son being put out?

A. Yes.

Q. What about this matter? What about this matter of him sexually interfering with hostel boys? Did anyone from the Board, to your knowledge, speak to him about it?

A. Not that I know of.

....

A. I don't think the Board believed it.

Q. Yes. So the Board just put its head in the sand?

A. Pretty well.

Q. We know hindsight is a wonderful thing, but the allegations that Mr Parkin was making now we know...to be entirely true?

A. That's right." (t 1432-4)

Nevertheless, a few people did believe what Mr Parkin was telling everyone, and one of them was a farmer Tom Fisher. In 1986 Mr Fisher had two sons, and the eldest of them was due to start at the Hostel the following year. At about that time Mr Parkin approached Mr Fisher in a shearing shed and expressed his concern: "that Dennis was a paedophile and that he wished to warn the boys to look out for any behaviour that they felt was abnormal" (t 841).

Mr Fisher took this warning seriously and discussed with his boys and his wife the dangers of attending the Hostel. Notwithstanding the risk of McKenna interfering with the boys, the family decided that they would still go to the Hostel because it was impractical for them to attend any school other than Katanning. However a few days before his eldest son commenced at the Hostel Mr Fisher took the precaution of speaking to McKenna:

"I told him that if he ever touched either of my boys physically in anger or in any inappropriate manner, he would spend a great deal of time in hospital" (t 842)

The two Fisher boys went on to complete their secondary education while boarding at the Hostel, and they never experienced any problems with McKenna.

11.6.5 Findings

In my view, Mr Parkin is an honest witness but the reliability of his evidence has been adversely affected by his anger and hostility towards McKenna. Mr Parkin's feelings are quite understandable given the frustrations that he endured over many years in trying to warn his local community about McKenna, as well as the devastation caused to his own family by his son Bradley's death in 2008. Mr Parkin obviously suffers a great deal of anguish when he contemplates all of the damage that has flowed from the refusal of people to listen to him so many years ago. Furthermore, Mr Parkin is still affected by a stroke that he suffered in the recent past, and I consider that this may have impacted on the way in which he presented his evidence.

Some insight into how these factors have impacted on the reliability of Mr Parkin's evidence can be gained from a comparison of his account of the Pingrup incident with the entries in the Ongerup police occurrence book.

Nevertheless, the most critical parts of Mr Parkin's evidence are corroborated by other witnesses. In that regard, Mr Parks' evidence confirms beyond doubt that Mr Parkin visited the Head Office of the Authority in 1980 and complained in very vigorous terms that McKenna was a paedophile. I am satisfied that the person who received that complaint was the Authority's administration officer Mr Hepper.

Notwithstanding that Mr Hepper effectively ejected Mr Parkin from the office, I am satisfied that he did take (or was instructed to take) some action in response to the complaint. That action was to refer the complaint to the Hostel Board via McKenna. In that regard, it obviously was not in McKenna's best interests to raise the matter of Mr Parkin's complaint with the Board, and the only reasonable inference as to why he did this is that he had been directed to do so by the Authority.

I consider that Mr Alan Parks is a credible witness. He is the only former board member to concede that the Board was ultimately informed of Mr Parkin's complaint (and I commend him for his honesty in that respect). It is clear from Mr Parks' evidence that when McKenna raised the topic with the Board in 1980, he did so in such a way as to ensure that no action would be taken. In particular McKenna did not inform the Board of the specific nature of the complaint, namely that McKenna had been "interfering with boys".

Obviously it was most inappropriate of the Authority to use McKenna as its channel of communication with the Board on such a matter. The Authority should have referred the matter to the Education Department for investigation so that Mr Parkin could be interviewed after he had had time to calm down. Alternatively, if it had been appropriate for the Hostel Board to deal with it, the Authority should have communicated the complaint directly to the Board Chairman and instructed him to investigate it without alerting McKenna.

I accept Mr Parkin's evidence that after visiting the Authority's Head Office in 1980 he telephoned a number of Hostel Board members to voice his complaint about McKenna. However in light of what I have said concerning the reliability of his evidence I make no findings as to which particular Board members he spoke to.

Notwithstanding that McKenna successfully stymied any consideration of Mr Parkin's complaint in 1980, I am satisfied that the Board as a whole was informed of the latter's allegation at one of its meetings in about 1982. (By which time Mr Parkin had repeated his allegation to many people throughout the Katanning region). The reason why the Board did not respond appropriately to that allegation is that it chose not to believe it. (Mr Parks has rightly conceded that the Board had "its head in the sand"). This failure to at least investigate Mr Parkin's complaint was a breach of the Board's fundamental duty to look after the welfare of the Hostel students, and was also a significant factor which contributed to McKenna's continuing ability to offend.

11.6.6 Conclusions

1. The Authority failed to respond appropriately to the allegation made by Mr Parkin in 1980 that McKenna was "interfering with boys", in that:
 - 1.1 It failed to implement its policy of having such allegations investigated by the Education Department.
 - 1.2 It referred the matter to be dealt with by the Hostel Board and did so by notifying McKenna of the allegation (thus ensuring that it would not be appropriately dealt with).
2. If not already aware the St Andrew's Hostel Board was made aware by 1982 of an allegation by Mr Parkin that McKenna was "interfering with boys" at the Hostel. The Board failed to investigate that allegation and by this inaction also breached its fundamental obligation to ensure the wellbeing of its Hostel students.
3. These failures by the Authority and the St Andrew's Hostel Board were significant contributing factors to McKenna's ongoing ability to offend.

11.7 1983: The “S” Affair – the squashing of an official investigation

11.7.1 The background

“S” is 43 years of age and now lives in Queensland. He was born in Western Australia of a single mother, and became a Ward of the State at the age of nine months. Ultimately he was placed into the care of foster parents who had frequent changes in their employment. Consequently, “S” was moved from place to place around Western Australia as a young child.

Throughout “S’s” childhood, the Department of Child Welfare (which later became the Department of Community Welfare) was responsible for monitoring his care. This required a case officer from the District Office of the Department that was closest to wherever he was living to make regular visits and to file quarterly reports on his welfare. By the late 1970s the family had settled on a farm near Gnowangerup, and “S’s” case officer was Francis Crowley at the Gnowangerup District Office of the Department for Community Welfare (the “DCW”).

In 1982 when “S” was 13 years old his foster parents told the DCW that they were experiencing problems with his behaviour. They had also decided to accept temporary employment in Papua New Guinea and were unable to take “S” with them. DCW was faced with finding a place for “S” while his foster parents were away, and the decision was made that he should become a boarder at St Andrew’s Hostel and attend Katanning Senior High School.

“S” commenced at Katanning Senior High School in the second term of 1982 and remained there until the end of 1983. During that period he was in Years 9 and 10 and was aged between 13 and 15 years.

“S” was relatively small and underdeveloped for his age, and he felt shy and isolated in his new environment. However, it is “S’s” evidence that he did not receive any sympathy or support from Dennis McKenna for his situation. About once a fortnight McKenna would encourage other boys to strip the clothes off him and to give him a “scragging”. McKenna also gave “S” the humiliating nickname of “stubbie” based upon the size of his penis. Because “S” was reluctant to shower with the other boys McKenna regularly arranged for him to be squirted down with a fire hose (t 927-8).

“S” also witnessed what he regarded as the “strange” behaviour of McKenna towards other boys. McKenna often had a young boy sitting on his lap whilst in his dressing gown, and he also would grab or flick at boys’ genitals as they walked past. He did this openly at all times of the day or evening and never tried to hide his touching of male students (t 929).

According to “S”, McKenna would have a movie night in his flat once or twice a month for a group of about 14 or 15 boys. “S” went to these movie nights on five or six occasions and the

films that were shown were soft porn cartoons and comedies. "S" felt very "special" when invited to these exclusive movie nights (t 931).

While "S" was boarding at the Hostel he was visited about once every term by his case officer Ms Crowley. According to "S" McKenna would take him aside prior to each of these visits and say: "just remember that you have nowhere else to go". "S" understood this to be a threat as to what might happen to him if he told Ms Crowley what was happening at the Hostel (t 930).

During every one of these visits other than the last visit, Ms Crowley met with "S" in either the breezeway of the Hostel or in McKenna's office. In each of these areas there was no privacy because of the other people around, and "S" was too scared to tell Ms Crowley what was happening to him at the Hostel (t 930).

On long weekends Hostel students would return home to their families, and "S" usually spent time with a nearby farming family who were relatives of his foster parents. However this did not happen on the first long weekend after "S's" birthday on 28 July 1982, and he had to spend that weekend at the Hostel.

According to "S", on the Saturday night of that long weekend McKenna invited him to his flat to watch a movie. During the movie McKenna gave him two or three drinks of coke and alcohol and also rubbed his nipples. McKenna also told him that the "scragging" was for his own good to make him tough. "S" does not know what happened to him after that and his next recollection was waking up in his own bed just before dawn (t 932-3).

On the following night (a Sunday) "S" was invited to McKenna's flat to watch another movie and was once again given two or three drinks containing alcohol. After the movie finished McKenna took him to his bedroom where he put "S" on the bed, removed his pyjamas, and performed oral sex on him. McKenna was also masturbating himself and in the course of this his toupee fell off onto "S's" stomach. "S's" last memory of that night is being in bed with McKenna's erection pressing up against him.

"S" later woke up and got out of McKenna's bed while it was still dark. "S" saw that McKenna kept the till drawers from the Hostel under his bed. "S" then stole some of the cash in the till drawers and returned to his dormitory (t 933-5).

On the following day (a Monday) "S" had breakfast in McKenna's room, and according to "S":

"McKenna told me that everything that had happened that weekend had to stay between us and that if I told anybody I would go to a place where kids who had no family go." (t 935)

On another long weekend in 1983 "S" again had to stay at the Hostel. McKenna once again invited him to his flat to watch a movie. "S" remembers that the movie was "Star Wars: Return of the Jedi" and that he was told it was a pirate copy on a video which McKenna had obtained on one of his trips away. ("S" has also established that that particular movie was first released in May 1983, so the long weekend must have been after that date. It was also the last long weekend that "S" stayed at the Hostel).

While watching the movie McKenna once again gave "S" three or four glasses of coke mixed with alcohol. McKenna had also ordered a pizza for them to eat. At some point McKenna put

his hand into "S's" pyjamas and masturbated him. "S" was also made to masturbate McKenna (t 935-6).

11.7.2 Wayne McKenna's late night telephone call to the Hostel Board Chairman

Throughout the time that "S" was a boarder at St Andrew's Hostel, one of the staff supervisors was Dennis McKenna's brother Wayne, and the Chairman of the Board was Alan Parks. It is Mr Parks' evidence that late one night at about 11 pm he was roused from his sleep by a telephone call from Wayne McKenna:

"...he didn't go into details, but he told me that Dennis, from what I can remember told me that Dennis was picking on a student. This student had come in, I don't know whether, what the story was fully, but apparently he'd been elsewhere and had a disability of some kind, I don't know whether it was a learning disability or what, and Dennis wasn't treating him as well as he should have been." (t 1436)

According to Mr Parks this was a most unusual telephone call because Wayne McKenna had never rung him at home before and never at that late hour (t 1436-7). Mr Parks spoke to Dennis McKenna about the matter the next time he went to the Hostel:

"I asked him how the lad was going and he said, "has someone been talking?", and I said, "No, I'm just curious – just wondering how the boy's going", and he said, "Oh, he's going fine." And I left it at that and kept my eyes and ears open, and never heard anything after that. So whether it continued on or not, I'm not 100% sure." (t 1437-8)

Wayne McKenna has confirmed that he made that late night telephone call. The subject of that call was "S" who was "a lonely boy" who didn't have many friends. Also his "hygiene was no good" because he wasn't taking any showers (t 2972-4, 2977).

Wayne McKenna's evidence as to the circumstances of the call is not entirely clear. He says that his purpose in telephoning Mr Parks was to discuss the boy's hygiene (t 2972-3). However he also agrees that he raised with Mr Parks the difficulty that he saw in the relationship between "S" and his brother Dennis (t 2976). It is obviously significant that at the time of the telephone call "Dennis may have been off somewhere" (t 2973).

11.7.3 "S's" complaint to the Department

The last time that "S" met with Ms Crowley was approximately two weeks before his birthday on 28 July 1983. For some reason (which "S" cannot recall) this particular meeting took place in a room opposite the dining room which was a study or library. It was the first and only time while he was at the Hostel that he was able to meet Ms Crowley in private. According to "S":

"We chatted about everyday things...I told Ms Crowley that something was not right at the Hostel. I also remember saying words to the effect, "They make me feel uncomfortable." I was referring to Mr McKenna and his family members who worked at the Hostel. I cannot recall the exact words but I believe I told Ms Crowley that Mr McKenna had done something bad with me.

By this stage my schoolwork was suffering and my behaviour was at times poor. I put that down to Mr McKenna's abuse and the Hostel environment. At the time I did not know what sexual abuse was. Sex was not something that had been discussed by my foster parents with me.

*Despite that, I knew Mr McKenna was doing the wrong thing with me and I feel I must have told Ms Crowley that he was doing things with me. Ms Crowley wrote things down as I spoke with her...She had some sort of pad with her and she made notes of our conversation. I spoke with her for about 5 to 6 minutes and then the dinner bell went. I had to go to dinner and that ended my meeting with Ms Crowley.”
(t 937-8)*

After that meeting “S” did not receive another visit from Ms Crowley or from any other case officer. He has since learnt that after his last meeting with Ms Crowley she ceased to be his Case Officer and was replaced by Mr Sam Namour. However, “S” never met nor received a visit from Mr Namour (t 939).

“S” was never ever informed of the outcome of his complaint to Ms Crowley, and it was only much later in life that he decided that he should follow it up. It was not until 25 November 2011 that his wife (on his behalf) first communicated with the Department for Child Protection (the successor to the DCW) to enquire what had happened to his complaint.

11.7.4 Brian Humphries' evidence

Brian Humphries is 79 years old and a retired Child Protection Officer. He commenced his career with the Government in 1960 at the Department of Native Welfare and in 1965 was transferred to the Department of Child Welfare.

From about 1975 Mr Humphries was a Senior Divisional Officer based at the DCW's divisional office at Albany, and Katanning fell within his area of responsibility. Although there was a District Office at Katanning which handled most of the child welfare issues arising in the Katanning area, Mr Humphries' duties as a Senior Divisional Officer took him to that town about every month or six weeks (t 66).

Whenever Mr Humphries visited Katanning he always had a number of matters to deal with. In that regard particular issues that arose from time to time often became “divisional matters” which required Mr Humphries' intervention. There were various reasons why this could happen. A particular matter might have required handling by a third party outside the Katanning District Office, it may have required juvenile justice input (an area in which Mr Humphries had considerable expertise), or a fostering report may have been required (t 67). Another possible reason was that the matter involved a Ward of the State (t 952).

In early 2012, and as a result of the publicity surrounding the present Inquiry, Mr Humphries had cause to remember a particular divisional matter from Katanning that he had been required to attend to sometime during the early 1980s. He remembered this particular matter because of the very unusual circumstances in which it had been terminated (t 65-9).

Mr Humphries recalls that he was asked to go to Katanning to “make enquiries and investigate allegations of ill treatment of a child at the Katanning Hostel”. Mr Humphries believes that this request came from the Superintendent of the Albany Divisional Office at that time but cannot recall whether the instruction was given orally or in writing. He also

cannot recall the details of the complaint but is certain that it was "physical ill treatment". At that time "physical ill treatment" was a term which could encompass a child being "knocked around or it could have been sexual" (t 65-6).

When that particular complaint was referred to Mr Humphries it was one of a number of matters that he had to deal with at Katanning. When he arrived at Katanning to attend to these matters he first called at the DCW's District Office in the town. While he was there he received a telephone call from his Supervisor at the Albany Divisional Office. He cannot recall who the Supervisor was or what his title was at that time (in this regard there were a number of changes in personnel and in the designation of particular positions within the Albany Office during the early 1980s). It is Mr Humphries' evidence that the person at the other end of that telephone call told him:

"That I was not to continue the inquiry at the Hostel and I was not to go there. He had been instructed by Head Office Perth along these lines" (t 68)

This was a most unusual instruction for Mr Humphries to receive and when he queried why it was being given he was told that a politician was involved in the decision to terminate his investigation. Mr Humphries has a clear recollection of the surname of the politician who was named by his Supervisor, and that surname was "Logan" (t 68-9). It is Mr Humphries' evidence that the reason why he is able to remember this event after approximately 30 years is that:

"..it is stuck in my mind as strange. I guess that's the main reason. I don't think it ever happened again that we had a clear complaint and then someone told us not to proceed. I don't think that ever happened again to me." (t 69)

11.7.5 Evidence from Departmental and other records at the time

"S's" former Case Officer, Ms Crowley is now deceased. She was born in England in 1939, and in 1968 commenced a career in the public service of Western Australia when she joined the Department of Native Welfare. She later transferred to the Department of Child Welfare and in 1976 was appointed as a District Officer for that department at Gnowangerup.

In 1977 Ms Crowley became the Case Officer for "S" and she remained his Case Officer until 14 February 1983 when she was transferred to the Albany Divisional Office. From that date Ms Crowley was replaced as "S's" Case Officer by the then officer in charge of the Gnowangerup Office, Samuel Namour (who also is now deceased).

"S's" case file shows that "S" was placed at St Andrew's Hostel because of behavioural problems in his foster home. His foster parents were having trouble disciplining him and it was thought that the Hostel placement would be the most appropriate way to address these problems. Later reports on the file commented favourably on the results of this strategy and in a letter dated 31 December 1982 to the Chief of Welfare Services Ms Crowley stated that:

*"Placement at the Hostel proved beneficial both to "S" and his foster parents"
(Exhibit 26)*

“S’s” evidence that he never received a visit from his new case officer Samuel Namour is corroborated by the departmental file which does not contain any quarterly reports or records of any visits to him for the whole of the period between 24 January 1983 (the date of Ms Crowley’s last report) and 15 March 1984 (when the file was shifted to the Pilbara Office). However, there are records (from both the departmental file and the Hostel) which show that during 1983 Mr Namour had dealings with McKenna concerning issues to do with the fees payable in respect of “S”, and whether or not he could continue to stay at the Hostel. On an unknown date in about August 1983 Mr Namour also visited the Hostel to discuss these matters with McKenna but did not visit “S” himself (Exhibit 29).

The relevant records include the Warden’s Report and Hostel Board minutes of 20 July 1983. The Warden’s Report stated that “S” and another boy “are causing problems. Both have psychological and behaviour problems which are the main reasons for their erratic behaviour”. In response to that Report the Board resolved that the two boys (including “S”) “will have to leave; parents to be advised accordingly” (Exhibit 28). In my view a fair inference from all that is known about McKenna and his power and influence is that this resolution was passed at his behest, and effectively “rubber-stamped” by the Board. (McKenna also habitually provided the Board with false information about students he wished to get rid of so that they would be expelled).

It is important to note that this Board meeting took place approximately one week prior to “S’s” birthday on 28 July 1983 or about a week after the date when “S” claims to have made his complaint to Ms Crowley. The coincidence of these dates is important because it raises the possibility that there was some nexus between “S’s” complaint and the Board resolution which effectively expelled him from the Hostel.

The next document of relevance was a letter dated 2 August 1983 (on the DCW file) from McKenna to Mr Namour which read as follows:

“We are very concerned with “S’s” behaviour of late, he has on four occasions stolen either money or items that belong to others.

His parents are now out of the country and we wish to advise you that he will be given no further concessions. If “S” commits any further breaches of our rules he will immediately be expelled without further warning.

This Hostel caters for normal adjusted children and we are...(not) equipped to handle children requiring special guidance. Yours sincerely.” (Exhibit 29)

(It is “S’s” evidence that the only theft he had committed was the money he had taken from under McKenna’s bed. McKenna was not in a position to complain about that particular theft, and accordingly, “S” contends that the allegations in McKenna’s letter were fabricated.)

At the bottom of that letter there is a notation in Mr Namour’s handwriting which reads “visited McKenna with SWS. Situation is okay now.” (Exhibit 29). The “SWS” referred to in Mr Namour’s note was the Social Work Supervisor based at Albany. That Social Work Supervisor held the same position as the person who (whether before or afterwards) telephoned Mr Humphries at Katanning and directed him to drop his investigation into the complaint from the Hostel.

Departmental records show that the Social Work Supervisor in Albany from 18 December 1979 until 29 January 1982 was Edward Mildern. Mr Mildern was not replaced until 31 May 1982 and in the interim the position was filled by Robert Wilson in an acting capacity. From 31 May 1982 until 7 October 1985 the Social Work Supervisor was William Howell. It follows that Mr Howell was almost certainly the "SWS" who accompanied Mr Namour on the visit to McKenna in about August 1983, and who held that position during the previous month when "S" says he made his complaint to Ms Crowley.

It is Mr Mildern's evidence that although Ms Crowley transferred to the Albany Divisional Office in February 1983 she may well have temporarily kept in contact with "S" and continued to visit him at the Hostel (t 966). (In this regard it is relevant that she had been "S's" case officer for six years, had developed a relationship with him, and had been responsible for his placement at the Hostel. If she was a caring person she would have had good reason to remain in contact with "S" while he was at the Hostel). Mr Mildern was also asked how Ms Crowley might have handled the complaint from "S":

"Q. If, in fact, as "S" says, he made a complaint to her which wasn't very specific but which might have been reasonable to interpret (as) a complaint about sexual abuse, what would you have expected her to have done in terms of who she would have told about it?"

A. Expectation would be that the first person she would probably tell would be the Social Work Supervisor in Albany and at that stage a strategy would be worked out about how it might be investigated as well, and also, because of the...anticipated volatility of something like that, I at that stage would have also let my line manager know, my supervisor know as well that things could get very, very difficult and very sticky." (t 966)

As Ms Crowley and Mr Howell are both now deceased there can be no direct evidence of whether or not events took the possible course as suggested by Mr Mildern. Regrettably, and notwithstanding that Mr Howell is unable to defend himself, it is necessary to refer to what his former colleagues have said about his professional shortcomings. (I would have preferred that this evidence not be made public but it is significantly relevant to my findings).

In Mr Mildern's estimation Mr Howell "was not as meticulous as he should have been in his attitude towards proper procedure" (t 965). According to Brian Humphries:

"There were things that Bill Howell did and ways that he operated that I did not agree with. Mr Howell was not the supervisor who I spoke with regarding the Katanning Hostel. If Bill Howell had given me that instruction I probably would have gone against his instruction." (t 952)

However, in a more recent statement (which Mr Humphries made after reading the publicly available transcript of other evidence to the Inquiry) he has changed his mind about whether or not it was Mr Howell who instructed him to drop the investigation:

"In relation to my previous written statement I now want to say that I should not have so strongly said that Mr Bill Howell ("Mr Howell") was not the supervisor who gave me the direction to cease the investigation of an allegation of ill-treatment of a child at St Andrews.

I should not have so strongly said that it was not Mr Howell but I did not want to speak ill of the dead and it is difficult to make a statement about Mr Howell without saying negative things.

In the whole of the district Mr Howell only got on well with one other Department employee and that was Mr Sam Namour. It is enough for me to say that Mr Howell was not well regarded because of the way he performed his work functions and his willingness to go outside normal practice and procedure.

Whilst I cannot be totally certain because of the number of years since this matter I believe it was Mr Howell who gave me the direction to cease the investigation of an allegation of ill-treatment of a child at St Andrews.

When I was given the direction to cease the investigation I argued with the supervisor who gave me the direction because it was such a strange order. I believe it was Mr Howell who gave me the order and even though it was Mr Howell and I did not like him I gave in and followed the order because it came from a supervisor.

The assertion in my previous statement that I would not have followed the order if it was from Mr Howell was perhaps more a comment of what I would like to have done with the benefit of hindsight." (t 4196-7)

Robert Wilson, who worked under Mr Howell for a number of years has expressed the following opinion of him:

"There was a fairly unhappy situation in the office when Bill Howell (was) there. Staff had personality difficulties with him and there was quite a lot of conflict.

When Bill Howell came to the office we initially got on and later on both myself and other staff had concerns about how he operated and how he performed. Our relationship deteriorated over time and I believe he took a dislike to myself and some other staff. At times I felt frustrated and had some questions [about his] competence [and] about his decisions. Part of that was feedback from members of the community who were also critical of how he managed specific cases.

...

I believe that the direction that Mr Humphries received to stop the investigation is possibly something that Bill Howell would do.

I believe this because at times I was given directions by Bill Howell (on) how to deal with cases and in some cases as a social worker I didn't believe those directions were appropriate." (t 978-980)

Given that Mr Howell is now deceased and unable to respond to these negative assessments of his character the Inquiry invited his daughter to do so on his behalf. Her statement is as follows:

"My father William George Howell was a very hard working, caring and dedicated person, both personally and professionally. He was forthright with a no nonsense attitude that was to be admired and he dedicated much of his time to his work with the Child Welfare Department. He had strong beliefs with regard to his work and what he expected from fellow staff members from respect to ones conduct in the workplace and work ethics. He was honest and trustworthy.

As I recall he was transferred to Albany Office to sort out and clean up the office which was met with much criticism from several staff members. This resulted in complaints forwarded against him from the staff to have him removed from the Albany Office. He was extremely hurt and disappointed with the Department and their actions and he left shortly after being transferred from Albany office to Perth office and retired.

My father would not have stopped any investigation into a suspected child abuse claim if he had known about it."

It is very significant that "S" was almost certainly the only male boarder at St Andrew's Hostel during the early 1980s who was a State Ward. (It is not possible to establish this fact with complete certainty because this would require the mammoth task of cross-checking every single departmental file on individual State Wards against the names of each and every student who resided at the Hostel during that period). The significance of this fact is that the DCW would have had good reason to investigate a complaint of physical or sexual abuse committed on one of its wards at a school hostel. According to Mr Mildern the departmental policy at the time was to investigate only cases of alleged intra-familial abuse and to refer all allegations of extra-familial abuse to the police (t 974). (Note that there is conflicting evidence on this point: Robert Wilson – t 978, Des Semple – t 4312). However, the Department was always under an obligation to investigate any complaint of abuse against a Ward of the State because of its statutory responsibility towards a child placed in its care.

Accordingly, there was good reason why Mr Humphries would have been tasked to investigate a complaint by "S" concerning some form of abuse at the Hostel. It is also difficult to conceive of any possible reason why he would have been required to investigate a complaint of alleged abuse against any other student at the Hostel.

11.7.6 Other relevant circumstances

The Inquiry's investigations reveal that the politician named "Logan" (referred to by Mr Humphries) could only be the Honourable Leslie Arthur Logan who was a Country Party Member of the Legislative Council from 1947 until 1974. Mr Logan was also the Minister for Local Government, Town Planning and Child Welfare between 1959 and 1971. Mr Logan died at the age of 92 years in 2000, and it is clear from the Hansard record of a condolence motion in the Legislative Council at that time that he enjoyed a very high reputation for his achievements in the community.

If it was the complaint by "S" that Mr Humphries was sent to investigate (and if "S" is correct about the date on which it was made) then he would have been assigned that task in late July or August 1983. At that time there had been a recent State election which had resulted in a change to a Labor Party government, and the Minister for Community Welfare was the Honourable Keith Wilson MLA. Therefore, it would be very surprising if a long retired former Minister from the Country Party was able to persuade or direct someone in the DCW's Head Office to terminate Mr Humphries' investigation. (The former minister Mr Wilson has confirmed that he was totally unaware of such an event – t 4162).

Nevertheless, the Inquiry's investigators have done their best to uncover any possible link between Mr Logan and any officer in the upper hierarchy of the Department for Community

Welfare in 1983. Although some of these officers in the upper hierarchy had been lower level public servants in the DCW when Mr Logan was minister, no evidence has been found to suggest that any of them then had a close or improper link with him.

The Inquiry's investigators have also searched for any evidence of political activity by Mr Logan following his retirement which could have any bearing on the instruction allegedly given to Mr Humphries in 1983. Initially it was thought that a memo dated 7 May 1975 from the Director General of Education to the then Minister for Education indicated that Mr Logan took an interest in hostels following his retirement. That memo recommended how the Minister should deal with a request from the Student Hostels Association for representation on the Country High Schools Hostels Authority (Exhibit 23). The Minister (the Hon G C MacKinnon MLC) rejected this advice and instead annotated (what was initially considered to be) the following response:

*"I would prefer to discuss this matter with Messrs **Logan**, Watt, Knight, Withers, Lewis and Sibson at the one meeting."* (emphasis added)

However the Minister's handwritten annotation is hard to read and the better view is that the name "Logan" is in fact "Tozer".¹

No other evidence has been found which might indicate that Mr Logan had any particular interest in Hostel matters following his retirement. However, the Hon John Sibson MLA who was one of the politicians named in the Minister for Education's note had strong connections with McKenna prior to 1983. Mr Sibson and McKenna were longstanding members of the Student Hostels Association, and in 1977 and 1978 were both members of that Association's Executive Committee. Colin Philpott had been another fellow committee member and it is his evidence that Mr Sibson and McKenna got along very well together (t 3753).

In 1983 the DCW was structured so that the next officer in the chain of command above Mr Howell at Albany was John Anthony McDermott, the Senior Social Work Supervisor (South) based in Perth. He in turn reported to Gary John Bowler who was the Chief of Welfare Services. Mr Bowler reported to the Assistant Director of Field Services (a position that rotated between Des Semple, David Greenhill and Geoff Aves). The Assistant Director of Field Services reported to the Deputy Director Peter Gorton who in turn reported to the Director Keith Maine.

The Inquiry's investigators have interviewed all of these former officers other than Peter Gorton who is now deceased. The investigators have also interviewed Michael Hepburn who sometimes acted in Mr McDermott's position. These interviews did not reveal any information capable of supporting a reasonable suspicion that any of these former officers were involved in the instruction given to Mr Humphries. On the contrary, the general reaction of these former officers to the suggestion that this could have happened is as stated by Mr Bowler:

"I would vividly recall any political involvement or approaches to stop an investigation into ill treatment of a child and my own standards would not allow that and I would go to my superiors if that occurred.

It would be such an outrageous action and in my experience I never heard of it occurring.

¹ The handwritten annotation on the memo is reproduced on page 5 of Appendix 1 to this Report.

I recall if correct procedure was followed a politician couldn't go direct to a public servant with a complaint or instruction and if he did then the public servant should go to his superior who would have to go through the Minister at the time.

I don't know of anyone in the senior management team who had influential political links or associations at that time.

I don't know of anyone in the management hierarchy of Brian Humphries who had influential political links or associations at that time." (t 992)

The former Director of the Department, Keith Maine has testified that he served under many ministers from both sides of the political fence and not one of them ever directed him not to do anything in relation to the proper management of a case. He "cannot imagine" that any of his staff would have complied with a direction or request from a former minister to withdraw from the investigation of a complaint of child abuse (t 1009-1010).

11.7.7 The Inquiry's attempts to interview John Sibson

Mr Sibson retired from Parliament in 1983, is now 82 years of age, and lives with his wife at Bunbury. Given the connections that McKenna had with Mr Sibson in 1983, the Inquiry is obviously interested to know whether or not the two men ever had any discussion relating to the investigation of a complaint against McKenna by the DCW. For this reason, the Inquiry's Instructing Solicitor (Mr Terry Dobson) telephoned Mr Sibson on 23 March 2012 and asked him about his previous connections with Dennis McKenna. In the course of a relatively lengthy telephone conversation Mr Sibson expressed difficulty in remembering things which had happened a long time ago, but when asked directly whether Dennis McKenna had ever requested him "to pass on a message to someone who could stop an investigation into a child abuse allegation" he responded in a way which suggested that he had some knowledge of such an event. Mr Sibson answered the question with words to the effect that if he had "done something like that" it was a long time ago and was of no concern to the Inquiry "because it was only a small thing".

Mr Dobson then said words to the effect that it sounded to him as if McKenna had in fact asked Mr Sibson for assistance to stop an investigation into a complaint of child abuse. Mr Sibson responded to this proposition by stating that he had an appointment and had "to go now". Mr Sibson then hung up the phone.

On 27 March 2012 Mr Dobson telephoned Mr Sibson once again and requested that he make himself available for an interview. Mr Sibson's response was to the effect that there was no point in an interview because "I don't know anything". Mrs Sibson also advised Mr Dobson over the telephone that speaking to her husband "won't do you any good". Mrs Sibson later provided the Inquiry with a copy of a medical report from a consultant physician dated 11 December 2006 which had diagnosed Mr Sibson as suffering from moderate Alzheimer's dementia. According to that report Mr Sibson had poor short-term memory but was able to remember "events from far back". (Mr and Mrs Sibson have given consent for this private medical information to be publicly disclosed).

Notwithstanding this diagnosis the Inquiry requested an interview with Mr Sibson subject to whatever conditions his medical advisors might think to be appropriate (for example for it to take place in the presence of his general practitioner or some other support person). Mr and

Mrs Sibson cooperated in seeking medical advice on this request, but the consultant physician refused to cooperate. Arrangements were then made for Mr Sibson to be seen by another suitable specialist in Bunbury, but at a very late stage that specialist informed the Inquiry that he was unavailable. In the end, Mr and Mrs Sibson declined the Inquiry's request for an interview.

I have given careful consideration to the question whether Mr Sibson should be summoned to give formal evidence before the Inquiry but have decided not to take that step. My reasons for this decision are Mr Sibson's longstanding diagnosis of dementia, the possibility that his responses to Mr Dobson over the telephone were due to that condition, and the unlikelihood that any useful information will be forthcoming without his cooperation (if in fact he has such information). Furthermore Mr Humphries has been asked if the name he was given at the relevant time could have been "Sibson" but he is certain that it was "Logan" (t 4198-9).

11.7.8 Findings

I consider that Mr Humphries is an honest and credible witness. I accept his evidence that on a date he cannot now recall during the early 1980s while he was a Divisional Officer of the DCW at Albany, he was instructed to investigate a complaint of ill treatment of a child at the St Andrew's Hostel. I am also satisfied that when Mr Humphries arrived at Katanning and was about to commence that inquiry he received a telephone call from his superior in Albany instructing him to cease the investigation. I also accept that when he asked about the reasons for that instruction he was told that it had come from Head Office and that a politician named "Logan" was involved.

The reasons which would have justified Mr Humphries' investigation of that complaint at the time were fairly limited. In that regard the DCW's general policy in respect of such investigations focussed on complaints of intra-familial abuse and there was a tendency to refer all other complaints to the police. However any incident involving alleged abuse of a child who was a Ward of the State always had to be investigated by a DCW officer.

I also accept the evidence of "S" that during 1982 and 1983 he was sexually abused by McKenna. Although he was regularly visited by his Case Officer Ms Crowley, he was unable to convey any complaint to her up until her last visit because their contacts did not take place in private. However, when Ms Crowley made her last visit to "S" at the Hostel they were able to meet alone in a small room. I accept "S's" evidence that he then made a complaint to Ms Crowley along the lines that McKenna was doing "something bad" to him.

Although not conclusively established, the evidence strongly suggests that "S" was the only male boarder at St Andrew's Hostel during the early 1980s who was a Ward of the State. "S" was never advised of the outcome of his complaint, and he never received any contact visits from his new Case Officer (even though that Case Officer went to the Hostel in or about August 1983 to meet McKenna). In my view, the only reasonable inference from all of these circumstances is that it was the complaint by "S" that Mr Humphries was sent to investigate.

As to the reason why that investigation was terminated, it is significant that McKenna arranged for a Board resolution that "S" be expelled from the Hostel within a week of the date when "S" says he made his complaint to Ms Crowley. Given the vague way in which he had made the complaint, it is entirely possible that Ms Crowley (not realising its serious

nature) sought information about the matter from McKenna before leaving the Hostel. The Board resolution to expel "S" was consistent with McKenna's usual method of removing victims who were likely to cause trouble. Therefore it is probable that McKenna had got wind of "S's" complaint whether from Ms Crowley or by some other means.

In my view the fact that the investigation of "S's" complaint was terminated in the extraordinary way in which it was provides further evidence that McKenna had become aware of it. In that regard the only reasonable inference is that it was McKenna who initiated whatever action it took to bring about the instruction given to Mr Humphries. It is difficult to conceive of any reason why another person would have been motivated to take the extraordinary measures necessary to bring about such an outcome.

The evidence overall shows that McKenna could be very meticulous in his manipulation of various situations to his advantage. Assuming that he had become aware of "S's" complaint and had arranged for the Board to approve his expulsion, then from his perspective he would have had the DCW over a barrel. "S's" foster parents were still in Papua New Guinea, and no alternative placement would have been readily available. (From my own experience as a Children's Court Magistrate in the 1980s I know that the DCW would have had difficulties in achieving a quick resolution to this situation).

The fact that the Social Work Supervisor travelled from Albany to meet McKenna in or about August 1983 (and did not leave the negotiations to Mr Namour) indicates the seriousness with which he regarded the situation. Presumably when he attended the meeting he was well aware of "S's" complaint and of the potential for it to complicate any resolution of the matter.

The outcome of the meeting (as noted by Mr Namour) was that the "situation is okay now". Although McKenna had power to enforce the expulsion resolution by the Board he did not carry through with it and allowed "S" to remain at the Hostel. These circumstances strongly suggest that all issues involving "S" (including his complaint) had been settled by agreement between the Supervisor and McKenna at that meeting.

From the Supervisor's point of view he may well have considered this outcome to be in "S's" best interests, particularly if he thought that the complaint had little substance by reason of the vague way in which it had been framed. If this is what happened then he would not have wanted "S" to revive his complaint. In my view, this provides a possible explanation for the extraordinary fact that contrary to standard departmental procedure, "S" never received a contact visit from his Case Officer again.

The one fact that does not sit well with the above hypothesis is that Mr Humphries was not instructed to abandon the investigation before he left Albany for Katanning. Possible reasons for this are that his departure coincided with the meeting at Katanning, or that the Supervisor neglected to give him the instruction before he left. However, these are obviously matters of conjecture rather than evidence.

The more important question is why Mr Humphries was told that the direction to terminate his investigation had come from Head Office at the instigation of a politician named Logan. Regardless of whether or not that was true, it was a very bizarre and puzzling statement to make. If Mr Logan really had organised the instruction then he and the others who passed it on would surely not have wanted his involvement to be known. If on the other hand Mr Humphries was told a lie, then it was hardly a credible lie (given the improbability that senior

officers of a department which had a Labor Party Minister would heed an illicit request from a former Country Party Minister).

Regrettably, the evidence does not allow me to reach any conclusive findings as to how it was that Mr Humphries came to be instructed to terminate his investigation. However, I consider it more likely that he was told a lie about the reasons for the instruction than that what he was told was true. Certainly there is no basis to conclude that Mr Logan had any involvement in this instruction.

In my view, the most probable explanation for the termination of the investigation of “S’s” complaint is that it was part of an agreed outcome of the meeting between McKenna, the Social Work Supervisor and Mr Namour. In return for agreeing to resolve what may have seemed to the Supervisor to be a small problem for McKenna, the latter agreed to resolve a potentially messy problem for the DCW. However, these are not conclusive findings and are obviously partially speculative in nature.

11.7.9 Conclusions

1. In July or August 1983 the DCW officer Brian Humphries was instructed by his Social Work Supervisor to investigate a complaint that a child had been subjected to “physical ill treatment” at St Andrew’s Hostel. Such a complaint (in accordance with the DCW terminology used at the time) could encompass either physical or sexual abuse of the child.
2. The complaint in fact related to “S”, a student at the Hostel who had been sexually abused by McKenna.
3. Before Mr Humphries could investigate that complaint McKenna (by some unknown means) became aware that it had been made. McKenna then took steps to ensure that the complaint would not be investigated.
4. The means by which McKenna achieved that end cannot be determined. However he successfully brought about an outcome which resulted in the investigation of the complaint being improperly terminated.

11.8 1983-1985: John Peacock – the Board member who conducted his own investigation

11.8.1 Mr Peacock's evidence

During the 1980s John Peacock lived with his family on a farm east of Frankland. He had a daughter and a son who attended Katanning Senior High School in successive years during the period from 1982 until 1986. While completing their secondary education each child boarded at St Andrew's Hostel.

Mr Peacock was a member of the Hostel Board between 1983 and 1986, and from 1985 he was its Deputy Chairman. Throughout that period he perceived that his primary role was to be a representative of the parents of students from the Frankland District who were boarding at the Hostel.

In about 1983 he was approached at a school bus stop by one of the Frankland parents who had two sons at the Hostel. Her name was Gaye Davies and she said to Mr Peacock that there was "something fishy" or some "tomfoolery" going on at the Hostel. She went on to tell him that her two boys had come home and told her that Dennis McKenna was "mucking around with boys". Mr Peacock understood this to mean that McKenna was "having gay sex with the boys" (t 1153-5).

Although Mr Peacock found this allegation "hard to believe" he took it seriously and decided that he would try to do something about it (t 1156-7). He told Mrs Davies that he would do the best he could to find out what was going on (t 1175).

Mr Peacock thought that the best way to investigate the situation was to "go quietly" (t 1175). He also considered that he should not discuss the matter with other Board members until he had "something concrete" to tell them (t 1176). He did not consider bringing the matter to the attention of the police because "without concrete evidence they would just laugh at you" (t 1180).

Mr Peacock instead decided that he would conduct his own investigation by dropping in on the Hostel at irregular intervals and entering McKenna's room unannounced. To facilitate this plan he and his wife changed the venue for their shopping from Albany to Katanning, and at intervals of up to twice a week or once a month he would visit the Hostel at varying times of the night or day. Significantly however, Mr Peacock never visited the Hostel after 11p.m. when the dormitory was locked for the night (t 1171).

Mr Peacock continued these intermittent and unannounced visits for a period of perhaps two years but never saw anything which aroused his suspicions. In his own words he was "trying to catch McKenna out" (t 1166). He would walk into McKenna's room unannounced but only ever saw students (up to 10 or 12 in number and both boys and girls) watching movies (t 1171-2). He never ever saw any blue or pornographic movies being played (t 1168).

Mr Peacock also asked his own children about the matter but they told him that they knew nothing about McKenna sexually interfering with boys (t 1165). At one stage Mr Peacock decided to speak to McKenna himself:

"I just said to him that "There's rumours going around that you're, you know, mucking around with the boys", like that, and he said "That's just hearsay". He said that there is nothing going on. He said "You've been in my room all these times, there's eight to 10 students there, how can it go on?"...But after that I still continued to go to his room right up until I...finished...as a Board member, I still continued to go in." (t 1173)

Mr Peacock concedes in hindsight that he probably did not try hard enough and that "maybe I should have gone a bit further at what I was doing, but I didn't" (t 1165, 1178). However it is also his evidence that in hindsight it is "too unbelievable to see what he (Dennis McKenna) did at that Hostel" and that he "just can't comprehend it". In that regard: "We're just not that type of people. We are just good, decent people" (t 1192).

11.8.2 Other relevant evidence

Barbara Groves is the mother of a girl who was boarding at the Hostel in 1990 (See Chapter 11.21) and she has known Mr Peacock for many years. During her evidence she testified about a conversation she had with Mr Peacock at her parent's house in 1990 after McKenna had been arrested:

"...we were down at mum and dad's at Franklin, just sitting around the table - we'd all had a meal...we knew that John had been on the Board, and my husband and I were talking to him and said, "...were the Board aware of anything that was going on? Did you notice anything", and he said the only thing that he was aware of (was) innuendo that they'd been showing blue movies at the hostel, and...he was one of the people - I think there was a second person, I'm not sure...who was a Board member, was asked to call in at the Hostel at any time, day or night, and just walk into Dennis's flat and see if he could catch him out...he was on his way home from Perth, in the truck, and he called in, and he walked in and he caught Dennis showing movies. That's what he said to me...I'm not totally certain, but I believe he said that they were blue movies." (t 660-1)

It is also Mrs Groves' evidence that in more recent times after she had been contacted by the Inquiry's investigators, her husband telephoned Mr Peacock to remind him of that conversation (t 662). Mr Peacock agrees that Mr and Mrs Groves telephoned him prior to the Inquiry's investigator telephoning him (t 1191). It is also his evidence that he himself telephoned Mrs Groves after she had testified to the Inquiry. He referred to her evidence and told her that he "could not believe what she was saying" (t 1192). Mr Peacock does not deny that he had a conversation with Mrs Groves about McKenna back in 1990 but believes that there "must have been a misinterpretation". In that regard it is his evidence that:

"I never saw any blue movies, there must have been a misunderstanding between Barbara and I. I never saw any of the blue movies. If I had seen that, I would have told you." (t 1190)

11.8.3 Findings

With regard to the issue arising from Mrs Groves' evidence, I note that she herself is not completely certain about what Mr Peacock said back in 1990. It is also unclear from her evidence whether or not it was the second person that she believed to be involved who had seen the blue movies.

Furthermore, at times during Mr Peacock's evidence he seemed to mishear questions, and to have a genuine misunderstanding of what was being asked. There were similar difficulties during the preparation of his written statement (t 1157-8), and there is reason to believe that he may be one of those individuals who can experience problems in clear communications with others. Mr Peacock impresses me as an honest witness, and I accept his evidence that Mrs Groves must have misunderstood what he said back in 1990.

The Inquiry's investigators had considerable difficulty in locating Mrs Davies (the lady who spoke to Mr Peacock at the bus stop in 1983). Regrettably, she would not cooperate in providing a statement, and I only have Mr Peacock's evidence as to what took place between him and her.

Nevertheless, I am satisfied that Mrs Davies did tell Mr Peacock that her sons had informed her that McKenna was "mucking around with boys". I am also satisfied that Mr Peacock treated that allegation seriously even though he did not believe it to be true. It is very much to his credit that notwithstanding this belief, he considered it was his responsibility as a Hostel Board member to investigate the allegation to try and find out whether or not it was true. (In this regard he is the only Hostel Board member known to the Inquiry who upon hearing such an allegation against McKenna accepted that responsibility).

It is open to argument that Mr Peacock could have adopted some other course such as consulting with the Chairman or other Board members. However, he was wary of speaking to others until he had "concrete evidence", and in my opinion in circumstances where he did not believe the allegation to be true it was reasonable for him to take that view. I consider that Mr Peacock should be commended for recognising and accepting his responsibilities towards Hostel students as a Hostel Board member.

11.8.3 Conclusions

Mr Peacock did all that reasonably could have been expected of him as a public official in his capacity as a St Andrew's Hostel Board member in the mid-1980s.

11.9 Early 1985: Mary Pilatti

During 1984 Mary Pilatti and Lina Bertolini were young teachers employed at St Patrick's Catholic Primary School Katanning. They were both accommodated at Kartanup House (the old convent now known as Reidy House) in Amherst Street Katanning. A male teacher, Ken Perris (see Chapter 11.10) was also staying in the same building.

This accommodation had been arranged with Dennis McKenna when Ms Pilatti first met him as a result of her involvement in a church choir. He offered free accommodation at Kartanup House for the two women in return for their agreement to tutor students at St Andrew's Hostel on two nights per week.

The usual routine for tutoring was that Ms Pilatti would attend at the Hostel around the evening meal time. The students commenced their homework once they had finished their meals and Ms Pilatti would walk up and down the dormitories to see if any of them required help. Her tutoring duties extended to both boys and girls, and she was usually required between 7 pm and 9 pm.

Ms Pilatti's first impression of McKenna was that he was an admirable man because "though not a Catholic himself, he used to bring some of the Hostel kids to the Catholic Church for Sunday mass" (t 3631).

However, one night at the Hostel in February or March 1985 Ms Pilatti needed to ask McKenna something. She went to his quarters near the boy's dormitory and knocked on the door. When she heard McKenna say "come in" she opened the door and walked in (t 3631).

There were many young boys inside as well as a "disarming silence" (t 3631). Ms Pilatti saw that McKenna was sitting on a chair at the back of the unit and on either side of him boys were sitting on the arms of the chair. She recalls that he may also have had a boy sitting on his lap, but is unable to say how many boys there were.

Ms Pilatti does remember McKenna looking at her with a smirk on his face as if to say "I am above this so what are you going to do". Ms Pilatti spoke to McKenna but cannot remember what they talked about. At that time she was feeling quite shocked and also had a "horrible feeling" that something was "not right" (t 3632).

As Ms Pilatti left McKenna's flat she saw Ms Bertolini outside. According to Ms Bertolini she noticed that Ms Pilatti "was as white as a ghost". When the two women returned to Kartanup House that night Ms Pilatti described what she had seen. They discussed the situation at length but "rationalised it away" (t 3634) and came to the conclusion that McKenna was probably being fatherly towards the students. In this regard, they "had heard absolutely nothing untoward about McKenna's character or behaviour that would make us think to the contrary" (t 3632).

Shortly after this incident Ms Pilatti and Ms Bertolini were informed (by someone on behalf of McKenna) that they were required to move out of Kartanup House, and they then shifted to private accommodation. As time passed Ms Pilatti became very angry about McKenna evicting them from their accommodation, and she suspected that this had happened because she had seen him with the boys in his room.

At the time of the incident Ms Pilatti was a young and inexperienced teacher. McKenna on the other hand had a high reputation and standing amongst the local community. Therefore it is quite understandable that (notwithstanding Ms Pilatti's feeling that something was "not right") she was able to rationalise away the need to do anything about what she had seen.

In light of McKenna's typical pattern of behaviour it is very likely that he did terminate Ms Pilatti's accommodation because of her negative reaction to what she saw in his room. This is yet another example of him using his power to his own advantage. It is also a further example of his high reputation and standing in the local community hindering any questioning of his behaviour.

Conclusions

1. As teachers employed within the Catholic school system Ms Pilatti and Ms Bertolini were not public officials who fall within the scope of this Inquiry.
2. Nevertheless they behaved reasonably in response to what Ms Pilatti saw, and what Ms Bertolini was told. They are both to be commended for coming forward and providing information to the Inquiry.

11.10 Mid 1985: The young teacher who told his Primary School principal

In 1985 the Department of Education posted 22 year old Ken Perris to Katanning to be the physical education teacher at two primary schools (Katanning and Braeside primary schools). For three months from March 1985 he shared accommodation with two other teachers in the old convent and annex of St Andrew's Hostel, now known as Reidy House and then named "Kartanup".

Mr Perris stayed at Kartanup rent free in return for the work that he did each weekday evening supervising homework at the Hostel. This supervision took place between 7 pm and 9 pm, and Mr Perris worked predominantly with boys. He was required to have a timesheet signed each night by Dennis McKenna, and for this reason he always went looking for McKenna at around 9 pm.

On these occasions Mr Perris often found McKenna in his flat surrounded by boys. There were usually six to eight of these boys who were mostly younger students. Mr Perris noted that the boys tended to sit or lie around McKenna on a modular lounge or on a shelf affixed to the wall behind the lounge. He also noticed that some boys would often have their heads on McKenna's leg or lap whilst watching television. Mr Perris "just thought it was odd" that McKenna had these younger boys in his flat with their heads resting in such positions (t 488-489).

On most weekends Mr Perris returned to Perth to play Pennants cricket. The other two teachers staying at Kartanup were also in the habit of leaving Katanning on weekends. The last one to leave always locked the premises.

Mr Perris was usually the first teacher to return to Kartanup on a Sunday afternoon and he sometimes noticed that the furniture had been shifted or beds rearranged. He particularly noticed that two single beds which were normally placed together to make a double bed had sometimes been separated.

On at least three occasions when Mr Perris returned to Kartanup (at approximately 3pm on a Sunday) he found McKenna inside the building. McKenna had boys with him each time but on one occasion there was just one boy. When asked what he was doing there, McKenna would make comments along the lines that he was checking the building with a view to accommodating students from the Hostel.

The Principal of Katanning Primary School at that time was Ron Byrne. Mr Byrne occasionally met with Mr Perris to provide him with feedback on his professional development. As a result of these sessions Mr Perris had a very high regard for Mr Byrne whom he considered to be a very professional and personable Principal. Accordingly, Mr Perris always felt very comfortable in Mr Byrne's presence.

In May or June 1985 Mr Perris shifted from Kartanup into private accommodation in Katanning. When he next met with Mr Byrne the subject of this change in accommodation

was discussed. Mr Perris then said to Mr Byrne that he had been happy to move from Kartanup:

“...because of the fact that I observed Dennis McKenna at Kartanup House when I returned and I felt that privacy had then become an issue and...I made a point that...I thought that behaviour was unusual, that we hadn't been informed, and I also commented on the fact of observations that I had made whilst doing homework supervision at the hostel where I observed boys in his flat...in an unusual position, laying across his lap, laying across the top of the lounge suite, and that's what I conveyed to Mr Byrne at the time.” (t 494)

It is Mr Perris' evidence that Mr Byrne said he would make a 'note' of what he had been told. Mr Perris did not know whether this meant that Mr Byrne would make a mental note, or whether he would make a written note in his diary or the school journal. In this regard, Mr Perris was aware that Mr Byrne kept a school journal to record “events of significance, critical incidents, or other information that had come to his attention”.

Mr Perris also recalls that during this discussion Mr Byrne referred to the fact that McKenna had been made Citizen of the Year in Katanning. However, this was not said in a demeaning way, and Mr Perris felt very comfortable in making the comments that he did to Mr Byrne (t 495).

Mr Byrne is now 75 years of age and has been retired for 15 years. He confirmed in evidence that he was the Principal of Katanning Primary School for two years in 1984 and 1985.

Mr Byrne remembers Mr Perris and recalls him as a “young keen sort of guy who was out to do as best he could and who had a genuine interest in the children” (t 1882). Mr Byrne has read the transcript of Mr Perris' evidence but does not have any recollection at all of the conversation to which Mr Perris refers.

According to Mr Byrne he kept a personal desk diary and also made entries in the school journal which remained with the school. If Mr Byrne made a note of the conversation he believes that he would not have done so in the school journal. His reason for this is that Mr Perris “didn't actually see the children being sexually assaulted” and Mr Byrne would not have risked being sued for defamation as a result of any entry in the journal. If on the other hand he had made a note in his diary this would no longer be available because he always destroyed his diaries at the end of each year (t 1894).

Although Mr Byrne cannot recall the conversation he does not say that it did not happen (t 1889). However he believes that in the situation as outlined in the transcript he would have advised Mr Perris to go to the police and to also telephone the District Education Office to tell them what he had done. Mr Byrne believes that he would also probably have advised Mr Perris to notify the High School Principal (t 1889).

Mr Perris is a very credible witness and I am satisfied that he did have a conversation with Mr Byrne along the lines as he has testified. Notwithstanding Mr Byrne's belief that he would have advised Mr Perris to go to the police, I am satisfied that that advice was not in fact given. It may well be that the information imparted by Mr Perris was not delivered in a sufficiently vivid fashion for Mr Byrne to deem such advice to be necessary. In that regard the conversation as described by Mr Perris during his evidence would seem to have focussed more on the issue of his privacy at Kartanup than on the questionable conduct of McKenna towards the boys.

Conclusions

1. Mr Perris did all that reasonably could be expected of him as a public official in his capacity as a young inexperienced school teacher.
2. The evidence does not justify any conclusion that Mr Byrne failed to respond appropriately to what Mr Perris told him.

11.11 Late 1985: The barmaid who was angry about “kiddie fiddling”

11.11.1 The evidence of “M”

In 1985 the witness “M” was 30 years of age, married, and the mother of two young children. In January of that year she moved with her family from Perth to Katanning when her husband was transferred in his position with the public service.

For the following two years “M” had part-time employment as a barmaid at the Federal Hotel on the main street of Katanning. “M” worked on nights and weekends and served a very mixed clientele at the bar. In this regard the Hotel’s customers were “all sorts of different people”, including both men and women, farmers, business people, members of Rotary and sporting groups, as well as people from outlying areas who had come into town to do their shopping or banking or to visit the sale yards or the co-op (t 3685, 3686, 3692).

In the course of “M’s” bar work she would move from customer to customer and overhear “brief snatches” of conversation on a variety of subjects. It is “M’s” evidence that a subject which was frequently a topic of conversation was “kiddie fiddling” at the St Andrew’s Hostel:

“Q. Would this be from the same people who would go and drink at the bar?”

A. No, it was very mixed. It was a whole lot of different people at different times but so often it came up. Over the months it was just so often but very different people. It wasn't just the same group talking about the same thing all the time.

Q. Was there any name mentioned as to who was involved in this kiddie fiddling or any title?

A. It was just - I think at times "What's the warden up to? What's happening at the hostel?", but it was very...brief. It was just quick mentions and someone would say "What's the warden up to? What's happening?", just very - very briefly.

Q. Were you able to find out from hearing these snatches of conversation whether it was kiddie fiddling involving a particular sex, as to whether it was boys or girls or boys and girls?

A. Always I only ever heard talk about boys.

Q. Did you have an understanding of what the phrase "kiddie fiddling" meant back then?

A. Yes, I did, yes. I did understand it to mean.

Q. What was that?

A. Interfering with boys. The kiddie fiddling, that was - it was always a connection with boys, all the snatches of conversation was the boys and "What's happening at the hostel?" and "What's the warden up to?".” (t 3686)

It is also “M’s” evidence that this talk of “kiddie fiddling” continued to occur regularly for most of the two year period that she worked at the Federal Hotel. However, it was after the first few months of hearing this topic of conversation that “M” thought to herself: “What is going on?” and decided that she should speak to someone about it.

The first person that “M” raised the subject with was Ainslie Evans who was a long term and very popular Councillor on the Katanning Shire Council. “M” approached Councillor Evans because she had learnt through her involvement in a nursing mother’s playgroup, kindergarten, preschool, swimming lessons, and as a result of some problems she had had with the local council that if there was “anything that you wanted to ask about” you should: “ask Ainslie”. In that regard, it seemed to “M” that Mrs Evans was “connected with everything” (t 3688).

For this reason, it was “M’s” expectation that if she talked to Mrs Evans about the situation Ainslie would look into it and speak to other people. However, according to “M”:

“I ran into her one day down the street and I spoke to Ainslie Evans...I had met her a few times by then so I knew who she was, and I spoke to her and I said "There's an awful lot of talk about the hostel and the kids and 'kiddie fiddling'. What is going on at the hostel?" and...she said "Nothing. The hostel is fine. They are all really good people. Everything is fine at the hostel. There are no problems. Everything is fine". She was very polite. She didn't want to discuss it with me. So I tried to say "Look I've heard, I keep on hearing it" and she didn't want to discuss it with me. She said "Everything is fine" and - well, she turned around and walked away.” (t 3688)

It is “M’s” evidence that when Mrs Evans turned away and walked off she just stood there and “didn’t really know what to do”. However, not long afterwards she took advantage of an opportunity to raise the issue with the local police Sergeant Bill Todd. She knew Sergeant Todd because she had met him on a few occasions at the Hotel. In that regard, policemen on patrol would often walk in, have a look around, say hello, and then leave. It was “because of the Hotel and police coming through” that “M” had met Sergeant Todd. Furthermore, “Katanning was very small. We met everybody all the time” (t 3690-1).

“M” has also identified Sergeant Todd from his photograph in an issue of the Great Southern Herald. Because of an advertisement on the same page of that newspaper publicising a change in management at the Federal Hotel, “M” is also able to say that she spoke to Sergeant Todd during the latter half of 1985 (t 3692). According to “M”:

“One night, and this was after the new people had taken over in the Federal Hotel...Bill Todd came in...I was cleaning up, so it was after we had closed...and he came in and I said to him "Bill, there is an awful lot of talk around the bar about the hostel and what's going on at the hostel and the "kiddie fiddling" and the whole situation at the hostel, it keeps on getting talked about, it's mentioned around the bar at different times" and he was just really quite rude. He said "What would you know? How would you know anything?". He was very...rude and just very dismissive.

Q. So he didn't ask you anything about who it was who you had heard speaking about this?

A. No.

Q. At that time, going back then, if he had asked you that would you have been able to provide him with names of people that you had heard speak about this?

A. I'm not sure but I may have been able to say "Look, so and so is in that group but I'm not sure, but if you talk to some of these people maybe they will remember who was talking about it".

Q. ...what were you expecting Sergeant Todd to do?

A. I thought because the talk had gone on for so long that the police should have a look at what was happening. Because I felt there had to be something because it wasn't just one group just talking about the same thing. It wasn't just one group just drinking and carrying on about one subject. It was mixed. It was around different people at different times and I really thought - from what I heard, the phrase "kiddie fiddling", which is so horrendous, I really thought the police should have followed up, had a look at something.

Q. Can you recall your reaction to how Sergeant Todd dealt with this information you gave him?

A. I was really annoyed that he was so rude to me...I was very polite to him but I tried to speak quietly and politely to him and he was just very rude...He just tried to put me down." (t 3689-90)

By the time that McKenna was arrested and charged in 1990, "M" had moved back to Perth. She remembers her reaction upon hearing that news was that she was:

"Angry it took so long...I had spoken to people, and it went on for so long. It was 1990 before he was charged, and I remember just stomping around swearing, just angry that the whole town just let this happen. If it was talked about in the pub with a lot of different people - not just farmers or sports people or whatever - different people - tradesmen, businessmen, everything - if I heard it, why didn't somebody do something? At least in '85 when I heard it, why did it go on so long?" (t 3693)

11.11.2 Ainslie Evans' evidence

Mrs Evans was offered the opportunity to testify in response to "M's" evidence, but chose instead to provide the following written statement:

"I do not recall any person with that name. I do not recall any discussion that may, or may not have occurred with her.

This street corner conversation would have happened over 25 years ago.

I have never had any management position with the St Andrew's Hostel, and would not have been in any position to act if this information was correct.

I don't believe that she had 'evidence', only pub talk and gossip, perhaps this is why the local Police (Bill Todd) dismissed her claim.

At that time, I was living in the main street and often walked to the Mill and shops, I always chat with people, I enjoy that part of the community. Most requests that came to me were about things of historical interest or the children's school and simply local information and usually forgotten by the time I arrived home."

11.11.3 Inspector Todd's evidence

In 1985, Inspector Todd was the Sergeant in charge of the Katanning Police Station. He had commenced in that position in 1983. Inspector Todd agrees that it was part of his normal police work at that time to “glean information” and listen to rumours from any people that he might happen to meet in the street or elsewhere. Depending on the severity of the information that he obtained in this way “you would follow up just about everything that was told to you” (t 3820-1).

Inspector Todd has read the transcript of “M’s” evidence and according to him it is “entirely incorrect” (t 3825). It is Inspector Todd’s evidence that he would never have visited any hotel while in uniform because his duties as Officer in Charge of the Katanning Police Station did not include going on patrol. It was the officers he had rostered on afternoon shift who patrolled hotels at closing time. Inspector Todd’s role was to stay at the station unless “a serious matter came up”. For these reasons Inspector Todd is “100 per cent” positive that during 1985 he never entered the Federal Hotel in Katanning around closing time. Furthermore, “officers don’t go around in the evenings on Friday nights alone to close up pubs”. Accordingly “that lady has made an error”, and any police officer that she spoke to “certainly was not Sergeant Bill Todd” (t 3826-9).

It is also Inspector Todd’s evidence that if someone like “M” had come to him to say that there was “kiddie fiddling” going on at the Hostel he “would have done something about it”. He would have made some enquiries, and if the information had been confirmed from more than one source, he probably would have contacted the CIB (t 3835, 3837).

11.11.4 Peter Flockhart's evidence

In light of the conflict in the evidence between “M” and Inspector Todd, the Inquiry’s investigators located Peter Flockhart, who was the Proprietor and Publican of the Federal Hotel at Katanning at the material time. He remembers employing “M” who worked as a barmaid until closing time whenever she was rostered. Mr Flockhart also recalls seeing Sergeant Todd “on one or two occasions at the Hotel” but is unable to say “whether he was working or not”. In that regard Mr Flockhart believes that Sergeant Todd would have been in uniform but cannot be absolutely certain (t 4278). On these occasions Mr Flockhart presumed that Sergeant Todd was there:

“...within the line of his duties looking for people, seeing who was there, whether good order and service has been applied...”

...

He would look around, perhaps acknowledge one or two people in the bar, say “Good evening”, “Good night”, whatever. Never stayed there, from what I can recall, for very long.” (t 4279)

It is important to note that Mr Flockhart knew who Sergeant Todd was because he occasionally visited him at the Katanning Police Station (t 4278).

11.11.5 The evidence in response to Mr Flockhart's assertions

Inspector Todd has provided the Inquiry with a written statement (dated 10 July 2012) in response to Mr Flockhart's evidence. That statement confirms that it was part of the duties of Katanning Police to monitor and control the behaviour of people in the town, which required patrols of licensed premises to ensure that there were no breaches of the peace. However, the statement outlines in considerable detail the nature of Inspector Todd's duties as Officer in Charge, and why these did not allow him time to participate in these patrols.

The statement also deals at length with the possibility that Mr Flockhart was mistaken in his identification of Inspector Todd as the Sergeant he had seen in his hotel, and suggests that the police officer may have been the previous Officer in Charge Sergeant Marlow. Inspector Todd has raised this issue because Mr Flockhart in his initial statement said that he had taken over the Federal Hotel in 1982. However, Mr Flockhart was mistaken about this (at the time of his statement) and in his evidence has confirmed "M's" testimony that he acquired the hotel lease in 1985. According to Mr Flockhart he commenced at the hotel in March or April 1985 and remained there for approximately 18 months until about September 1986 (t 4277). Mr Flockhart has also confirmed that "M" was employed as a barmaid before he took over the hotel, and that she continued in that employment after he left (t 4276).

The Inquiry has also received written statements from a total of nine police officers, former police officers or staff who were stationed at Katanning during the time that Inspector Todd was Officer in Charge. Their evidence is to the following effect:

- Some of them corroborate Inspector Todd's evidence as to the nature of his duties, and the hours during which he usually worked, as Officer in Charge of Katanning Police Station.
- None of them is able to recall the then Senior Sergeant Todd working afternoon shifts or participating in the nightly patrols of hotels.

Nevertheless, there are entries which were made by Inspector Todd in the Occurrence Books of Katanning Police Station between June and December 1985 which show that he was on duty during afternoon shift or after hours on at least 10 separate occasions.

11.11.6 Findings

I consider "M" to be an impressive witness. Despite being very reluctant to give evidence she felt it was her duty to come forward at a very late stage in the Inquiry's proceedings because of what she had seen and heard in the media. In that regard she was aware that many witnesses had denied any knowledge of sexual abuse happening at St Andrew's Hostel at the relevant time, and felt compelled to testify about the conversations she had heard while working as a barmaid at the Federal Hotel.

I believe that "M" has testified honestly and that the substance of her evidence is generally reliable. I accept that in the course of her work at Katanning she heard constant conversations amongst a great variety and number of customers about "kiddie fiddling" at the Hostel. I also accept her evidence that she was very concerned about what she heard and for that reason decided to raise the issue with Mrs Evans and the police officer whom she recalls to have been the then Sergeant Todd.

Mrs Evans does not recall any conversation with “M” concerning rumours about “kiddie fiddling” at the Hostel, but does not deny that such a conversation ever happened. In that regard, Mrs Evans does not believe that anything said to her by “M” would have been “evidence” but would have been merely “pub talk and gossip”.

I consider that “M” is unlikely to be mistaken about the conversation she had with Mrs Evans. I accept her evidence that she did speak to Mrs Evans and raised with her the subject of the rumours she had heard at the hotel, and that Mrs Evans then responded to the effect that “everything is fine” and walked away. (I infer from Mrs Evans’ response at that time that she had already heard these rumours).

With regard to Inspector Todd I accept his evidence (corroborated by other police officers) that his duties as Officer in Charge of Katanning Police Station did not usually involve him in visiting hotels in the town or participating in the regular daily foot patrols. However, I do not accept that he never entered the bar of the Federal Hotel in the course of his duties, and in that regard accept “M’s” evidence (which is corroborated by Mr Flockhart) to be reliable.

I am satisfied that “M” did speak to a police officer and raised her concerns about the rumours of “kiddie fiddling” at St Andrew’s Hostel, and that this occurred one night around closing time in the course of that police officer’s patrol of the hotel. I am also satisfied that “M” knew who Sergeant Todd was at the time and occasionally saw him at the Hotel. However, on the question of whether or not it was Sergeant Todd on the particular occasion when she raised the subject of the rumours, I think there is room for her to be mistaken. In Chapter 10 I have referred to the problems that witnesses experience when trying to remember the details of events which occurred a long time ago. It is significant that “M” came forward to the Inquiry as a result of publicity in the media which had referred to and broadcast vision of Inspector Todd. In these circumstances there is a danger that she has mistakenly identified Inspector Todd as the policeman she spoke to on the particular occasion that she remembers 27 years ago.

11.11.7 Conclusions

1. On an unknown date in late 1985 “M” who was then a barmaid at the Federal Hotel, informed a police officer from Katanning Police Station of rumours she had heard in the bar concerning “kiddie fiddling” at St Andrew’s Hostel. The police officer was dismissive of “M’s” concerns and did nothing in response to the allegation.
2. The evidence does not prove that that police officer was Inspector Todd.

11.12 1985-1986: The Trezise saga

11.12.1 The background

The Trezise saga spanned the years of 1985 and 1986. It began with the removal of three children from St Andrew's Hostel because of Dennis McKenna's behaviour, and came to an end after solicitors (acting for the Hostel Board and McKenna) sent letters to the parents of those children threatening proceedings for defamation.

One of the children removed from the Hostel was the daughter of David and Coral Trezise who lived on a farm near Pingrup. The other two children were the sons of Glenys Flanigan, who also lived at Pingrup along with her long term partner William McPharlin. Pingrup is a small town approximately 50 kilometres south of Lake Grace and 100 kilometres east of Katanning.

All three children boarded at the Hostel during 1984, but by the end of that school year they were all unhappy and wished to leave. In this regard the Trezise's daughter, Jacqueline Galluccio, had told her parents that "it was a horrible place and that she wasn't going back". According to Mr Trezise she also told them that McKenna made her "feel sick the way he used to have boys hanging off him and on his knee and fondling them and so forth" (t 536). (However their daughter Jacqueline Galluccio cannot recall making this statement – t 2398).

The two Flanigan boys also objected to McKenna's behaviour. In this regard one boy had told his mother:

"...that the housemaster had called him into his office or some place similar, and had undid his fly on his pants while he was standing next to him...He did that back up and the housemaster undid it again. And then he did it up and walked out of the door..."
(t 528)

Coincidentally at the end of 1984 there was a proposal for the Lake Grace school bus service to be extended further south to Pingrup. The Trezises anticipated that in the event of this happening there would be no further need for their daughter to be sent to the Hostel because she would be able to commute to Lake Grace High School each day. However their daughter had been booked to continue at the Hostel for the 1985 year, and they had delayed in cancelling this booking until there was some certainty about the new bus service. Consequently it was not until January 1985 when the extended bus service was confirmed that the booking was cancelled.

11.12.2 The dispute over fees

Ms Flanigan also cancelled her two sons' bookings in January 1985, and those cancellations took effect without any response from the Hostel. However when McKenna learned of the Trezise's cancellation he told them that they had not given enough notice and that they remained liable for the Hostel's fees for the whole of the 1985 year. Mrs Trezise now suffers from a medical condition which has affected her memory, and prevents her from testifying about the relevant events. However it is Mr Trezise's evidence that:

“...we argued that. And then he came back – and I think we may have had a letter from the Board...that said we were due for three months or one term’s fees and, okay, we thought about that, and in the meantime there was a lot of gossip going around town that Dennis McKenna was telling people that we couldn’t pay our bills and we weren’t financial enough to pay our bills, and that got our back up.” (t 537)

Accordingly, the Trezises refused to meet the Board’s demand that they pay one term’s fees, and over the months that followed the dispute quickly escalated. The Trezises wrote to the Authority asking it to reverse the Board’s decision, and when that request was refused they sought a review by the Ombudsman. They also wrote to the Minister for Education seeking a reversal of the Hostel Board’s decision.

In June 1986 the Ombudsman ruled that the Trezises were contractually bound to pay one term’s fees but suggested that the Board should deduct from this sum the notional costs of catering that had been saved. The Minister’s response was to suggest that the Trezises should be allowed to pay off the debt by instalments. However the Trezises were not happy with either of these outcomes.

As can be expected, Mr and Mrs Trezise had generated a considerable quantity of documentation while pursuing the matter. Amongst the materials gathered in support of their cause were two letters from other parents who had withdrawn their children from the Hostel but had not had to pay fees. The first letter (dated 22 August 1985) from Mr McPharlin and Ms Flanigan was as follows:

“To Whom It May Concern,

We wish to advise that our two children weren’t re enrolled at St. Andrews Hostel Katanning for the 1985 school year.

We gave no notice to them whatsoever of our intentions, neither have we heard anything or had any correspondence from them in relation to our decision to send them to Lk. Grace High School.

The children were removed because they both complained of suspicious suggestions made to them by the housemaster, one Dennis McKenna” (Exhibit 8) (emphasis added)

The second letter (dated 20 August 1985) was from a Mrs Neve:

“We removed our daughter from St Andrews Hostel without a terms notice, because she was on the verge of a nervous breakdown.

We wrote to the Hostel Board stating our case and nothing more was heard or said about it from the board.” (Exhibit 10)

It is Mr McPharlin’s evidence that the reference in his letter to “suspicious suggestions” related to the behaviour reported by his stepsons, and in particular McKenna’s actions in twice unzipping the fly on one of the boy’s pants.

11.12.3 Mr Trezise decides to speak out against McKenna

It is Mr Trezise's evidence that while he was pursuing the dispute over fees: "the old town grapevine was growing well, and it was being well fertilised, and there were rumours around that things were going on at the Hostel" (t 540). Some of these rumours were to the effect that McKenna was "fiddling with boys", therefore (as I understand Mr Trezise's evidence) he considered the reference to "suspicious suggestions" in the McPharlin/Flanigan letter to be consistent with these rumours (t 540-541).

There was also an occasion around 1985 when a young lad Mr Trezise knew (John Jolley) helped him with some fencing. Mr Jolley had recently completed his schooling as a boarder at the Hostel and while helping with the fencing he told Mr Trezise that "McKenna fiddles with boys" (t 542). (It is relevant to note that McKenna was convicted at his trial in 1991 of an offence against Mr Jolley). It is Mr Trezise's evidence that as this was the first time that he was given this information firsthand "alarms bells rang". For this reason he decided that he should approach a Hostel Board Member (Garth Addis) whom he had known for many years. When he next saw Mr Addis (at a sporting event):

"...I called him aside and I said to him I thought there were some irregularities going on at the hostel and he asked me what. I told him the information John had given me.

Q. In particular, can you recall, to the best of your recollection, what you said to him?

A. I just told him that I had it on pretty good authority through John Jolley and from a letter from Bill McPharlin, which he would have already read no doubt, that there was something fishy going on at the hostel.

Q. Did you expand on that at all?

A. Yes, I told him that Mr McKenna was fiddling with boys.

Q. Can you recall Mr Addis's response to that?

A. Yes, he took exception to it and gave me a lecture on how good a fellow this McKenna was. I was quite taken aback by his reaction, and I did mention to him, because of this grapevine, I had heard his son might have been one of the ones involved so he should look in his own home as a starter.

Q. Can you recall the manner in which you described that, the phrase you used?

A. I think it was just, you know, "Please look in your own backyard and start looking at this."

Q. When you mentioned that, when you referred it personally to him, did his reaction change?

A. No, he still wasn't happy." (t 543)

(It is relevant to note that in 2011 McKenna was convicted of four offences of sexual abuse that had been committed against Mr Addis' son between 1983 and 1985).

It is Mr Trezise's evidence that he also approached another Hostel Board Member, Alan Parks:

"...I spoke to him on several occasions...the first occasion I cannot say exactly when it was, but it wouldn't have been long after the reaction I got from Garth Addis.

Q. Can you recall a specific occasion that you raised this with Mr Parks?

A. Yes, some time after that – I'm not sure exactly the year or time, Mr Parks might be able to enlighten you – but I was constructing a dam catchment on his property and he jumped up on the grader and we discussed the catchment and, after we had spoken about that I reminded him of our discussion.

Q. Can you recall what you said to him?

A. Yes, that John Jolley gave me that information - -

Q. Did you tell Mr Parks what that information was?

A. Yes, yes. I told him, you know, that McKenna was fiddling with boys and I trusted John implicitly and that...they'd had letters...from us and there was also a mention of that in the letters, which was referring to Bill McPharlin's letter.

Q. Can you recall Mr Parks' response to that?

A. He didn't really respond. I got the impression that they had closed ranks and they weren't going to talk about it." (t 544)

Mr Addis is now deceased. However, Mr Alan Parks has confirmed that Mr Trezise helped him to construct a dam catchment on his farm in April 1986 (But for an entry in his diary he would not have remembered that event). Although Mr Parks does not remember the discussions as alleged by Mr Trezise, he does not dispute that they might have occurred. It is his evidence that if he did have such a conversation with Mr Trezise he believes that he would have raised the issue with another member of the Board (t 1445-6).

11.12.4 Mrs Trezise's letter to the Country High School Hostels Authority

The Trezises did not give up on their attempts to be relieved from payment of the Hostel fees following the rejections by the Ombudsman and the Minister. On 17 September 1986 Mrs Trezise wrote to Colin Philpott, the Chairman of the Country High School Hostels Authority (Authority), protesting that outcome (Exhibit 11.1), and enclosing copies of the two letters obtained from other parents (including the one written by Mr McPharlin and Ms Flanigan referring to "suspicious suggestions" – Exhibit 8). Although those letters had been previously circulated to the Hostel Board, the Ombudsman and the Minister, it would seem that this was the first time that they were sent to the Authority.

It is Mr Philpott's evidence that he has a clear recollection of receiving the letter and of directing the Authority's administrative officer (Mr Lammas) to forward it on to the Hostel Board Chairman (Mr Len Wilkinson) for further enquiry. The enquiry that Mr Philpott wished the Chairman to undertake was not into the issue of outstanding fees, but into the assertion by Mr McPharlin and Ms Flanigan that:

"The children were removed because of suspicious suggestions made to them by the housemaster, one Dennis McKenna" (t 2499, 2509-2510)

Although at that time Mr Philpott did not consider that "suspicious suggestions" necessarily meant sexual misconduct, he thought that what had been written was "suspicious enough for further enquiry to be made" (t 2499, 2512).

It is also Mr Philpott's evidence that if he had thought that the McPharlin/Flanigan letter was alleging sexual misconduct by McKenna he would not have referred it to the Hostel Board for further investigation. He instead would have asked the Education Department to carry out an investigation:

"A. My memory of this is that there wasn't sufficient evidence at the time to put it forward to the Education Department. We needed more investigation, and that's why it went to the Chairman of the Board.

Q. Well, how about making a simple phone call to Ms Flanigan or Mr McPharlin to ask what they meant by that? Wouldn't that have solved the problem?

A. Well, that is part of the investigation. It would have been done by the Board, I would hope." (t 2504)

Mr Lammas has testified that he has no memory of seeing Mrs Trezise's letter or of being instructed by Mr Philpott to forward it on to Mr Wilkinson. However his stamp on the original correspondence shows that he received it on 19 September 1986 and that the action he took was to "forward copy to Hostel Chairman – table at next meeting". Mr Lammas also believes that any action to be taken in respect of the "suspicious suggestions" allegation would ordinarily have been decided by the Board of the Authority. Notwithstanding that the allegation lacked detail, Mr Lammas agrees that it was a "potentially serious accusation" and he would have expected the Board to direct that it be investigated by the Education Department (t 2776-7). However, it is also Mr Lammas' evidence that if nevertheless he was directed by Mr Philpott to forward the letter to the Chairman of the St Andrew's Board for further investigation he would have followed that instruction. This was because "I would have to do what I was told" (t 2778). This was so notwithstanding the potential difficulty that McKenna would be present at the Hostel Board meeting which would consider the matter.

11.12.5 The response of the Hostel Board and its Chairman

The copy of Mrs Trezise's letter that was forwarded by the Authority was duly received by the Chairman of the Hostel Board Mr Wilkinson. If Mr Wilkinson carried out any investigation this did not include contacting Mr McPharlin or Ms Flanigan to ask what they meant by "suspicious suggestions". Mr Wilkinson instead consulted a local firm of solicitors, and almost certainly did so in the company of McKenna. As a result of the instructions which were then given to those solicitors by Mr Wilkinson and McKenna, letters of demand were sent to the Trezises, as well as to Mr McPharlin and Ms Flanigan. The letter sent to Mr McPharlin and Ms Flanigan was as follows:

“Dear Sir and Madam,

Re: St. Andrews Hostel

We act for the Hostel Board and the Hostel’s Warden, Dennis McKenna.

We enclose a copy of a letter dated 22nd August 1985 apparently signed by you.

It was attached to a letter written by Mrs. Coral Trezise to the Chairman of the Country High School Hostels Authority.

The last sentence in your letter is libellous toward Mr. McKenna.

Not only does it contain an imputation against the character of Mr. McKenna, it is also clear that the statement has been published to others – to Mrs. Trezise for one and to the Members of the Country High School Hostels Authority secondly.

We have advised Mr. McKenna that he has firm basis for the issue of a Writ against you as authors of the statement. If however you sign and return to us the enclosed form of apology, he will consider not taking any further action.

Yours faithfully,

TAYLOR, NOTT & MURRAY

(Exhibit 9)

The enclosed form of apology was as follows:

“To: Mr Dennis McKenna,

St. Andrews Hostel,

Round Drive,

KATANNING. W.A. 6317.

In an open letter dated 22nd August 1985 we made the following statement in respect of the residence by the children of the undersigned GLENYS FLANIGAN at the St. Andrews Hostel:

“The children were removed because they both complained of suspicious suggestions made to them by the Housemaster, one Dennis McKenna”.

We now unreservedly withdraw the statement and any imputation of impropriety it conveyed.

We admit that the statement is without foundation.

We regret making the statement and we tender to you our sincere apology.

Yours faithfully,

Signed: B. MCPHARLIN

Signed: G. FLANIGAN” (Exhibit 9)

The letter that the solicitors sent to Mr and Mrs Trezise was in very similar terms and also enclosed a form of apology for signature (Exhibit 11.3). It is relevant to note that both letters were dated 8 October 1986 which was only 19 days after the Authority had received Mrs Trezise's letter. (Which was a remarkably swift response in all of the circumstances). Furthermore, the letters were sent on behalf of both McKenna and the Hostel Board, even though no prior Board meeting had been held to approve this action.

It is Mr Wilkinson's evidence that he has no recollection of Mrs Trezise's letter or of the solicitors' letters that were sent on his instructions (t 3109, 3112). However, he believes that he did not take this action in "isolation" and that he must have spoken to other Board Members before instructing the solicitors (t 3119).

Mr Wilkinson accepts that it would be difficult to construe the term "suspicious suggestions" as referring to anything other than something of a sexual nature (t 3114). He therefore assumes that McKenna must have given some explanation which satisfied him that there had been no sexual impropriety (t 3114).

Mr Wilkinson has no recollection of speaking to Mr McPharlin or Ms Flanigan to find out what they meant by the term "suspicious suggestions". He agrees that he should have taken this step if he was doing his job properly (t 3120). He also agrees that if he failed to do so, then the matter was not "broadly enough" nor "satisfactorily investigated" (t 3115).

The Hostel Board gave consideration to the Trezise matter at its next meeting on 22 October 1986. Those present at the meeting included McKenna and the Authority's administrative officer Mr Lammas. The minutes of the meeting record the following resolution:

"(e) Trezise – discussion followed by the motion moved by B. Hendry and seconded by J. Ireland – "Board endorses action taken by the Chairman and Warden in recent correspondence concerning Trezise's [sic]" carried." (Exhibit 34)

Some indication of the nature of the discussion which gave rise to that resolution can be found in a separate record of this meeting kept by one of the Board Members, the school Principal Gerald Marriott. Mr Marriott has no recollection of the discussion at all, but his personal planner (Exhibit 97) records the following note:

"Allegations against D McKenna defended"

Mr Lammas likewise has no recollection of being present at the meeting or of discussing the Trezise matter with the Board (t 2783). He agrees that the obvious first thing which should have been done by way of enquiry was to ask Mr McPharlin and Ms Flanigan what they meant by the term "suspicious suggestions" (t 2781). He cannot recall whether or not he asked the Board what investigations had been carried out, but assumes that he "must have felt that the Board was in control of the situation" (t 2787-8).

Robert Hendry was another Board Member present at the meeting but he also cannot recall the Trezise matter, the resolution that was passed, or the letters that were sent by solicitors on behalf of the Board. Even though he was the mover of the motion, he suggests that he might have endorsed the solicitors' correspondence without having seen it (t 1917).

Although the Trezises, Mr McPharlin and Ms Flanigan did not comply with the solicitors' demands, they were never subjected to any proceedings for defamation. Even though the solicitors were acting for the Board and McKenna they sent their bill to the Authority and those costs were met by the Authority. Neither Mr Philpott nor Mr Lammas can offer any

explanation for this arrangement. Mr Lammas is surprised that the Authority met the costs because "I would have thought it would have been the costs of the Board" (t 2791).

11.12.6 The meeting between the Trezises and Colin Philpott

It is Mr Trezise's evidence that on a date he cannot remember in 1985 or 1986 he and his wife attended a public meeting in Lake Grace which had been called to discuss a proposal for construction of a new hostel. Colin Philpott was one of the speakers at the meeting which was held after "we forwarded him the letters that we had from other parents" (t 1545).

When the meeting finished the Trezises followed Mr Philpott outside and stopped him on his way to his car. After raising the matter of the fees, Mr Trezise says the following occurred:

"Q. Did you raise with him any other subject matter?

Yeah, the matter of information I'd had about boys being fiddled with.

Q. Can you recall what you said to him in that regard?

A. Yeah. I said to him to look at the letter from Bill McPharlin and take it as read.

Q. Did you say anything else?

A. I did eventually. He was as mad as a hornet and he said, "You wrote that letter and forwarded it to people." And I said, "That's easy to prove. We'll do a writing – easy to prove. Our writing's nothing the same. Get some correspondence from each of us."

.....

Q. When you said "this information", what - -

A. I was referring to the information that John Jolley had given us and the information in Bill McPharlin's letter.

.....

Q. But what did you remind him of as to what that information was?

A. Well, McKenna was fiddling with boys at the hostel." (t 546-7)

(Mr Trezise understood Mr Philpott's assertion that he "wrote that letter" to be an accusation that he had forged the letter signed by Mr McPharlin and Ms Flanigan).

Mr Philpott agrees that he had a brief meeting with the Trezises at Lake Grace in the circumstances claimed but contends that it took place on 11 March 1986 (which was well before receiving the letter from Mrs Trezise). He bases this assertion on the following entry in the minutes of the Authority meeting on 11 March 1986:

"Lake Grace Parents Group

The Chairman advised the Authority he had met with a delegation of parents from the Lake Grace region who were seeking the establishment of a hostel at Lake Grace. The Authority was addressed by Mr M Gatty, Planning Directorate – Education Department, who provided statistics for possible regional school enrollments [sic] and trends for Lake Grace." (Exhibit 89)

However a seemingly more relevant entry can be found in the minutes of the Authority meeting on 11 November 1986 (Exhibit 79):

"(iii) Lake Grace

Mrs C Mercer (Member) reported on a meeting held between parents and the Authority at Lake Grace on November 5, 1986. The Authority resolved to include the construction of a hostel at Lake Grace in it's 1987/1988 budget."

When questioned about this later entry Mr Philpott recalled that he did attend Lake Grace for the meeting on 5 November 1986, and he accepts that he may have met with the Trezises on that occasion (t 2493-4). However whether their meeting was on 11 March or 5 November 1986, he maintains that the only matter discussed was the issue of fees. His evidence generally on this point is as follows:

"Q. And I gather from what you are saying then, that if, in fact, some allegation is to be made about Dennis McKenna fiddling with boys, it would have been something you would have followed up?

A. Would have taken it up and done something about it.

Q. Mr Philpott, his Honour has already made the comment that we use different terminology for describing sexual abuse now than what might have been used in the 80s?

A. Very much so, yes.

Q. But had, in fact, someone said to you a phrase to the effect of or accusing someone of "fiddling with boys", would you have understood that to mean something of a sexual nature?

A. Not necessarily.

Q. What do you think. I know it may be difficult to cast your mind back. Any idea how you would have interpreted that?

A. "Fiddling with boys" could have been wrestling with them, something in the showers or something of that nature. Not necessarily would it have been sexual abuse.

HIS HONOUR: Q. When you say "in the showers", what do you mean by that?

A. I think there was some relevance in the minutes somewhere that McKenna used to go into the showers and view the boys and strap them or something.

MR URQUHART: Q. I don't think that's in the minutes anywhere but it certainly was the evidence that was given at the Inquiry, yes. So you wouldn't necessarily link a description of "fiddling with boys" to sexual abuse?

HIS HONOUR: Back then, we are talking about.

MR URQUHART: Back then. Sorry, back then, sorry, yes.

THE WITNESS: Yes, I probably would." (t 2497-8)

11.12.7 Findings

Regardless of whether or not Mr Trezise spoke to each of Mr Addis, Mr Parks and Mr Philpott about McKenna “fiddling with boys”, it is very clear that the Board and the Authority were well aware that there was an allegation to that effect. The fact that the Board was aware of an allegation of sexual misconduct is shown by its endorsement of Mr Wilkinson’s action in instructing the solicitors to threaten Mr McPharlin, Ms Flanigan and the Trezises with proceedings for libel. (No witness has been able to suggest any way in which the words “suspicious suggestions” could sensibly be regarded as defamatory other than in a sexual context).

Likewise, the Authority via Mr Lammas had knowledge of those instructions. Furthermore, the evidence indicates that Mr Philpott was not a laissez-faire type of Chairman, but exercised a fairly strong and tight control over the affairs of the Authority. I am satisfied that Mr Lammas would have reported to Mr Philpott on the actions of Mr Wilkinson and the Hostel Board. The fact that the Authority paid the costs of the letters of demand also shows that it was most probably a party to the instructions given to the solicitors, or at the very least was well aware that that action had been taken.

I consider Mr Trezise to be an honest witness who could nevertheless be mistaken about some of the details and dates of the relevant events. Nevertheless I am satisfied that he did speak to each of Mr Addis and Mr Parks to communicate his concerns about McKenna “fiddling with boys”. The fact that Mr Trezise had good reason to be concerned that Mr Addis’ son was a victim was subsequently confirmed by McKenna’s convictions. Although Mr Parks cannot recall the relevant conversations, it is unlikely that Mr Trezise would be mistaken about raising the issue with him a number of times. Furthermore, Mr Parks’ diary confirms the circumstances surrounding one of the alleged conversations.

In light of what appears in the Authority’s minutes of 11 November 1986, I am satisfied that the meeting at Lake Grace between the Trezises and Mr Philpott took place on 5 November 1986. At that time all three of them were well aware of the letters of demand which had been sent only four weeks previously, and the only reasonable inference is that the threatened defamation proceedings must have been uppermost in their minds.

In these circumstances it is inconceivable that there would not have been some discussion between the Trezises and Mr Philpott concerning the McPharlin letter and what it signified. In any event, as I have already found, Mr Philpott was by then well aware of the implications of the “suspicious suggestions” referred to in the letter. Accordingly, I am satisfied that there was a robust discussion of that subject between Mr Trezise and Mr Philpott in the course of which the latter was told that “McKenna is fiddling with boys”.

To my mind it is self-evident that the responses of each of the Authority and the Board to the allegations made against McKenna were totally inadequate. They did not even take the very simple step of enquiring from Mr McPharlin or Ms Flanigan what they meant by “suspicious suggestions”. Even when told quite explicitly that McKenna was “fiddling with boys” they did nothing at all to determine whether or not that allegation was true. The Authority could have utilised the resources of the Education Department to carry out a proper investigation but it would seem (through Mr Lammas and Mr Philpott) that it was not interested in taking that course.

Far from seeking to establish the truth of the allegation, the Board (in collaboration with the Authority) used the threat of defamation proceedings as a successful strategy to pressure the Trezises, Mr McPharlin and Ms Flanigan into silence. No doubt they took this step believing that McKenna could not possibly be guilty of such crimes. However, the inevitable consequence of their failure to investigate and their pressuring of these “whistle-blowers” into silence was that McKenna was able to continue with his offending and to wreak devastation on young lives for a further four years.

11.12.8 Conclusions

1. In April 1986 Mr Trezise informed Mr Parks (in his capacity as a member of the St Andrew's Hostel Board) that McKenna was “fiddling with boys” at the Hostel. Mr Parks' obligation as a Board member required that he have that allegation investigated by the Board but he failed to do so.
2. On about 19 September 1986 Mr Philpott as Chairman of the Authority became aware of a written allegation that McKenna had made “suspicious suggestions” to boys at St Andrew's Hostel. Although Mr Philpott understood that the allegation might refer to sexual misconduct he (and the Authority) failed to respond appropriately in that they:
 - 2.1 Did not arrange for an investigation of the allegation by the Education Department.
 - 2.2 Directed the Authority's Administrative Officer to forward the allegation to the Hostel Board Chairman (Mr Wilkinson) for investigation.
 - 2.3 Did not subsequently check that the Hostel Board Chairman had carried out a proper investigation.
 - 2.4 Instead allowed the Authority to become a party to a threat by the Hostel Board and McKenna that defamation proceedings would be issued if the allegation was not withdrawn.
 - 2.5 Ignored oral confirmation from Mr Trezise on 5 November 1986 that the written allegation was a reference to McKenna “fiddling with boys”.
3. Mr Len Wilkinson, the Chairman of the St Andrew's Hostel Board, failed to respond appropriately to the allegation that McKenna had made “suspicious suggestions” to boys at the Hostel, in that he:
 - 3.1 Did not attempt any investigation of the allegation.
 - 3.2 Instead joined with McKenna in threatening the authors of the allegation (and others) with defamation proceedings.
 - 3.3 Arranged for the Hostel Board to retrospectively approve those actions.
4. The St Andrew's Hostel Board (as a whole) was made aware of the allegation against McKenna but failed to respond appropriately in that it:
 - 4.1 Did not arrange for any proper investigation of the allegation.

- 4.2 Retrospectively approved the Chairman's and McKenna's action in threatening defamation proceedings.
5. The above failures by the Authority and its Chairman, and by the Hostel Board and its Chairman, to fulfil their official responsibilities were significant contributing factors to McKenna's ongoing ability to offend until 1990.

11.13 Late 1985: The Westrek affair

11.13.1 The background

In 1985 (which was the International Year of Youth) the Government of Western Australia decided that it would implement some new initiatives in the area of youth policy. One of these initiatives addressed the issue of youth unemployment. It was a scheme known as the "Westrek" program which provided an "opportunity for young West Australians to learn new work and life skills while being involved in voluntary conservation based projects throughout the State" (Exhibit 46).

In March 1985 Cabinet approved a pilot Westrek program to be conducted in the last half of that year under the auspices of the Department of Employment and Training (DET). The primary aim of this pilot program was to evaluate its effectiveness as well as the possibility of it being funded on a permanent basis by the Federal Government and/or private enterprise. As to the latter possibility, the then Minister for Employment and Training (the Hon. Peter Dowding MLA) had reached a tentative understanding with Mrs Janet Holmes à Court that if the pilot program was successful her family might provide the funding necessary for it to continue.

Arrangements were made by the DET for Westrek projects to be conducted for six months at six separate locations (Carnarvon, Murchison Station, Geraldton, Katanning, Norseman and Bunbury). At each location there would be 12 participants (aged between 17 and 25 years) as well as a group leader in charge. Each group of 12 would participate in two separate projects by spending three months at each site. However the group leader at each project would remain at the one site for the full six months (Thus having responsibility for two successive groups of participants).

The locations for the projects were chosen because of the willingness of those particular local communities to provide support. The support that was expected from each local community included selection of the particular conservation sites at which work was to be done, provision of accommodation for the Group Leader and participants, appointment of a Committee to oversee and supervise the project, and the supply of any materials required.

At Katanning the Westrek pilot program enjoyed the full support of the local Shire Council. The Council firstly resolved on 20 June 1985 to seek assistance from McKenna for participation by the Shire in the International Youth Year (Exhibit 47). After Katanning was chosen as one of the sites for the pilot program, the Shire also appointed a local "Westrek Committee" which included McKenna and Ainslie Evans as members (Exhibit 48). Mrs Evans later became the Chair of that Committee as well as the "Community Liaison Officer" for the project. Accommodation for the Westrek participants was provided at the former St Rita's Hostel (then known as "Kartanup") and the DET agreed that it would lease those premises from St Andrew's Hostel.

By the time that the pilot project commenced there were five key personnel within the DET who were responsible for its administration. Elizabeth Stroud was the Training/Field Officer responsible for training the Group Leaders and she reported to the Manager of the Westrek program, Peter Sherlock. Mr Sherlock reported in turn to a Deputy Director of the

Department, Ian Carter. Above Mr Carter, was the Head of the Community Employment Initiatives Unit Peter Kenyon, as well as the Director General of the Department Mike Cross (who is now deceased).

At all material times there was also a “Westrek Advisory Group” which was a committee including departmental representatives chaired by the Westrek program’s patron Janet Holmes à Court. Although this Advisory Group had oversight of the pilot program its precise role is not entirely clear. (It was not until 1986 that the Advisory Group was converted into a smaller “Management Board” for the ongoing Westrek program – see “Westrek Prospectus”).¹ However, the evidence does not suggest that the Advisory Group or its Chair had any significant role in the day-to-day management of the pilot program. (As distinct from the subsequent “permanent” program in respect of which the Management Board may have played a greater role).

It is important to note that the Inquiry’s search for contemporaneous departmental records has been largely unsuccessful. In that regard the Inquiry has been informed by the DET’s successor (The Department of Training and Workforce Development) that the relevant records were destroyed without authorisation during the 1990s. (The only Westrek records that have been recovered were copies of some documents that were copied to the Department of Education at the time of the project).²

One of the first tasks faced by the DET in getting the pilot program up and running was the recruitment and training of suitable Group Leaders. I understand that the initial selection of Group Leaders was made by Ms Stroud in conjunction with Mr Carter (and possibly Mr Kenyon) but that their training was entirely her responsibility. However there was also intervention from above in relation to the selection of Ms Maggie Maruff (now known as Maggie Dawkins).

In 1985 Mrs Dawkins was 27 years of age and employed as an Electoral Officer for Kim Beasley MHR, the then Minister for Defence and the Federal Member for the seat of Swan. At that time Mrs Dawkins had also had a recent relationship, and was still friendly with John Dawkins MHR, who was the Federal Member for Fremantle, the Minister for Trade, and the Minister assisting the Prime Minister on Youth Affairs. (Mrs Dawkins went on to marry John Dawkins in 1987).

In late 1985 Mrs Dawkins took six months leave from her employment without pay, and applied to become a Group Leader with the Westrek program. That application was successful, and it is clear that Mr Cross, the Director General was very pleased to have Mrs Dawkins on board with the Westrek program. In that regard he considered that her involvement in Westrek as well as her political connections would enhance the prospects of Federal funding for the permanent program.

Mrs Dawkins attended a training program at Woodman Point where she met and became friendly with a fellow trainee Patricia Thomson. Mrs Dawkins was then assigned to be Group Leader of the Katanning project, and she arrived there in early July to make arrangements

¹ Westrek Board 1987, Westrek, Westrek Board, Western Australia.

² In the last week of the Inquiry a Westrek file was identified at the State Records Office by a member of the Inquiry which was not previously identified by the relevant agency. This was reviewed however it did not provide any significant information relating to this Inquiry.

for the arrival of the participants. The first group of 12 participants arrived on 11 July 1985 and they started work on the designated project (restoration of an old mill) on 22 July 1985.

It is relevant to note that after the pilot program had commenced the DET decided that there should be two Group Leaders at each project. The second Group Leader for Katanning ("I") arrived in or about August 1985. (I have given the second Group Leader the pseudonym "I" for reasons which will become apparent).

11.13.2 Mrs Dawkins' evidence

Mrs Dawkins now lives in South Australia and at the time of giving evidence was in considerable pain because of serious leg injuries she had suffered in late 2011 when kicked by a horse. In order to accommodate these difficulties she was permitted to appear before the Inquiry by video link and to give her evidence in chief by reading from her written statement.

According to Mrs Dawkins she experienced problems with McKenna and Ainslie Evans from the very start of her time at Katanning. They did not respect the privacy of the Westrek group at Kartanup and failed to adhere "to the simple courtesy of knocking and waiting to be invited in". McKenna was also "at pains to let me know that he knew my every move" (t 235-6).

As work on the Katanning project progressed a 23 year old participant named Simon became very friendly with McKenna. Simon would spend a great deal of time with McKenna at the St Andrew's Hostel and Mrs Dawkins suspected that they were in a sexual relationship. She was uncomfortable about this situation and unsure whether it was an issue for her as Group Leader given that Simon was in Westrek's care. For this reason she sought guidance from Ms Stroud and was advised that she should be tolerant of any sexual relationship (t 237).

Simon then left the Westrek project as a result of McKenna arranging for him to become a Supervisor at the Amity Hostel in Albany. While discussing Simon's departure with Mrs Evans, Mrs Dawkins suggested that "there might be more to the relationship" between him and McKenna. However after expressing delight that McKenna had been able to recruit a new Supervisor Mrs Evans "politely but categorically refused to be drawn into further discussion of the matter" (t 237).

Sometime later Mrs Dawkins was at a Hotel in Katanning where she was introduced to a young man by a Westrek participant. Mrs Dawkins cannot remember the young man's name but he looked about 18 or 19 years old and could have been as young as 17. He told her that he was a former resident of St Andrew's Hostel and that he had been sexually abused by McKenna:

"He told me that he'd been given alcohol – I think it was Scotch, but it was alcohol – it was spirits, and he was fondled in his private, you know, business, and that he was made to perform oral sex with Mr McKenna and he was raped and it happened repeatedly; it wasn't just once." (t 251)

The young man was unwilling to go to the police with his allegations but asked Mrs Dawkins if she could have the activities of McKenna investigated (t 238, 299). Mrs Dawkins was unsure how she should respond to this request and decided to seek the advice of a local

policeman (Bill Todd) with whom she had a “warm working relationship”. When she went to the police station and spoke to Sergeant Todd:

“He said that he needed a statement with names, dates, times et cetera. Mr Todd warned me of the severity of the allegations being made against “the golden boy” of Katanning Dennis McKenna, who was then Citizen of the Year. I recall Mr Todd making a comment along the lines that he had to live in the town, while I would leave when my contract expired. I asked him what I should do to have the allegations brought to someone in authority who could act to investigate them. Mr Todd advised me that I had very little to go on – maybe I should contact my supervisor.” (t 238)

After receiving this advice Mrs Dawkins telephoned Ms Stroud at the DET Head Office in Perth and sought guidance on how to handle the situation. Ms Stroud suggested that she should raise her concerns with Mrs Evans. However when Mrs Dawkins approached Mrs Evans on the subject:

“...she did not for a moment focus on the allegations but lost her composure berating me for daring to besmirch the glowing reputation of Dennis McKenna who was Citizen of the Year.

I tried in vain to convince Mrs Evans that it wasn't a case of me against Dennis McKenna. I appealed to her to have the allegations investigated. I became a pariah for raising these concerns and was on the receiving end of a tirade of verbal abuse.

My vivid recollection of this meeting was that I was surprised at Mrs Evans' loss of control and her down right refusal to agree to raise these allegations with anyone else let alone have them investigated.

...I made it clear to Mrs Evans that it was not up to her to judge whether these allegations had substance or not, it was important that others, such as the Country Hostels Association, or the Education Department investigate or some other body outside of Katanning. Mrs Evans asked me to name the boy who had come to me. When I divulged his name she dismissed him as being nothing but trouble. I volunteered to Mrs Evans that it was quite possible that his “troublesome” behaviour was [a] direct result of sexual abuse by Dennis McKenna. She was not interested in my views or in having these concerns investigated. [She] told me that she would contact my supervisors and have me removed immediately. During the course of the meeting Mrs Evans turned from a warm motherly person into an aggressive vindictive woman out to have me sacked.” (t 239-240)

It is Mrs Dawkins' evidence that after that meeting with Mrs Evans she felt “beyond mad” and furious. She decided to confront McKenna directly and immediately drove to the Hostel:

“I told him I knew what he was doing and I made it clear that I would do what I could to have his disgusting activities stopped. Dennis never denied what I accused him of - [he] laughed in my face. He threatened me by saying that he would have me sacked. He told me he had friends in high places. He would crush me. I had been a tutor in Fremantle and Canningvale Prisons, and [I] told him I had friends in low places and that he would meet them soon.” (t 240)

Following that confrontation there was another telephone conversation between Mrs Dawkins and Ms Stroud either later that day or the next day. Mrs Dawkins cannot recall who

telephoned whom, but she was directed by Ms Stroud to pack up and move to the Westrek project at Bunbury:

"I was given 48 hours to do so. Ms Stroud informed me that Dennis McKenna had threatened to withdraw the accommodation at Kartanup from Westrek. This would have put an end to the project I had worked so hard to set up." (t 240)

It is also Mrs Dawkins' evidence that the only specific reason that Ms Stroud gave for requiring her to move to Bunbury was that she had damaged Westrek's relationship with the local community by upsetting Mrs Evans and McKenna. Ms Stroud did not raise any issues as to her personal behaviour (t 254, 264). Although Mrs Dawkins was unhappy with this decision she accepted that she could no longer stay at Katanning. She transferred to Bunbury as directed and "really enjoyed the Bunbury project" (t 294).

After Mrs Dawkins moved to Bunbury she had meetings with Ms Stroud and Mr Sherlock at which the events at Katanning were further discussed. Although Mrs Dawkins cannot recall the locations of these meetings:

"I do have a lasting impression that Elizabeth Stroud and Peter Sherlock took the approach that I was a politically savvy person, who understood the sensitivity of the programme. When I expressed a lack of understanding [for] their lack of support for me, I was told that I had put the Katanning project in jeopardy by upsetting Mrs Evans and Dennis McKenna. When I pressed them about how to get my concerns addressed, they made it clear to me that I was sticking my neck out about mere suspicions of allegations made by an unreliable youth, who refused to make a police statement. I did not have much to go on. It was Elizabeth Stroud who advised me to put in writing what the young man had told me of his allegations of sexual abuse and my concerns to have Dennis McKenna investigated. I did as advised and I handed Elizabeth Stroud and Peter Sherlock a copy of that account. I recall Peter Sherlock giving me an undertaking that even though it was very little to go on, he would try to alert the relevant authorities." (t 242-3)

Mrs Dawkins then continued to manage the Bunbury project and recalls that by this time she was having more dealings with Mr Sherlock than Ms Stroud who "seemed to have been removed from the coordinator's position". The next event of significance was that she was summoned to the Head Office in Perth for a day of meetings. Prior to driving to Perth she was telephoned by her friend Patricia Thomson. Dr Thomson was no longer a Group Leader but was working in the Head Office and she warned Mrs Dawkins that her superiors would be demanding her resignation. Mrs Dawkins has difficulty recalling the sequence of events when she attended the meetings in Perth, but it is her evidence that:

"I do remember meeting with Peter Sherlock, Peter Kenyon and Ian Carter. I recall [that] Mr Kenyon and Mr Carter held positions senior to Mr Sherlock. I recall Peter Kenyon or Mr Carter informing me that I had caused serious damage to the working relationship with Mrs Evans and Dennis McKenna at Katanning. I remember being told that Vic, the Group Leader who replaced me was experiencing difficulties with Mrs Evans, and Dennis McKenna was continuing to insist that I be sacked. I recall being presented with a prepared letter of resignation to sign. It was only a few lines on a page. I refused...to cooperate, as I had sought and had followed the advice of my supervisor. I do not recall where Elizabeth Stroud was during these meetings. I am unclear whether she attended them. I asked what they had done to have the

allegations of sexual abuse investigated, which to me remained at the centre of the issue.

I do not recall who said the actual words, but the view I came away with that day and remains with me to this day is that the sexual abuse of a former secondary school student at a government hostel was not a “Westrek” concern. This has always been the major difference between me and my superiors at the Department of Employment and Training.

During the course of that day I spoke informally to the Head of Department Mike Cross and asked him to intervene to have the allegations investigated and [to] have Peter Kenyon and Ian Carter leave me alone as I had followed the advice of Ms Stroud and I would therefore not resign.

Later I think it was the same day I was given an assurance by Peter Kenyon and Ian Carter that they would have my concerns raised with the appropriate authorities. I was advised by them to return to my project and keep my head down. They complimented me on my running of the Bunbury project. I was told not to discuss with anyone the contents of these meetings.” (t 243-4)

Mrs Dawkins was also “sworn to secrecy that I wasn’t to mention why I left Katanning” and was told by the Department “not to discuss any of those details” (t 268). Mrs Dawkins never heard again from the Department about the matter and does not know if her concerns about McKenna were ever addressed.

11.13.3 Patricia Thompson’s evidence

Some aspects of Mrs Dawkins’ evidence are corroborated by Dr Thomson who was the Westrek Group Leader who became friendly with Mrs Dawkins while they were undergoing training. They also maintained occasional contact with each other after being posted to their separate project locations.

Dr Thomson was the Group Leader at the Norseman project when Mrs Dawkins commenced at Katanning. She recalls a telephone conversation at about that time when Mrs Dawkins complained about “unrestricted access visits” at Kartanup and told her that “Dennis McKenna was always there and that Ainslie Evans was sticking her nose in too” (t 334).

By the time that Mrs Dawkins left Katanning Dr Thomson had been transferred from Norseman to the Head Office of the DET in Perth. She worked in an open plan area approximately three metres from Ms Stroud and in the near vicinity of Mr Sherlock. Dr Thomson could overhear conversations between the other two, and it is her evidence that she recalls an occasion when Ms Stroud was talking to someone on the telephone and said words to the effect:

“What, be fired, Maggie? What, be fired? Fire her?” (t 335)

When Ms Stroud put the telephone down she turned round towards Mr Sherlock and said “they want her to come in for a meeting”. Ms Stroud and Mr Sherlock then discussed who would be at the meeting, and Dr Thomson overheard that Mr Cross, Mr Kenyon and Mr Carter were going to be present.

Armed with this information Dr Thomson waited until later that day when no one else was present in the office. She then telephoned Mrs Dawkins and said:

"...I thought she better know, if she was being called about coming into a meeting, that she should anticipate it probably wasn't the reason that she thought she was coming to Perth for, that she was probably going to be fired and to be prepared." (t 336)

Dr Thomson was not present in the office when that meeting was held, but within a day or two Mrs Dawkins told her over the telephone what had happened. Amongst other things, Dr Thomson specifically recalls:

"...that she said that she had raised other matters of concern about the St Andrew's Hostel. I also remember specifically that she told me that she had been chastised for causing trouble and she was to stop doing it. I also remember her telling me specifically that she had been asked to sign a prepared letter of resignation, that she refused to do (so), and I don't want to elaborate on the expletives that she actually used in regard to that." (t 338)

At some time later in the year Dr Thomson's employment took her to Bunbury where she discussed with Mrs Dawkins what had happened at Katanning. Dr Thomson's evidence of that discussion includes the following:

"A. ...I also specifically recall three issues that she said. She said that Dennis McKenna used to give a signal to boys to visit his room by tapping on the end of his bed. She did not at that time say to me that there was a sexual abuse issue. The other thing she told me was that Elizabeth Stroud had told her specifically to stop causing trouble in the community and that had been communicated to her by Ainslie Evans as well.

The third thing I remember her telling me is that Elizabeth Stroud had asked her to document concerns that she had, to note anyone who was involved and to provide her with that written material, which she had done.

Q. When she raised with you about the matters that had been brought to her attention by that young man that you mentioned a moment ago, did she say anything about the subject matter of those concerns to you?

A. No, she did not. I just said to you previously that she did not say anything about sexual abuse; she just said that a young man had brought some issues to her attention." (t 340)

11.13.4 The evidence of Inspector Todd

In 1985 Inspector William Todd was the Officer in Charge of the Katanning Police Station. It is his evidence that he has no recollection of the Westrek group being in town (t 1086, 1100) or of a woman named Maggie Maruff coming to the Police Station to complain about McKenna sexually abusing a boy (t 1085-8, 1100). Although Inspector Todd cannot recollect any dealings with Mrs Dawkins he is very certain that she did not speak to him about an allegation of sexual abuse at the Hostel because "had she come to me with a complaint of that nature we would have responded immediately. (We have) always carried out our views

without fear or favour to anybody, whether it's McKenna or the Shire President or anybody at all" (t 1088, 1091-2, 1098-1100).

Although Inspector Todd was stationed at Katanning for three years between January 1983 and January 1986 it is his evidence that he did not know McKenna very well and spoke to him only about two or three times during the whole of the time he was there. He did not hear any rumours about sexual misconduct at the Hostel, and a police cadet named Stubbs who was boarding there never reported anything untoward (t 1092-3).

When Inspector Todd later learned that McKenna had been sexually offending against students for 15 years he was amazed "that this could have gone on for so long without anybody being advised about it" (t 1102). He also cannot understand why Mrs Dawkins did not pursue the matter with more intensity:

"That's the reaction that I had, is that why somebody hadn't done something about it. I can assure you that nobody came to my office, or any of my staff, with a complaint of this nature" (t 1102)

While stationed in Katanning Inspector Todd purchased 650 acres of land which he still owns. For this reason he has regularly visited Katanning ever since and he has many local friends including Mrs Evans (t 1103-5).

11.13.5 The issue of whether Inspector Todd gave Mrs Dawkins a driving test

Mrs Dawkins and Inspector Todd are in conflict on a number of matters which ordinarily would be of no great importance, but have gained significance because they are relevant to the credit of each of these two witnesses. One such matter relates to Mrs Dawkins' evidence that she had to apply for a new category of driving licence so that she could drive the 14-seater bus that had been made available for the purposes of the Westrek program. According to Mrs Dawkins it was as a result of Sergeant Todd giving her the driving test for that new category of licence that she first came to know him and developed the "warm working relationship". However, Inspector Todd denies that he conducted the driving test, and he has placed great emphasis on this aspect of Mrs Dawkins' evidence in his written submissions:

"Ms Dawkins has advised the Inquiry that she knew me through completing driving lessons and a driving examination in relation to a 14 seater bus. I believe she is mistaken in relation to this matter based on the following:

- a) Whilst the Katanning Police Station did attend to drivers licensing matters, it was not the duty of the OIC of the station to be doing driving lessons or giving drivers licence examinations. These examinations were generally held on a specific day each week. I do not recall at any stage doing any driving tests, let alone one for a bus licence;*
- b) To complete a driving test for any class of licence, the testing officer had to have been issued the same class of licence. You could not take a person for a licensing test if you yourself did not hold the relevant class of licence. I believe back at about this time, the correct class of licence for a bus would have been an 'F' class licence. I did not have an F class licence at the time Mrs Dawkins*

speaks of and I did not obtain one until September 2007 when I was directed by WA Police to obtain such a licence for work purposes (see Attachment A);

- c) *Licensing examination matters were generally handled by the four traffic officers at the station. I believe on occasions when traffic officers were not available due to rostering or operational reasons, the examinations were done by the general duties officers. At the time reported by Mrs Dawkins, the traffic Sergeant was Third Class Sergeant Wendt. Mrs Dawkins may be mistaken that I attended to the driver licensing matters for her. Sergeant Wendt was of similar age, build and height. Further, there were 10 other officers working at the station at that time, and if she did in fact do a driving test at Katanning, it could have been completed by any of these officers.*

If Mrs Dawkins is mistaken in relation to the bus issue, I submit that she may also be mistaken in relation to purporting to provide the information stated to me.”³

At the time of forwarding his submissions Inspector Todd also provided the Inquiry with a written statement from Sergeant David Haendel (dated 10 July 2012) who served at Katanning Police Station between 1980 and 1988. Sergeant Haendel states:

“I do not recall the general duties staff or Officer in Charge performing any duties associated with motor driver’s licensing or testing...I do not recall ever seeing Senior Sergeant Todd conduct a driving test with any person whilst I worked at Katanning.”
(t 4292)

Since then Inspector Todd has forwarded to the Inquiry statements from a total of seven additional police officers or staff who served under him while he was Officer in Charge at Katanning. Relevant to the issue of the driving test, these statements confirm the following:

- At the material time, Katanning Police Station had a separate traffic section which was run by Sergeant Ray Wendt and then by his successor Sergeant Kevin Scorer. The traffic section was responsible for taking all MDL tests.
- Any prospective new driver wishing to undergo a driving test would make a booking and be allocated a set time on a weekday for taking that test.
- The traffic officers stationed at Katanning were predominantly responsible for conducting the driving tests.
- No police officer can recall Sergeant Todd ever conducting a driving test.

Following Inspector Todd’s submissions, and in order to clarify some of the issues surrounding the alleged driving test, the Inquiry obtained further information from WA Police. As a result Detective Inspector George McIntosh of the Internal Affairs Unit provided a statement which included the following evidence:

“Inspector Todd’s driver’s licence number...revealed he originally held the following state driver’s licence classes:

A - Car to carry less than 12 passengers,

B - Motor wagon or tractor, Motor car to carry more than 12 passengers,

C - Articulated vehicle,

³ Submission from Inspector Todd to Counsel Assisting dated 10 July 2012

K - Motor Cycle of any engine capacity.

Inspector Todd now holds an HC,R Motor Driver's Licence which is a National classification. The HC,R covers the previous state based classes of A, B, C, K. The new national classes came into effect in 2001.

IMS records indicate that Inspector Todd's State licence classes were added on 01/01/1983." (t 4301-2)

The Inquiry also obtained a further statement from Mrs Dawkins as to the circumstances in which she claims Inspector Todd conducted the driving test. Her evidence (from this statement) is to the effect that soon after arriving in Katanning she was introduced to the then Sergeant Todd who was known as "Toddy". She believes that that introduction was made by Mrs Evans. Mrs Dawkins does not recall knowing any other police officer in Katanning and has no recollection of Sergeant Wendt (t 4297). As to the driving test, it is her evidence that:

"I was alerted to needing a bus licence by my ex-husband who is a solicitor.

He told me that I needed another class of licence to drive the bus.

He was concerned that if I had an accident I wouldn't have insurance and it could affect my assets.

When I returned to Katanning with the Westrek participants I went to see Bill Todd at the police station. I had met him when I had made my initial calls and contacts with various organisations in the town to advise them of the Westrek pilot program. I am certain that I had visited Sgt Bill Todd in this capacity, in the set up phase of the pilot program.

Bill Todd accompanied me as I drove the bus around Katanning and he gave me instruction on driving the bus.

Bill Todd asked me to reverse down the driveway situated along side the police station. I was unable to reverse straight down the driveway, even after several attempts with his instruction. I recall Bill saying something like I think we have to assume you should only drive the bus forward and I said fair enough.

We went inside the police station and I remember Bill Todd nodding to a policeman behind the counter and directing him to issue me with a B class licence.

I do not recall sitting a written test.

From our initial meeting when I first arrived in Katanning we waved at each other whenever we saw each other about town. I recall exchanging pleasantries when we met in the street." (t 4297-8)

The Inquiry has endeavoured to corroborate with Mrs Dawkins' former husband that he had advised her in 1985 to obtain the additional qualification to her driving licence. However he is now in Canada and the Inquiry has been unable to contact him. The Inquiry has also tried to confirm with WA Police and the Department of Transport that Mrs Dawkins had a B Category added to her motor driver's licence while at Katanning in 1985. Although this was a simple request, those agencies were unable to provide an answer to it. (The explanation given was that there were some flaws when the relevant data was transferred or converted into new information systems over the intervening years).

However, the Inquiry has viewed Mrs Dawkins' South Australian licence which she acquired when she moved to that State in 1994. This confirms that she had a "light truck" category added because of the equivalent category that she then held in this State. Furthermore, a newspaper article published in Katanning at the time of the Westrek project made reference to Mrs Dawkins having to drive a bus as a result of her participation.⁴

11.13.6 Ainslie Evans' evidence

It is Councillor Ainslie Evans' evidence that during the time that McKenna was Warden of the Hostel she had a casual or "community friendship" with him (t 1667). The local community had regarded the Hostel fairly poorly before McKenna became Warden, and he was responsible for it regaining a good reputation. By the time he became Citizen of the Year in 1984 she believed him to be a great role model for the Hostel students (t 1671).

Mrs Evans has no memory that she was the Chair of the Westrek Committee or the Community Liaison Officer for the program but in light of the Shire records she accepts that she was (t 1676-8). She does recall that she would see Mrs Dawkins about once a week in relation to the restoration of the old mill and would also visit her at Kartanup on occasions. Mrs Evans had very little in common with Mrs Dawkins who "was unhappy about a lot of things" to do with living in a country town (t 1679-1680).

Mrs Evans believes that she may have sometimes expressed concerns to Mrs Dawkins about the behaviour of the Westrek participants because she found that "these children did not have the same background or the same moral upbringing or the same family life" as her own children. However her concerns would have been limited to their language, eating habits and manners, and on occasions she may have had cause to correct them in this respect (t 1681). Apart from those minor matters she had no other concerns about their behaviour and was not aware of anyone else in Katanning who had concerns. Mrs Evans never had cause to make any complaint to the DET Head Office about the behaviour of Westrek participants (t 1681-2). Mrs Evans was also unaware of any breakdown in the relationship between Mrs Dawkins and the Katanning community, and apart from herself does not believe that there was anyone else in the community who "particularly knew about her" (t 1686). In this regard, it is significant that Mrs Evans was quoted in the 'Great Southern Herald' of 11 December 1985 as stating that the Westrek group "achieved all it set out to do" (Exhibit 50). The Shire Council minutes of 18 December 1985 also record her report that the project had been "very successful" (Exhibit 49).

Mrs Evans agrees that while the Westrek participants were at Kartanup she probably had the habit of walking in without knocking, but her reason for that was that it was difficult for anyone inside to hear her knocking on the front door (t 1690). She has no memory of any conversation with Mrs Dawkins about McKenna's relationship with a Westrek participant who became a supervisor at the Albany Hostel (t 1691).

The only relevant conversation that Mrs Evans can recall is Mrs Dawkins telling her that McKenna had "too much control" over Hostel students. Mrs Evans' response to that statement was that "it was a good thing" that he had that control (t 1687-8). Mrs Evans has

⁴ Great Southern Herald 1985, "Herald Magazine" 13 November, p. 16

no recollection of any conversation when Mrs Dawkins suggested that McKenna had sexually abused a student at the Hostel. However:

“I would have found any indiscretions of Dennis’ hard to believe because of the standing he had in the town, and because of the fact that Maggie complained about most things.” (t 1696)

Mrs Evans is very confident that she never said to Mrs Dawkins that she would have her removed from the project. She was only a casual volunteer and it would have been far beyond her powers or ability to redirect Mrs Dawkins’ employment (t 1694). However, when asked whether it was possible that the conversation alleged by Mrs Dawkins had happened but she cannot remember it, Mrs Evans responded as follows:

“Yes, it could have happened, but perhaps it was taken out of context. It might have been - she might have been complaining about five different things in the same conversation. I don't recall. She complained quite regularly, and I don't recall that conversation. It could have been with something else, I don't know.” (t 1699)

Mrs Evans denies that she had any knowledge of the particular reasons why Mrs Dawkins suddenly left town. She did not consider that there was anything untoward about the nature of her departure at the time and she had thought:

“The project was nearing its end, it was very close to the last few days of the project, and there was a project in Bunbury that she could take on. That was the way I saw it at that time.” (t 1703)

11.13.7 Elizabeth Stroud’s evidence

Ms Stroud was involved in the Westrek project from the very beginning and helped to prepare the initial proposal to the Minister for Employment and Training. She also ran the training sessions for Group Leaders. However, following the appointment of Mr Sherlock to the Westrek team, she “stepped back from having day-to-day contact with a lot of the Group Leaders”. Consequently Ms Stroud spoke to Mrs Dawkins only “a maximum of three or four times” while she was at Katanning (t 1479).

Ms Stroud denies that she at any time advised Mrs Dawkins on how she should deal with suspicions about a sexual relationship between McKenna and the Westrek participant named Simon (t 1482). Ms Stroud also denies that Mrs Dawkins at any time sought her advice on how to handle the allegations made by a former student at the Hostel that he had been sexually abused by McKenna (t 1485, 1493).

However, Ms Stroud does remember a telephone conversation when Mrs Dawkins referred to an allegation that McKenna had sexually abused a boy at the Hostel. Her evidence about this telephone conversation is best summarised in her written statement to the Inquiry signed 12 April 2012:

“Relevant to the issue, I have a memory of Maggie ringing Peter Sherlock’s phone in an open plan office.

Peter was out of the office, I answered his phone and it was Maggie.

Maggie said to me words to the effect "a boy has told me that he's been abused by Dennis McKenna, I have gone to the police and I have gone to Ainslie Evans, get Peter Sherlock to ring me".

I said to Maggie words to the effect "ok, have you documented all this?"

Maggie then said to me "get Peter to ring."

I said "fine Maggie, I will."

I relayed the message to Peter and as I understand Peter followed it up with Maggie.

I relayed the message to Peter in person that same day."

As to the reasons why Mrs Dawkins was transferred from Katanning to Bunbury, Ms Stroud's evidence is again best summarised in her written statement:

"Each site had its challenges. However, Katanning became a very emotive community.

The Katanning sponsorship community began to raise concerns about both team leaders' professional behaviours and the participants' behaviours.

The Katanning sponsorship community was led by Ainslie Evans.

As I recall from a very long time ago, after concerns were raised about the conduct of the team leaders and the participants, Peter Sherlock spoke with Ainslie Evans about the concerns.

I believe Peter visited Katanning.

I recall this from my recollection of general discussion of the concerns in the Perth office at the time.

I recall that after his visit to Katanning, Peter made a request to Mike Cross to remove the team leader Maggie Dawkins from Katanning.

My understanding is that Maggie could not be removed because of her political connections.

I recall Peter said words to this effect to me at the time.

There was a discussion that the Bunbury team leaders had some personal issues; they were a married couple and were leaving the programme.

I believe a decision was made by Mike Cross, Peter Sherlock and Ian Carter to move Maggie to Bunbury because it was a larger community and the work projects were more spread out.

Maggie would then be in a larger community."⁵

Ms Stroud has also testified that she did not at any time advise Mrs Dawkins of the reasons why she was being transferred from Katanning to Bunbury. That was not a matter which was within her area of control (t 1479). However she was aware that the particular complaints made by the Katanning community about Westrek Group Leaders and participants had included:

⁵ Written statement signed 12 April 2012 paragraphs 49-60

“Participants and group leaders drunk, mooning or baring their backsides out the windows of the van, drinking and high consumption of alcohol and disposal of empty alcohol canisters from the hostel...late going to work, the quality of work, the lack of participation in learning programs.” (t 1499)

Ms Stroud is “absolutely certain” that she and Mr Sherlock never met with Mrs Dawkins following her transfer to Bunbury (t 1502). However, she believes:

“that there was a meeting initiated by Mike Cross that Peter Sherlock and Ian Carter and maybe Janet Holmes à Court were present at, but I’m not certain that Janet was there.” (t 1501)

Ms Stroud overheard conversations concerning that meeting between Mr Carter, Mr Sherlock and Mr Cross. To the best of her knowledge Mr Sherlock had asked for Mrs Dawkins to be removed but Mr Cross said “she will be a team leader and you need to manage her” (t 1507). She also gathered from what she heard Mr Cross say to Mr Sherlock regarding Mrs Dawkins that “politically she could not be dismissed or fired from the Westrek programme” (t 1505).

11.13.8 Peter Sherlock’s evidence

Mr Sherlock was the Manager and Executive Officer of the Westrek program between 1985 and 1990. His prior background had included work with the Commonwealth Public Service managing the Community Youth Support Scheme in Western Australia.

By the time that Mr Sherlock became engaged in the Westrek project the initial Group Leaders were already employed. Mr Sherlock was concerned that some of them (including Mrs Dawkins) had no previous experience in youth work and he took these concerns to the Director General, Mr Cross. Mr Cross consulted with the Minister about the matter and as a result:

“Got back to me and said that he had been to see the Minister who said that all of the appointments needed to stay and in particular Mrs Dawkins, because it was a political issue, and I was instructed to manage the process.” (t 1552)

It is also Mr Sherlock’s evidence that for the first six months of the project (i.e. the period of the pilot program) Ms Stroud was the “contact person” for all Group Leaders. However he received a larger number of direct telephone calls from Mrs Dawkins than from any other Group Leader (t 1551). These telephone calls (which he received at both work and home) became so persistent that he regarded Mrs Dawkins as something of a “nuisance or a pest” and a “drama queen” (t 1552, 1571, 1574). Mr Sherlock also became aware of hearsay accounts of Mrs Dawkins and Westrek participants at Katanning being involved in episodes of minor misbehaviour (including “mooning” by the participants, painting parts of the anatomy of the fibreglass “Wagin Ram”, and excessive consumption of alcohol – t 1571-1578). However, Mr Sherlock regarded these as “relatively trivial” matters, and considered that Mrs Dawkins was running an “okay project” (t 1588-9).

It was against this background that Mr Sherlock heard a “rumour” from someone in the Westrek Office who could have been Ms Stroud. The rumour was that Mrs Dawkins had told someone that McKenna “had been seen in bed with a couple of students” (t 1559).

Mr Sherlock was well aware that McKenna was the Warden of St Andrew's Hostel in Katanning and effectively the landlord of the premises where the Westrek participants were staying. His primary concern upon hearing the rumour was to learn "if any of the Westrek people were involved" or had been seen in bed with McKenna (t 1562). Mr Sherlock was disturbed and surprised by this rumour because he had been told by a cousin living at Gnowangerup that McKenna was a "wonderful person" who had turned the Hostel around, and "it was a great place for kids to be" (t 1554). Mr Sherlock was asked during his evidence:

Q. ...are you sure about your recollection of what that rumour was?

A. To the best of my knowledge, that is what the rumour was.

Q. Might it have been that an ex-student had complained to Maggie Dawkins about being sexually abused by Dennis McKenna?

A. That's not as I remember it.

Q. So what was the next thing you recall about this?

A. Talking to Maggie and saying, "If you are concerned about this, you must go and see the police".

Q. How did you come to talk to Maggie about it?

A. Because I'd heard the rumour and wanted to talk to her about an appropriate course of action.

Q. But you're saying it was only a rumour.

A. Yes.

A. ...I wanted to see if she believed that the rumour had substance.

Q. And why did you want to do that?

A. We had young people living in the hostel. We had a duty of care toward them. I wanted to know whether that involved any of those particular people." (t 1560)

Mr Sherlock does not remember the precise details of his conversation with Mrs Dawkins and can only recall her saying that "Mr McKenna had been seen in bed with a couple of students" (t 1609). It is his evidence that he did not follow up the matter with the police himself because he instructed Mrs Dawkins to talk to them about it (t 1598). Furthermore:

"I certainly would have discussed it with Elizabeth Stroud. I just need to reiterate, it was a rumour. I already said I regarded Mrs Dawkins as somewhat of a drama queen. And, of course, it's easy in hindsight, and following convictions, to see that it is appalling, but it was only a rumour in the context of other issues that weren't overly important. It is subsequently obviously important." (t 1599-1600)

Mr Sherlock later checked with Mrs Dawkins to confirm that she had taken the matter to the Katanning Police and was told that "they wouldn't do anything unless they got a sworn statement" (t 1571-2, 1583). At that point in time he regarded the matter as at an end because "my perception was that my duty had been exhausted by reference to the police in Katanning" (t 1572, 1614).

However, Mr Sherlock was soon to discover that the matter was not at an end. Within “something like a week or two” of hearing the rumour (t 1565) he received a telephone call from McKenna who was “completely irate”:

“The substance of that call was that Mrs Dawkins had been to see him, had said that she was unsatisfied with the way things were going, and that she was going to the press. Now, his concern, and he was totally furious, was that it would ruin his reputation and the reputation of the hostel. He went on at a fair amount - at a fair length and wanted Maggie moved - wanted Mrs Dawkins moved out of there immediately. I talked to him about it. I did say to him, but I'm asking you to recall that I've still got this image in my mind about how he was basically the saviour of the town. I did ask him if there was any truth in the rumour that he was involved with boys, and he denied it emphatically and sort of laughed in a kind of an offhand way, as though, of course it wasn't true. Yes. That's not a phone conversation that I will forget.

Q. Do you accept that he may well have also said that he would [kick] the Westrek participants out of their accommodation unless Mrs Dawkins was moved?

A. I don't recall that precisely, but he could well have said that, because that would have been in the context of his rage on that particular day.” (t 1564)

Mr Sherlock was very concerned about this telephone call because it placed the Katanning project in jeopardy. Irrespective of whether or not Dennis McKenna had lied when denying any sexual involvement with boys, “the publicity and the community support for him would have damaged the project and the programme” (t 1582).

In any event Mr Sherlock believed McKenna’s denial of any wrongdoing, and he did so for two reasons. Firstly there was the glowing report he had received about McKenna from his cousin. The second reason was that “the police had not reacted to Mrs Dawkins’ visit to them”. Although he had not himself checked directly with the police he assumed that “had there been any substance [to the rumour] they would have done something about it” (t 1565).

It was as a result of McKenna’s telephone call that Mr Sherlock decided (in consultation with Ms Stroud) that Mrs Dawkins should be shifted from Katanning to Bunbury:

“Q. Did you tell Maggie Dawkins about this telephone call you had from Dennis McKenna?

A. My recollection is yes, I did. But I think we, the group, if you like, or at least Elizabeth and I, had decided to swap the Bunbury coordinator for Mrs Dawkins.

Q. Was that decision made fairly soon after you had that telephone call from Mr McKenna?

A. I think it would have been in just the next few days.

Q. You mentioned the name "Elizabeth". Are you referring to Elizabeth Stroud?

A. Yes. I should be more specific. Elizabeth Stroud.

Q. Did she have some input in what was going to happen with Maggie Dawkins, did she?

A. *My recollection is that we both did.*

.....

Q. *Were there any others within the department involved in that decision to move Maggie Dawkins from Katanning to Bunbury, apart from you and Elizabeth Stroud?*

A. *I can't specifically recall. It's likely that I would have told Ian about it, Ian Carter, but probably after the event or after the decision was made, because that was my role. It didn't, as far as I can recall, require that. But I do not recall Ian's response." (t 1566)*

It is also Mr Sherlock's evidence that if McKenna had not telephoned him Mrs Dawkins would have remained in Katanning (t 1590). In that regard her previous alleged indiscretions were not enough on their own to require her removal from Katanning. However, the telephone call from McKenna was "the straw that broke the camel's back" because it involved a person with a very positive local reputation "jumping up and down" about a matter which could have "wide public exposure which would damage the Westrek project" (t 1589-1590).

The only meeting that Mr Sherlock can recall having with Mrs Dawkins after she went to Bunbury was one where Ms Stroud was also present and they discussed the reasons for her transfer (t 1586). However he does not remember Mrs Dawkins giving him a written account of what had happened at Katanning, and considers it highly unlikely that he would have given her an undertaking to "alert the relevant authorities" about the matter. His reason for this is that he had already "exercised his responsibility" in respect of the matter by ensuring that she talked to the police at Katanning (t 1583-4).

Mr Sherlock has "no recollection whatsoever" of Mrs Dawkins being summoned to Head Office for a series of meetings with Mr Kenyon, Mr Carter and himself. Nor does he remember Mrs Dawkins being asked to sign a resignation letter, and he repudiates the assertion that this ever occurred (t 1586, 1614).

However it is important to note Mr Sherlock's concession that his recollections about some of the relevant events might not be completely reliable. In that regard, when asked to comment on a certain aspect of Ms Stroud's evidence his response was:

"The best part of my recollection, or the only part that I'm completely sure of is the phone call with McKenna, and then the subsequent actions, or some of the issues." (t 1563)

11.13.9 Ian Carter's evidence

Mr Carter's career prior to joining the Department of Employment and Training was as a school teacher and then a Youth Development Officer with the Education Department. He joined the DET in 1984, and over the following year or two held a variety of positions as a Deputy Director in the Community Employment Initiatives Unit.

Mr Carter remained with the DET until 1989 and throughout that period he was responsible for the oversight of numerous programs. The Westrek program was one of those that fell under his "broad responsibility" (t 1619). It is Mr Carter's evidence that in respect of the day-to-day operation of the projects that were under his control:

"I think...(my) management style then, as is now, is setting broad goals and targets, ensuring people have resources, and letting them manage them, and so...I'm not a hands-on details manager, I'm a hands-off direction manager. I facilitate, encourage, empower, rather than get involved in day-to-day detail. If I employ a manager, I let them manage the project, particularly when you've got people like Peter Sherlock, who are competent." (t 1654)

For this reason he did not involve himself in the day-to-day running of the Westrek program and was completely unaware of any allegation that the Warden of St Andrew's Hostel had sexually abused a boy (t 1621). Mr Carter also has no recollection of McKenna's name being raised directly with him:

"...I may have been aware of his name, but I can't remember any serious discussions about Dennis McKenna or what his role was, because I wasn't involved in the day-to-day running of the Westrek program. It sat under Peter Sherlock and Elizabeth Stroud, and so...I didn't have any detailed understanding of who was doing what in the different communities where we were running Westrek...if someone said to me, "Who were the key people in the community at the Westrek projects in those things?", I wouldn't have been able to name the key community people, so I wasn't aware of him." (t 1622)

Mr Carter does remember Mrs Dawkins being moved from Katanning to Bunbury. The decision to move her was made because of "issues of inappropriate behaviour by her and a breakdown in relations with the Katanning community". However:

"I can't remember whether I was actually involved in the decision or I was briefed on it. I was certainly aware of the issue...It is one of those issues where in the line of responsibilities a number of people may well have been briefed and involved in it. Based on the fact that Peter Sherlock and Elizabeth Stroud were recommending that that is what happened, were talking about the issues surrounding what was going on in the community and around Maggie, and essentially...I don't remember getting the piece of paper and signing off on it and making that deliberative decision." (t 1634)

Mr Carter recalls that it was Mrs Evans who had raised concerns about Mrs Dawkins' behaviour on behalf of the Katanning community but he himself never spoke directly to Mrs Evans about these matters (t 1637, 1659). As to the nature of the issues raised by Mrs Evans:

"...I remember issues such as her taking the Westrek participants to the local pub and getting drunk with them and creating problems in the street. I remember an issue about painting something pink in the town...I remember something was painted pink and I remember there was great concern about it in the local community...I remember the issue of a sexual relationship between the two group workers, Maggie and her co-male group worker. They were the issues that I have recollections of that were raised with me in terms of concerns from the Katanning community. And my only recollection of names raising those issues with the department was Ainslie Evans. I don't remember Dennis McKenna's name being in and around those issues." (t 1636-7)

Mr Carter was asked to comment on Mr Sherlock's evidence that an irate telephone call from McKenna was the predominant reason why Mrs Dawkins was removed from

Katanning. Mr Carter accepts that in light of Mr Sherlock's evidence that issue must have been "first and foremost" in the decision to shift Mrs Dawkins. He also accepts that he may have been briefed about the issue concerning McKenna, but has no recollection that Mr Sherlock did so (t 1638-9). If in fact that did happen then:

"...clearly if we were ignoring issues around allegations of sexual abuse then clearly it would be a concern. My contention is that I was not made aware of those issues and I acted appropriately in moving a staff member from one site to another, although I can't specifically remember being involved in the direction for moving her from Katanning to Bunbury either." (t 1641)

Mr Carter cannot recollect any later decision by Westrek management to ask Mrs Dawkins to voluntarily resign. However he was aware of previous discussions at senior levels of the department (but not including himself) on how Mrs Dawkins should be managed:

"I think in any government agency when you have someone who has political connections as part of their history and relational stuff it is clearly an issue that needs to be raised, worked through." (t 1643)

Mr Carter cannot remember being present at a meeting with Mrs Dawkins when she was asked to sign a resignation letter. In any event that is not a way in which he would ordinarily operate and he considers it a most inappropriate way to manage people (t 1645-6).

11.13.10 Peter Kenyon's evidence

Peter Kenyon has a long history of involvement in youth work, and in 1983 he was recruited by the newly elected Labor Government to develop a youth strategy for the State. Once he completed this strategy he was asked to implement it, and in 1984 he became the Head of the Community Employment Initiatives Unit of the Department of Employment and Training. In that role he was responsible for up to 50 staff who administered 11 different program areas covering approximately 250 projects. Six of these projects comprised the Westrek pilot program (t 2299).

The Westrek program was conceived by Mr Kenyon during a Churchill Scholarship which had taken him to Canada. The State Government enthusiastically adopted the idea which it saw as an important political initiative. Consequently Mr Kenyon had to implement the program much more quickly than he would have liked. From his perspective this task was complicated by the fact that Westrek had an Advisory Board chaired by Janet Holmes à Court of which he was not a member. Furthermore, the Director General Mr Cross took a personal interest in Westrek and played a much larger role in its oversight than would normally have been the case (t 2297-8, 2300).

The day-to-day running of the Westrek program was in the hands of Ms Stroud and Mr Sherlock. Mr Sherlock reported to Mr Carter who was responsible for four or five program areas within the Community Employment Initiatives Unit. According to Mr Kenyon, Mr Carter was heavily involved in the Westrek program and was the person "managing it with Mr Sherlock as the person on the ground" (t 2301). Mr Kenyon's evidence as to his own role with Westrek is that:

"...I was probably initially involved in trying to give it some direction but I certainly played a very peripheral part...and certainly I was not a Kevin Rudd micro-manager. I

left that to Ian Carter because I...did have a whole pile of other things that I was overseeing. So I didn't really get involved in the nitty-gritty...I never even...visited Katanning. I didn't actually visit, I think, any of the Westrek projects.

Q. Would you be consulted with respect to any major decisions that had to be made regarding the running of the program?

A. It would [depend on] what you mean by major decision. I think increasingly I found myself not making any decisions about this program because my immediate boss, Michael Cross, took a personal interest in it...I think he may even have been on the Advisory Group. He particularly wanted to liaise with the Holmes à Courts and so much of what I learnt about the program was actually learnt informally or from him...on most days I had a briefing with Michael where a whole pile of issues would be raised. He certainly was hearing things...that he would raise with me.

Q. ...what would you expect to be told about the running of the Westrek program?

A. Certainly I would expect, through Mr Carter and Mr Sherlock, to...have reports on it, awareness of any issues that were coming up with it, any challenges that the program actually had that we might need to go to the department with. But...it was a strange program compared to everything else because we suddenly had this other group who really was overseeing it called the Advisory Group. They were the ones who were visiting the project and were making more and more of the decisions.” (t 2302-3)

It is also Mr Kenyon’s evidence that he played no part in the decision to employ Mrs Dawkins as a Group Leader but was told that she would be a Group Leader. In that regard:

“I suspect our minister was a good friend of her boyfriend. She was also on the staff of Kim Beazley, the two most powerful federal politicians, and I was...told, whether it was from the Minister, from his office or through Mike Cross, that Maggie Dawkins, or Maruff at the time, would be a leader. She liked this thing and she wanted to be it and there was no question whether or not she was suitable for it. We were told we inherited her.” (t 2352)

According to Mr Kenyon, Mr Cross was particularly keen to secure Federal funding for the Westrek program, and “looking after the special friend of the Minister assisting the Prime Minister for Youth Affairs was something pretty important to him” (t 2382).

It is Mr Kenyon’s evidence that soon after Mrs Dawkins commenced at Katanning she became: “an incredibly difficult person to manage”. He regarded her as a young, opinionated, over-confident, and politically savvy person who “complained about everything”. There were also problems “in terms of her interpretation of what supervising young people was all about [which] rang contrary to the spirit of the programme” (t 2354).

Mr Kenyon became aware of these problems as a result of his conversations with other staff including Mr Carter and the Director. In this regard Mr Cross was certainly aware of “some of the issues there” and was “in contact with Janet Holmes à Court and other people who seemed to be aware of some of the problems” (t 2355). More particularly:

“...I certainly...have memories of her own personal behaviour with the co-worker, their sexual relations, which I certainly was strongly disapproving of. There were issues to do with...participants getting drunk and whether she was supervising that.

There were issues to do, I think, with the desecration of public art that I remember. I mean, these are issues I particularly raised with Michael Cross, the Director-General, when we were talking about how do we cope with her behaviour in Katanning." (t 2315)

According to Mr Kenyon he had a number of discussions with people in the Westrek program about the "difficulties of this person" and directed Mr Carter and Mr Sherlock "to raise these things with her" (t 2316 - 2318). However, because of Mrs Dawkins' political connections "we were clearly having to accept that, and there was no way that we could actually get rid of her". He was constantly told by Mr Cross that "you can't sack her" (t 2386).

It was these issues as to Mrs Dawkins' behaviour which ultimately resulted in the decision to transfer her from Katanning to Bunbury. However, Mr Kenyon probably had very little involvement in that decision:

"It was an operational issue and I would have probably been informed that this was what was actually happening. I certainly didn't have any disagreement with it because it seemed to be "At least that's worth trying", so I wasn't part of that decision-making." (t 2375)

Nevertheless Mr Kenyon is adamant that Mrs Dawkins "was not moved because she was a 'whistle-blower'" (t 2310). The only reasons for her transfer were her "inappropriate behaviours" (t 2310) and the fact that she was "this square peg in a round hole in Katanning" (t 2322).

Mr Kenyon was unaware that a complaint from McKenna or a threat to the accommodation at Katanning played a part in the decision. In that regard: "that certainly hasn't been raised with me and it certainly isn't something in 1985 that I would have responded to" (t 2323). Accordingly Mr Kenyon is "definitely surprised" at Mr Sherlock's evidence that Mrs Dawkins would have remained in Katanning but for the telephone call from McKenna (t 2328). If he had known there had been such a telephone call concerning an "issue of paedophilia" this would have "rung bells". It was also an "uncharacteristic stuff up" if Mr Sherlock failed to inform him that this was the pivotal reason for moving Mrs Dawkins to Bunbury (t 2337). Mr Kenyon agrees that if Mrs Dawkins is correct with her account of the real reason why she was moved from Katanning, then this would not reflect well on those who were responsible for that move (t 2340).

It is Mr Kenyon's evidence that he first became aware of Mrs Dawkins' allegation concerning McKenna in late 2011 when he was telephoned by a journalist from the ABC 7:30 Report. He was shocked to learn that "this woman was claiming she was sent off to Bunbury because she was a whistle-blower", and when the journalist mentioned the name "Dennis McKenna" it was "certainly not a name I knew" (t 2304).

Mr Kenyon asserts that if he was told in 1985 that Mrs Dawkins was being transferred for a reason "linked to paedophilia" it would have been "a stand out comment" which he would remember because of his long involvement with young people at risk (t 2305). If he had been told that at the time he also would have advised Mrs Dawkins to "immediately relay that to both the police and to the Child Protection people in the Department of Community Welfare in Katanning" (t 2356).

Mr Kenyon can remember only one meeting with Mrs Dawkins, and this occurred when she was first engaged as a Group Leader (t 2380). He cannot recall whether he was at a meeting

with Mrs Dawkins when she claims to have been summoned from Bunbury to Perth. In this respect he does not deny that he might have been there, he simply does not have any vivid recollection of this happening (t 2381).

However, Mr Kenyon is certain that he would not have been a party to tendering a letter of resignation to Mrs Dawkins. Given that Mr Cross had always said that “we couldn’t get rid of her” the signing of a letter of resignation was never an option (t 2353). Furthermore, he would be “shocked” if that had occurred in his presence because he has not at any time used this as a method of managing staff (t 2366).

It would not surprise Mr Kenyon if Mrs Dawkins did go and see Mr Cross at some stage of that meeting (as she claims). No other coordinator would have been able to do that, but certainly Mr Cross never mentioned the matter to him. Mr Kenyon also doubts that Mrs Dawkins was asked to sign a letter of resignation because Mr Cross “constantly raised with me the need to kind of like make sure that we managed and not alienate her” (t 2383).

11.13.11 The evidence regarding “I”

“I” was the second Group Leader who commenced at Katanning approximately one month after Mrs Dawkins had arrived with the first group of participants. The evidence shows that “I” and Mrs Dawkins developed a relationship which in itself was one of the “behavioural issues” referred to in evidence by other Westrek witnesses. It was not until after the Westrek witnesses had testified that the Inquiry received information from the WA Police that “I” had been investigated in 1985 concerning a complaint of a sexual nature from one of the female participants.

In essence it had been alleged that on 12 October 1985 there was a fire within a room at the Kartanup building, and the complainant was accused of being responsible. She became extremely upset at this accusation and “I” then intervened to calm her down. “I” also took her for a walk down the street and she later complained that while the two of them were out of the building he had sexually molested her. Ultimately, the Police did not charge “I” with any offence, but in the meantime the DET transferred him from Katanning to work at the Perth Head Office for a few months.

Upon receiving this information the Inquiry interviewed “I” and also requested statements from all of the Westrek witnesses concerning their knowledge of the allegation made against him and how this may have impacted on the events involving Mrs Dawkins. (In this regard, the fact that there had been a fire inside the Kartanup building raised the possibility that McKenna was aware of the complaint against “I” and might have used this as leverage when demanding Mrs Dawkins’ dismissal).

However, in the end the evidence does not establish that the complaint against “I” had any bearing upon the removal of Mrs Dawkins from Katanning. In that regard it is Mrs Dawkins’ recollection that the incident involving the fire did not occur before she left Katanning, and that she first became aware of it when “I” visited Bunbury (t 4298).

The only residual relevance of the matter is that all Westrek witnesses (other than Mrs Dawkins) claim to have no memory of the complaint against “I” or of him being transferred to Head Office. This is despite them remembering that it was his relationship

with Mrs Dawkins, as well as the other “behavioural issues” which resulted in her being transferred to Bunbury.

11.13.12 Events in 1991

When McKenna was first convicted of child sex offences in 1991, Mrs Dawkins felt vindicated, and she decided to telephone Mrs Evans. It is her evidence that:

“I phoned Mrs Evans and asked her how she felt about what had transpired between us in 1985. She explained to me that she felt an obligation to the town, as the economic benefits of having the hostel were considerable. Mrs Evans said I threatened the continuation of this economic prosperity and she was not concerned that I had suffered as a result. When I pressed Mrs Evans to express any remorse towards the victims, she refused.” (t 244-5)

Mrs Evans remembers receiving that telephone call, and her interpretation of it at the time was that “she called me to say she was right and I was wrong” (t 1715). When Mrs Evans was asked to comment on Mrs Dawkins’ evidence of what was specifically said during that telephone conversation, her response was as follows:

“Yes. I don't have a problem with that...I was supportive of the fact that any commercial enterprise in Katanning keeps going and I would not be trying to get rid of anything that's commercial, and that was a commercial asset. But, also, condemning somebody that ran it, even though he had been convicted then, we still needed the facility to operate. But I don't know about not showing remorse. I didn't know the victims...I can't agree with I didn't show remorse. I think it's a tragedy.” (t 1711)

Mrs Evans also agrees that in 1985 she had viewed Mrs Dawkins as “some sort of threat” to the Hostel. In this regard “it was her falling out with Dennis that was the problem and because Dennis was the epitome of the Hostel, then I saw the Hostel being under threat if Dennis wasn’t part of it” (t 1712-3). When asked to explain why this also threatened the economic prosperity of the town, Mrs Evans responded:

“Because if the Hostel didn’t operate, it was a significant commercial feature that wasn’t operating and wasn’t bringing in an income.” (t 1716)

It is Mr Sherlock’s evidence that he also received a telephone call from Mrs Dawkins soon after McKenna was sentenced in 1991. (Mrs Dawkins did not herself testify about this telephone conversation). According to Mr Sherlock Mrs Dawkins was “triumphant” and told him that she “was right”. She also made it clear that he had been wrong not to believe her in 1985 (t 1590-1).

At about the same time in 1991 Mrs Dawkins also wrote a letter to the Great Southern Herald newspaper in Katanning (Exhibit 4). This letter was published on 26 June 1991 under the heading “Hurried Departure Explained”. The contents of that letter were entirely consistent with her present evidence, and included the comment that:

“It seemed that the continuation of the Westrek project was of far more importance than investigating claims of sexual abuse by McKenna.”

In the same issue of the newspaper there was a front page and page 3 article which reported the response of the “authorities involved” to what Mrs Dawkins had claimed in her letter. That article included the following paragraphs:

“Mrs Dawkins is angry that her character was smeared by the incident and that authorities were prepared to believe McKenna and not her.

But authorities involved say that although they believed Ms Maruff they were anxious to keep the program which was in its pilot stage, running smoothly.” (Exhibit 4)

The author of the newspaper article, Patricia Gill cannot recall how she obtained this information from the “authorities involved”. However:

“I would have had to refer my questions through the State Government Media Office which then obtained a statement from the Department of Education and Training which ran the Westrek project. This is standard practice in journalism but I do not recall making the inquiry.” (t 4088)

It is important to note that at the time of writing her letter to the Great Southern Herald Mrs Dawkins had to hand a copy of the written statement that she says she had given to Mr Sherlock in 1985 as well as various notes and files relating to McKenna (t 296). Unfortunately, when Mrs Dawkins and her husband moved to South Australia in 1994 she disposed of these materials on the mistaken assumption that she would never need to refer to them again (t 2451).

11.13.13 More recent events

In September 2011 Mrs Dawkins was contacted by the Member of the Legislative Assembly for Albany, Peter Watson. Mr Watson asked her to provide information which could assist victims of McKenna in seeking compensation from the State Government. Mrs Dawkins no longer possessed the files and materials which would have refreshed her memory of the relevant events, so she decided to telephone Ms Stroud. She was able to contact Ms Stroud (who was then working in Zambia) and it is Mrs Dawkins’ evidence that:

“She was warm and friendly readily assisting me when I told her the purpose of my call. I requested Elizabeth's assistance to refresh my memory, as I couldn't recall the Katanning Councillor's name. Elizabeth recalled Ainslie Evans's name immediately. We chatted comfortably with Elizabeth and I agreeing on the key points regarding the circumstances of my departure from Katanning.

I called Elizabeth a second time, this time on her work landline in Perth, a few weeks later and received a very different reception. She appeared tense and warned me that "they" were out to bring my reputation into disrepute. I would be portrayed as unprofessional and unreliable if I named my superiors either in the media or in court. Elizabeth asked me to think very carefully about the personal cost of having my character impugned. She told me that "they" now had contrived alternative reasons for having me removed from Katanning. Elizabeth Stroud now said she was "hazy" about details we had agreed with only a few weeks before - and it was now a case of being so long ago.” (t 245-6)

(Since giving evidence Mrs Dawkins has produced records of her Telstra account which show that the two telephone conversations with Ms Stroud took place on 19 September and 27 October 2011 – Exhibit 147 – t 4299-4300).

Mrs Dawkins was cross-examined at length about the word “they” in her written statement concerning the second telephone conversation. It is her evidence that Ms Stroud did not expressly state who she meant by “they”. In the course of the second telephone conversation a number of names were mentioned by each of them including Janet Holmes à Court, Peter Dowding and Mrs Evans. However Mrs Dawkins understood “they” to mean Mr Kenyon and Mr Carter, who were referred to during the conversation not by their actual names but by semi-derogatory nicknames which they had both used back in 1985 (t 255, 257-260, 313, 319).

Ms Stroud agrees that there were two telephone conversations between Mrs Dawkins and herself in late 2011 but has a very different version of what was said. In essence, Ms Stroud asserts that during the first telephone conversation on 19 September 2011 she disagreed with Mrs Dawkins’ account of the relevant events and told her that it was her behaviour in Katanning which people remembered most. Ms Stroud also said to Mrs Dawkins that “you need to look long and hard at why you did not continue to pursue this matter with the police”, and that she should have used her connections with Kim Beasley and John Dawkins to pursue the matter further. According to her written statement signed 12 April 2012 Ms Stroud finished that first conversation with the words:

“People are not out to get you, all I’m saying to you is that people do not remember you as a professional team leader in Katanning and people all have the feeling that your behaviours were inappropriate.”

Ms Stroud’s evidence of the second telephone conversation (on 27 October 2011) is that she disagreed with Mrs Dawkins’ assertion that she was removed from the project because of what had happened with McKenna. Ms Stroud reiterated to Mrs Dawkins that it was her own personal behaviour that had resulted in her removal.

According to Ms Stroud she did not say to Mrs Dawkins that any particular people “were out to get her”. What she said was that everyone would remember her for her poor behaviours, and particularly her behaviour at a function attended by Janet Holmes à Court.

There is also evidence of other recent telephone calls between some of the witnesses. During late 2011 and early 2012 Ms Stroud, Mr Sherlock, Mr Carter, and Mr Kenyon, all spoke to each other a number of times on the telephone. These telephone calls were initially triggered by media stories concerning the events in Katanning in 1985. Further telephone calls came about as a result of the publicity accompanying this Inquiry as well as their expectations that they would each be called to give evidence.

(There is not necessarily anything sinister about potential witnesses contacting each other to discuss relevant facts because it is understandable that they would seek each other’s assistance when trying to recollect distant events. Nevertheless when assessing their credibility I need to take account of the fact that they did have the opportunity to compare and discuss each other’s recollections prior to giving evidence. This raises the possibility that their memories of relevant events may have been moulded or influenced by what the others were able to recall. Therefore it should not be assumed that when two or more of these witnesses concur on a particular fact, that this necessarily adds weight to their evidence).

Following Ms Stroud's initial testimony the Inquiry came into possession of the following e-mail exchange between her and an ABC journalist (Exhibit 129):

From: Jake Sturmer

Sent: Friday, 23 September 2011 4:40 PM

To:

Subject: ABCTV 730 WA Story

Hi Elizabeth,

My name's Jake Sturmer, I work for the ABC's 7.30 WA program.

I've been investigating what happened at the St Andrew's hostel in Katanning in the 70s and 80s and just spoke to Maggie Dawkins who suggested I contact you. Maggie told me she spoke to you about raising concerns about what was happening.

I was just wondering if you were able to tell me what happened from there? I would have called but Maggie said you were overseas and I didn't want to disturb you. If there's a good time to have a chat on the phone, please let me know.

Otherwise, we can converse via email.

Hope to hear from you soon.

Cheers,

Jake

From: Elizabeth Stroud

Sent: Friday, 23 September 2011 4:57 PM

To: Jake Sturmer

Subject: RE: ABCTV 730 WA Story

Jake

I am currently in Zambia working. I return Monday night and depart Wednesday for Kalgoorlie and will be on a mine site running a training program, so unavailable.

My recollection of the issue is that Maggie raised the concern and was quickly banished from town by the then mayor Ainslie Evans. That is my sum total of recollection. I believe she also spoke to Peter Sherlock wrt the issue. I have not maintained contact with him; at the time he live in Mundaring area.

I hope this is helpful, regards,

Elizabeth"

The email that was sent to the ABC journalist on 23 September 2011 is self-evidently consistent with Mrs Dawkins' version of her first telephone conversation with Ms Stroud and inconsistent with the latter's version. Ms Stroud was recalled before the Inquiry (on 19 June 2012) to explain this discrepancy and she gave some very lengthy and tangential responses to the questions that were put to her. In the end, her essential contentions were that it was a "reactive email" and "a very quick response without giving a lot of thought" (t 3728). Her evidence is also to the effect that she realised soon after the email was sent that it was not "well written" and for that reason telephoned the journalist (on 27 September 2011) to clarify what it meant:

"I sought to clarify what would be a poorly worded email. I wanted to be able to give my truth, I wanted to support Maggie to tell her my truth, what I remembered." (t 3725)

Nevertheless, Ms Stroud can "understand the logic" of the suggestion that her email was "consistent with Maggie's message" that "she was removed from Katanning as a result of blowing the whistle on Dennis McKenna" (t 3725).

11.13.14 Findings

The issues surrounding the Westrek program have become more complex than any of the others that this Inquiry has had to deal with. The evidence has set hares running in many different directions and has not always remained within the area of the Inquiry's central focus, namely the response of public officials to allegations of sexual abuse at St Andrew's Hostel. As there is little in the way of departmental records to assist in determining the truth of what happened, my findings must necessarily depend upon assessments of the credibility of the various witnesses.

I have been aided in this task by the significant admissions of some critical facts made by two of the departmental witnesses. In this regard there is Ms Stroud's evidence of a telephone conversation when Mrs Dawkins told her of the allegation against McKenna and of what Mrs Dawkins had already done by going to the police and to Mrs Evans. Although I am not satisfied as to the reliability of Ms Stroud's testimony as a whole, her evidence of that telephone call provides significant corroboration of Mrs Dawkins' version of events.

Even if I find that that telephone conversation did not occur in the circumstances claimed by Ms Stroud, it still confirms that prior to Mrs Dawkins being moved from Katanning, she had given her superiors an account of what had happened which was largely consistent with her present evidence.

Similarly, Mr Sherlock's evidence of the "rumour" that he heard at about the same time corroborates the fact that Mrs Dawkins had informed the Department of an allegation against McKenna concerning paedophilia. Mr Sherlock's evidence that he advised Mrs Dawkins to take that allegation to the police, and later confirmed that she had done so, is also highly significant. Even if I find that Mr Sherlock is partially mistaken in these recollections, it still corroborates the fact that Mrs Dawkins did indeed visit the police in her quest to have the allegation investigated.

My assessment of Mr Sherlock is that he was an honest witness who did his best to give an accurate account of the relevant events despite considerable difficulty with his recollections.

He made no attempt to distance himself from any responsibility for his actions, and was the only witness to frankly admit that Mrs Dawkins was transferred from Katanning because of an irate demand from McKenna. Mr Sherlock's evidence has been of great assistance in unravelling the truth of what happened, and I commend him for his honesty about these matters.

Mrs Dawkins also impressed me as an honest witness, and given that her version of the events surrounding her removal from Katanning is largely corroborated by Mr Sherlock (and to a lesser extent by Ms Stroud), I have no hesitation in accepting the reliability of those aspects of her evidence.

Although Mrs Evans has testified that she cannot recall any discussion with Mrs Dawkins in 1985 about an allegation against McKenna, she does remember what was said during the 1991 telephone call. She agrees with Mrs Dawkins' summary of that telephone conversation and also admits to being told that she (Mrs Dawkins) "was right and I was wrong". That assertion by Mrs Dawkins in 1991 could only refer to the allegation that had been made against McKenna in 1985. In any event the only conceivable reason why Mrs Dawkins would contact Mrs Evans in 1991 was to express her feelings of vindication following McKenna's convictions. Therefore the very fact that Mrs Dawkins behaved as she did by making that telephone call in 1991 corroborates her evidence that she had told Mrs Evans about the allegation in 1985. (The same observations can be made about Mrs Dawkins' telephone call to Mr Sherlock around the same time).

Furthermore Mrs Evans' evidence about the 1991 telephone conversation tacitly admits her reason for reacting as she did to what Mrs Dawkins had said in 1985. She regarded the allegation against McKenna as a "threat to the Hostel" which in turn meant that it was a threat to the economic prosperity of Katanning. It is reasonable to assume that because of the friendship that Mrs Evans had with McKenna in 1985 she did not believe the allegation. Nevertheless she gave a higher priority to the economic well-being of the town than to any need to investigate the truth of what was then being alleged. By doing this, and by joining with McKenna in seeking Mrs Dawkins' removal from the town, she unwittingly contributed to his ongoing ability to offend.

Inspector Todd was a relaxed and comfortable witness and seemed very much at ease throughout his evidence. He tended to answer questions unhesitatingly and was able to bat away every ball that was bowled at him. Nevertheless, at times his denials of the propositions that were put to him seemed to be more in the nature of automatic responses to the questions rather than considered answers (e.g. t 1110-1).

Mrs Dawkins' evidence that she sought Inspector Todd's advice on how she should handle the allegation against McKenna is corroborated by what she told Ms Stroud (and possibly Mr Sherlock) soon afterwards. In my view she cannot be mistaken that it was Inspector Todd whom she spoke to. Unlike "M" (the barmaid at the Federal Hostel)⁶ she did not know any other policeman in Katanning, and it is her evidence that she did not go to just any policeman, but to Sergeant Todd specifically, to obtain his advice.

Inspector Todd's denial that he was the policeman spoken to by Mrs Dawkins is based on his assumption about what he would have done if there had been any such conversation. It is his evidence that if he had been told of any allegation of sexual abuse at St Andrew's Hostel

⁶ See Chapter 11.11

he would have immediately referred it for investigation by the CIB. Given that Inspector Todd did not take any such action he asserts that he was not the policeman who was approached by Mrs Dawkins.

With regard to the issues surrounding the driving test, the evidence overall does not impact on Mrs Dawkins' credibility. I accept Inspector Todd's evidence (and the evidence of other police officers stationed at Katanning at the time) that it was not his usual role to conduct driving tests. However, there was nothing to stop Inspector Todd from testing Mrs Dawkins for the addition of a "B" category to her driver's licence if he wished to. (Because contrary to his submissions he was licensed to drive a bus himself). Furthermore, Mrs Dawkins' evidence as to the circumstances in which the test was performed are consistent with it being done as a favour to her rather than a formal testing (involving bookings) in the usual way. In the end the issues surrounding the driving test are really no different from all of the others in respect of which the two witnesses are in conflict.

Regardless of Inspector Todd's denial that he was the policeman spoken to by Mrs Dawkins about the allegation of sexual abuse at the Hostel, it is difficult to accept that he had not already heard rumours to the same effect. In this regard, the evidence establishes that by 1985 there were wide spread rumours throughout Katanning and the surrounding districts concerning "kiddie fiddling" at the Hostel.⁷ Furthermore, at around the same time that Mrs Dawkins claims to have spoken to Inspector Todd about the allegation of sexual abuse, "M" spoke to a policeman at the Federal Hotel concerning rumours on the same subject.⁸ Accordingly "M's" evidence corroborates Mrs Dawkins' evidence as to the lack of any response by Katanning Police at that time to such allegations or rumours.

For all of these reasons I am satisfied that Mrs Dawkins did have the conversation with Inspector Todd that she claims. Certainly Mr Sherlock believed that Mrs Dawkins had reported the allegation to the Katanning police, and it was because of that fact, and only because of that fact that he took no further action. Accordingly, Inspector Todd must bear the major responsibility for the failure of Mrs Dawkins' persistent efforts to have the matter properly investigated. It is Inspector Todd's evidence that he would have "responded immediately" if Mrs Dawkins had come to him in the circumstances she alleges. That is exactly what he should have done, and if he had responded appropriately in 1985 it is unlikely that McKenna would have been able to continue to offend.

I find that after being told of the "rumour" in 1985 Mr Sherlock correctly believed that Mrs Dawkins had gone to the Katanning Police with the allegation against McKenna. In those circumstances I consider that he had reasonable grounds to refrain from any further action himself. That decision by him as Manager of the Westrek program also absolves Ms Stroud and his superiors in the Department from any responsibility for the fact that the matter was not properly investigated at that time.

Very soon afterwards Mr Sherlock transferred Mrs Dawkins to Bunbury and he did that in response to a demand from McKenna. That transfer in itself did not contribute in any way to the failure to have the allegation against McKenna investigated. It was simply an inappropriate response to McKenna's demands in circumstances where Mr Sherlock genuinely believed the Katanning project was in jeopardy. There was good reason for Mr

⁷ See Chapter 14

⁸ See Chapter 11.11

Sherlock to have that belief because McKenna was a very manipulative individual who also had considerable influence in the town. Mr Sherlock has admitted the possibility that at the time of demanding Mrs Dawkins' removal McKenna also threatened to withdraw the accommodation from the Westrek team (t 1564). I accept Mrs Dawkins' evidence that she was told of that threat by Ms Stroud at the time she was instructed to leave Katanning. Accordingly I am satisfied that that threat is one of the reasons why Mr Sherlock caved in to McKenna's demand.

It was within Mr Sherlock's power and authority to decide on his own that Mrs Dawkins should be transferred from Katanning. There is no direct evidence to positively prove that he consulted with either of Ian Carter or Peter Kenyon before making that decision.

Nevertheless it is difficult to accept that Mr Kenyon and Mr Carter were both totally unaware of that decision at the time it was made. With regard to Mr Kenyon, it is significant that he had sufficient interest in Mrs Dawkins (as only one of his 50 staff) to know that she was "incredibly difficult to manage". He also was "constantly told" by Mr Cross that he could not sack Mrs Dawkins which suggests that he took a very close and active interest in her. Therefore it is highly unlikely that his interest in seeing Mrs Dawkins removed from the Westrek program would have coincidentally and abruptly ceased at the time of the decision being made to transfer her from the Katanning project.

It is also difficult to accept that Mr Kenyon and Mr Carter are both able to remember the details of the various "behavioural issues" concerning Mrs Dawkins, but have no memory of the much more serious issues arising from the complaint against "I" as well as the telephone call from Mr McKenna and the consequent crisis with the Katanning project.

Corroboration of the fact that the officers in the Department responsible for the Westrek program were aware of the true reason for Mrs Dawkins' removal from Katanning can be found in the comment quoted in the Great Southern Herald of 26 June 1991 (Exhibit 4):

"...authorities involved say that although they believed Ms Maruff they were anxious to keep the programme, which was in its pilot stage, running smoothly."

It can be assumed that at the date of that newspaper article the relevant departmental files were still accessible and officers who had been involved in the program were available to confirm the veracity of the public statement that was then made.

Furthermore Mrs Evans denies that she ever made any complaint to the Head Office of the DET concerning the behaviour of Mrs Dawkins. Mrs Evans is no friend of Mrs Dawkins and for that reason her evidence on that particular point can be given considerable credence.

For these reasons I am satisfied that Mr Kenyon, Mr Carter and Ms Stroud have magnified the importance of the "behavioural issues" surrounding Mrs Dawkins while she was at Katanning. I accept Mr Sherlock's evidence that in the context of all that was happening at the relevant time these were only trivial matters which on their own did not justify her removal from Katanning. Accordingly, I reject the evidence of Mr Kenyon, Mr Carter and Ms Stroud that these behavioural issues were the sole reason for that decision.

Mr Kenyon has also repeatedly attempted (in evidence and submissions) to divert the focus of the Inquiry away from the employed officials within the DET and onto the voluntary Chair of the Advisory Board Janet Holmes à Court. Apart from his general assertions as to Mrs Holmes à Court's involvement in the day-to-day management of the pilot program, he has

not adduced any evidence to show that she was a party to the decisions affecting Mrs Dawkins. The only witness to suggest that Mrs Holmes à Court may have participated in one of those decisions is Ms Stroud, but for the reasons that I will refer to shortly I consider that evidence to be unreliable. (Certainly Mr Sherlock has not suggested that Mrs Holmes à Court was in any way involved in those matters).

Nevertheless the Inquiry's investigators have interviewed Mrs Holmes à Court to ascertain her knowledge of the circumstances of Mrs Dawkins' removal from Katanning. Mrs Holmes à Court asserts that she had no involvement in that decision but that the Advisory Committee was informed (she thinks by Mr Sherlock) that Mrs Dawkins had been moved to Bunbury because of "unsatisfactory performance as a Group Leader and her inappropriate behaviour" (t 4222). Mrs Holmes à Court also states that she cannot recall any complaints about the conduct of Westrek participants at Katanning, or any proposal being put to Mrs Dawkins that she should resign from the project (t 4223).

There is no evidence to suggest that Mrs Dawkins caused any problems for the Department or that her performance as a Group Leader was unsatisfactory once she was transferred to Bunbury. (Even Mr Kenyon has no recollection of any "major problems" at Bunbury – t 2370). Nevertheless, it is Mrs Dawkins' evidence that she persisted with her attempts to have the allegation against McKenna properly addressed. In meetings with Mr Sherlock and Ms Stroud she was told that she was "sticking my neck out about mere suspicions of allegations made by an unreliable troubled youth who refused to make a police statement" and that she did not have much to go on. According to Mrs Dawkins she was ultimately asked to put in writing what the young man had told her, and she provided Ms Stroud and Mr Sherlock with a written statement. It is also Mrs Dawkins' evidence that Mr Sherlock gave her an undertaking that "even though it was very little to go on, he would try alert the relevant authorities" (t 243).

Mr Sherlock cannot recall any meeting with Mrs Dawkins after she moved to Bunbury, or of receiving her written account of the allegation. He also considers it highly unlikely that he would have given any undertaking to contact authorities because he considered he had exercised his responsibility by having Mrs Dawkins go to the police.

Ms Stroud also denies all knowledge of these matters, but for a number of reasons I do not consider her evidence to be reliable. Firstly I do not accept her evidence that the only reason for Mrs Dawkins' removal from Katanning was her "consistent inappropriate behaviour". I also reject her evidence that she was unaware of McKenna's telephone call to Mr Sherlock. In this regard she worked within metres of Mr Sherlock in an open plan office and there were constant exchanges between them in the course of a working day. Furthermore I accept Mr Sherlock's evidence that he recollects consulting with Ms Stroud when making the decision to transfer Mrs Dawkins from Katanning.

I also reject Ms Stroud's version of her first telephone conversation with Mrs Dawkins on 19 September 2011. Her account of that telephone conversation is not only contradicted by the email she sent to the ABC journalist soon afterwards, but also in my opinion simply does not ring true. It defies logic that Mrs Dawkins would suggest to the journalist that he contact Ms Stroud unless they had both agreed "on the key points" regarding Mrs Dawkins' removal from Katanning. I also consider it highly unlikely that when unexpectedly called at her workplace in Africa by a person with whom she had had no contact for many years Ms Stroud would be in a position to say:

“People do not remember you as a professional team leader in Katanning and people all have the feeling that your behaviours were inappropriate.” (Ms Stroud’s written statement signed 12 April 2012)

Furthermore Ms Stroud’s evidence that Mr Sherlock spoke to Mrs Evans in 1985 about the Katanning community’s complaints concerning Mrs Dawkins’ behaviour is not only contradicted by Mr Sherlock (t 1554, 1573) but by Mrs Evans herself (t 1681-2). In the end, I do not consider Ms Stroud to be a reliable witness and I am satisfied that her evidence is an inaccurate reconstruction of events intended to distance her from what happened.

Mr Sherlock has frankly admitted the difficulties he has in remembering some of the events surrounding the irate phone call from McKenna. My assessment of Mrs Dawkins is that she is an honest witness and that the substance of her evidence is reliable, but that she may be mistaken about some aspects of the relevant events. I am nevertheless satisfied that after moving to Bunbury she did persist in trying to have her concerns addressed, and for this reason met with Mr Sherlock and Ms Stroud. I am also satisfied that she provided them with a written account of the allegations that had been made against McKenna by the young man in Katanning.

According to Mrs Dawkins she then continued to manage the Bunbury project and it was at some later time that she was summoned to the Head Office in Perth and also telephoned by Patricia Thomson who warned her that her superiors would be demanding her resignation. Mrs Dawkins and Dr Thomson have both given credible evidence about these matters and it is highly unlikely that they would be mistaken about these events occurring. I am satisfied that Mrs Dawkins was summoned to the Head Office, that Dr Thomson did hear Ms Stroud tell Mr Sherlock that Mrs Dawkins was going to be “fired”, and that she then telephoned her friend to warn her that her superiors would be demanding her resignation.

Mrs Dawkins is unlikely to be mistaken about the fact that she was asked to sign a letter of resignation because it was a significant life event of a type which nearly all people would remember. As to the reason why she was asked to sign the letter it is her evidence that she was told that she had caused serious damage to the working relationship at Katanning, that the replacement Group Leader was experiencing difficulties, and that McKenna was continuing to insist that she be sacked.

Having been forewarned by Dr Thomson, Mrs Dawkins was in the position to resist the demand that she sign the letter of resignation. I accept that she refused to sign and then went directly to Mike Cross and asked him to intervene. As a result it was agreed that Mrs Dawkins would go back to Bunbury and “keep her head down”. In return she was given an assurance that her concerns would be “raised with the appropriate authorities”. However she was “sworn to secrecy” that she would not mention to anybody why she had left Katanning nor discuss any of those details.

There is no evidence to indicate that Mrs Dawkins’ concerns were ever “raised with the appropriate authorities”, and the only reasonable conclusion is that McKenna ultimately achieved his aim via the Department of shutting down any further attempts by Mrs Dawkins to have the allegation against him investigated.

The remaining significant issue which needs to be determined is whether either or both of Mr Kenyon and Mr Carter participated in the effort to have Mrs Dawkins sign the letter of resignation, and then in persuading her not to continue with her attempts to have the

allegation against McKenna investigated. Mr Kenyon is “certain” that he was not involved in these matters whereas Mr Carter is somewhat less strident in rejecting his involvement. Mr Kenyon and Mr Carter have each also said that he had very little involvement in the day-to-day management of the Westrek program. However Mr Kenyon contradicts the other’s evidence that he had a “hands off” role and asserts that Mr Carter was “heavily involved” in the management of Westrek.

Regardless of the extent to which either of the two men were involved in the daily management of the Westrek program, the essential issue is whether the evidence is sufficient to satisfy me that they each participated in the events surrounding the letter of resignation. The only evidence to support this finding comes from Mrs Dawkins, and she has testified that she has difficulty in recalling the sequence of events that day.

Mrs Dawkins’ evidence that Mr Kenyon and Mr Carter were present is corroborated to a limited extent by Dr Thomson who overheard Ms Stroud and Mr Sherlock discussing the arrangements for the proposed meeting. In that regard Dr Thomson overheard that Mike Cross, Peter Kenyon and Ian Carter were all going to be there. However, it is Mrs Dawkins’ evidence that Michael Cross was not present at the time that she was asked to sign the letter of resignation. Quite obviously, and assuming that Dr Thomson is correct about what she overheard, the fact that it was anticipated that each of Mr Kenyon and Mr Carter would attend the meeting does not in itself establish that they were actually there.

The strength of Mrs Dawkins’ evidence on this point is reduced by the circumstances in which she was permitted to give evidence. When a witness is asked to accurately remember the details of an event which occurred a very long time ago, it is not entirely satisfactory that the evidence should be adduced by way of the reading of a prepared statement. The danger is that evidence obtained in this way does not spring from an actual recollection but from a process of reconstructing what happened from what may have been fairly vague memories at the time that the statement was being prepared.

Although it is highly probable that at least one of Mr Kenyon or Mr Carter were present at the material times I consider that the evidence is not really strong enough to satisfy me that they were both there at the same time.

In the present circumstances the standard of proof required for reasonable satisfaction under *Briginshaw v Briginshaw* (see Chapter 3.11) is a relatively high one. Mr Kenyon and Mr Carter have both had lifetime careers in the area of youth work, and the consequences of an adverse finding could be very serious for them. After giving the matter very careful consideration I have come to the conclusion that I cannot be reasonably satisfied that one or the other of them was a party to the attempt to have Mrs Dawkins sign the letter of resignation, or in persuading her not to pursue the allegation against McKenna.

I have no doubt that those responsible for these manoeuvres within the Department were motivated by what they believed to be the best interests of the Westrek program, and by the political pressures they were under to ensure that it was a success. It is also highly probable that they gave no credence to the allegation against McKenna. It is therefore sadly ironic that their successful endeavours to preserve a program for troubled youth had the unintended effect of condemning other youths to continued offending by McKenna.

The “Westrek affair” does not reflect well on the Department of Employment and Training. Nevertheless a public official who emerges with great credit from the affair is Mrs Dawkins.

The personal traits which her superiors found to be objectionable and which made her a “pest or a nuisance” as well as a “drama queen” turned out to be admirable qualities which drove her persistent attempts to put right what she correctly believed to be wrong. Throughout the entire 15 years of McKenna’s offending no other public official set a higher standard of response to allegations of sexual abuse at St Andrew’s Hostel. The efforts that Mrs Dawkins made against resistance from above can be reasonably described as the ‘gold standard’ of response for any public official.

11.13.15 Conclusions

1. In late 1985 Maggie Dawkins was a Group Leader for the Westrek project at Katanning and she was told by a former St Andrew’s Hostel student that he had been sexually abused by McKenna. The former student did not wish to go to the police about the matter but asked Mrs Dawkins to have the activities of McKenna investigated.
2. Mrs Dawkins was unsure how to handle this request and sought the advice of Sergeant William Todd of the Katanning Police. Sergeant Todd advised her that she had very little to go on and suggested that she seek the advice of her supervisor.
3. Mrs Dawkins then sought the advice of her supervisor Elizabeth Stroud who suggested that she take her concerns to the Westrek Community Liaison Officer, Ainslie Evans.
4. Mrs Dawkins then approached Mrs Evans who not only rebuffed her but berated her for daring to raise the subject of the allegation against McKenna. Mrs Evans also told Mrs Dawkins that she would contact her supervisors and have her removed from Katanning. (There is no evidence to show that Mrs Evans did in fact do that, but it may well have occurred).
5. Mrs Dawkins then confronted McKenna directly and told him that she would do what she could to have his “disgusting activities” stopped. McKenna did not deny Mrs Dawkins’ accusations but laughed at her and told her that he would have her sacked.
6. Within a day of that confrontation Mrs Dawkins was telephoned by Ms Stroud who told her that she was being transferred to the Westrek project at Bunbury. The decision to transfer Mrs Dawkins was made by the Westrek Manager Peter Sherlock as a result of a telephone call from Dennis McKenna demanding that she be removed from Katanning. Mr Sherlock complied with that demand because he feared that the Westrek project would be in jeopardy if he did not do so, and because he also did not believe the allegation against McKenna.
7. Mr Sherlock did not take any action in response to the allegation against McKenna because he knew that Mrs Dawkins had been to the Katanning Police about the matter. If Mr Sherlock had not known of that fact he would himself have referred the matter to the Police or taken other appropriate action.
8. After Mrs Dawkins was transferred to Bunbury she was recalled to Perth for a series of meetings with DET officers in the course of a single day. During one of these meetings she was asked to sign a letter of resignation but she refused to do so. She was told that one of the reasons for that request was that McKenna was still

demanding that she be sacked. Ultimately these issues were resolved on the basis that her concerns about McKenna would be raised with the appropriate authorities and she would continue in her position in Bunbury. Mrs Dawkins was also “sworn to secrecy” about the matter.

9. As a result of these arrangements McKenna achieved his objective of having Mrs Dawkins pressured into silence. The allegation against him was never investigated and he was able to continue offending for another five years.
10. However at all material times Mrs Dawkins’ superiors in the DET were aware that she had been to the Katanning Police with the allegation. For that reason their own failure to take any action in response did not fall short of the conduct which reasonably could be expected of them as public officers.
11. As Sergeant Todd and Mrs Evans were not “public officials” within the meaning of the PSM Act, their failures to respond to the allegation are not matters which fall within this Inquiry’s terms of reference. Nevertheless it has been relevant to make findings in respect of each of them because of the impact that their conduct had on the actions of public officers.

11.14 1986: Deborah Wallwork - the girl who was undaunted

11.14.1 Deborah Wallwork's evidence

Deborah Wallwork grew up in Gnowangerup and attended the Katanning Senior High School in 1985 and 1986 for Years 11 and 12 of her secondary schooling. While in Katanning she boarded at St Andrew's Hostel.

At an early stage of her stay in Katanning Ms Wallwork accompanied other Hostel students on a camping trip to Wellington Mills. While there she saw what she regarded as very inappropriate behaviour by Dennis McKenna towards boys. In this regard there was "a lot of touching going on" whether on the shoulder, on the leg, or by ruffling their hair, but it was "just lots of physical contact" from McKenna to the boys (t 3646).

Ms Wallwork was "completely horrified" by what she saw. Her parents had taught her about normal touching and inappropriate touching and she was "really shocked and surprised" that McKenna was touching these boys in a very familiar way without anyone seeming to be bothered by it (t 3647).

Over a period Ms Wallwork noticed that this type of behaviour "happened all the time" and that it occurred not just while camping but also back at the Hostel. When boys walked past Dennis he would stroke them, and when sitting next to boys in the cinema he "would be touching them on the thigh, rubbing their thigh" and "just constantly touching them". McKenna would do these things openly in front of other students and appeared "quite relaxed" about this behaviour (t 3648-9).

From time to time Ms Wallwork reported this behaviour to her mother, and between the two of them they decided that unless somebody made a complaint, there wasn't any real evidence that McKenna was actually doing anything other than being "physically overly friendly". Ms Wallwork also did not want to "make too many waves" while in Year 11, so although she was uncomfortable about McKenna's behaviour, she did nothing about it (t 3650).

However, Ms Wallwork's attitude changed during Year 12 and she became more vocal and "volatile in some ways". She admits to "bad mouthing Dennis McKenna and the Hostel" when talking to the "townies" at school. She told them exactly what she thought about McKenna and his behaviour and also about the way he ran things and the way he disciplined Hostel students (t 3650-1).

It was a rule of the Hostel that the boarders should not associate too closely with "townies", and McKenna had a system in place which ensured that breaches of this rule would get reported back to him. Accordingly, Ms Wallwork soon found herself in the situation of being regularly disciplined by McKenna for talking to "townies" and for spreading rumours about him. However Ms Wallwork stood up to McKenna during these confrontations:

“He knew that I was saying that he was behaving inappropriately with the boys. He actually did deny that he was doing that, but I would always tell him that it didn't matter, he could deny it all he wanted, I didn't believe him. Even though I didn't have any real proof, I still believed that...his behaviour was inappropriate, and that something more was going on with the boys...It got to the point that basically every time my name was called over the PA system...there was always boys hanging around outside to hear what I was going to say to him next, because I was very, very vocal. You know, and I would answer back to him and I would...be very forceful about telling him exactly what I thought of him...I didn't actually use the word “paedophile”, but I basically told him straight to his face that I thought he was interfering with the boys.”
(t 3653-4)

There were approximately five such confrontations between McKenna and Ms Wallwork during 1986. Each time she was told that she had to “toe the line” and “stop the rumours” but she would respond “straight to his face” that she was not going to do so. Somewhat surprisingly, although Ms Wallwork was twice threatened with suspension from the Hostel, there was never any formal punishment imposed other than a reprimand. Given McKenna's usual response to any trouble from a student, it is a fair inference that he realised that with Ms Wallwork he had bitten off more than he could chew.

However matters came to a head one night when Ms Wallwork and another girl decided to enter McKenna's flat uninvited. When they went through the door Ms Wallwork saw McKenna sitting on a couch wearing a short terry towelling dressing gown with his legs apart. One boy was sitting on the floor between his legs and others were sitting closely nearby. McKenna was massaging the boys with his hands and had one hand on a boy's thigh. Ms Wallwork took all of this in with one glance, and said directly to McKenna in front of everybody present that “this is fucking disgusting”. Ms Wallwork then walked out of the room (t 3661-2).

On the following day Ms Wallwork was called to McKenna's office to be disciplined once again. He told her that this time he had had enough of her, that he was going to speak to the Board about having her suspended, and would then get her expelled. Ms Wallwork immediately said “go right ahead” (t 3662).

As Ms Wallwork believed McKenna's threat to be credible she telephoned her mother to inform her of what had happened and to seek her advice. Her mother suggested that if she had to speak to the Board, Ms Wallwork should tell them that her aunt was a friend of the Minister of Education and that “if they were going to kick me out that we would make sure that there was going to be an investigation” (t 3665).

Approximately two days later Ms Wallwork was called to a meeting in McKenna's lounge room. When Ms Wallwork arrived at the meeting McKenna introduced her to two other people who were present. One was Len Wilkinson whom she was told was the Chairman of the Board. The other was a woman who was introduced to her by name, but which name Ms Wallwork is unable to recall. She is also unable to recollect whether or not she was told that this woman was a Board member. As to why Ms Wallwork remembers the name Wilkinson, it is her evidence that:

“I remember that because I had a friend whose name was similar but it was Gilkinson, but that's not the only reason I remember. I also remember because I've told this story a dozen times to various people over the years. It's not something I have just

suddenly woken up and remembered. This is a story that I've told many, many times before." (t 3663)

It is Ms Wallwork's evidence that the meeting proceeded in the following way:

"A. Mr Wilkinson did most of the talking, the lady didn't say all that much. He made it clear that Dennis McKenna had told him what I had been saying and doing and that they weren't happy with it and they no longer considered that I was an appropriate student to be attending the hostel any longer...Mr Wilkinson actually wanted me to apologise to Dennis McKenna about all the things that I had been saying and doing...I told Mr Wilkinson...that I was not going to apologise because everything that I was saying was true and I wasn't going to stop saying it.

Q. Did you say to them what you had been saying?

A. Absolutely, I did. I told them about the lounge room incident and what I had seen and why I had said the words that I had said out loud. I didn't go into a lot of detail because I wasn't really given that opportunity to but I definitely got in the fact that I'd - what I'd witnessed in Dennis's lounge room and that that wasn't the first time I'd seen him behaving that way towards boys.

Q. When you told these two people...what was their reaction?

A. They basically didn't say much about that at all. I think they pretty much didn't believe me. It was glossed over, it was basically set along the lines of all that is irrelevant to my behaviour and that it wasn't acceptable what I was saying or doing and that basically I shouldn't be there anymore." (t 3664)

Ms Wallwork then told Mr Wilkinson and the lady that if they were going to "kick her out" then she "was going to stir up more trouble for them". She then said what her mother had told her to say, namely that her aunt was a friend of the Minister for Education and that she and her mother would make sure that there would be an investigation.

This statement was met by a "stunned silence for a bit" followed by a change in view by Mr Wilkinson and the lady as to whether or not Ms Wallwork would have to leave the Hostel. In the end, Mr Wilkinson said words to the effect that Ms Wallwork would be allowed to stay at the Hostel "on a week by week basis as to my behaviour as to whether I was going to be staying there or not" (t 3665).

However following that meeting Ms Wallwork's behaviour did not really change. She continued to "bad mouth" McKenna but was not ever called to his office for a disciplinary session again (t 3665-6).

Ms Wallwork's mother, Hellen Chamberlain has provided a written statement corroborating her daughter's evidence including the fact that:

"I used to always tell Debbie that if Dennis ever threatened her with expulsion that she was to tell him that a member of our family was the Minister for Education and that I would have him personally intervene."

11.14.2 Mr Wilkinson's evidence

Ms Wallwork first came forward to the Inquiry after Mr Wilkinson had been called to testify. Accordingly, once Ms Wallwork had herself testified, Mr Wilkinson had a further opportunity to give evidence concerning her assertions if he wished to do so. Mr Wilkinson declined this opportunity and instead submitted a written statement in which he asserts that:

- *“He does not recall any meeting or disciplinary proceedings in relation to Ms Wallwork*
- *He does not recall ever participating in a meeting which took place in the lounge room of Dennis McKenna's flat*
- *If Ms Wallwork had ever made the assertions to him that she claims he would have responded by making contact with both other Board members and the Country High School Hostels Authority to seek counsel and direction*
- *If he had been present at the meeting alleged by Ms Wallwork he would also have presented a report to the Board at its next meeting which would have been recorded in the minutes of that meeting*
- *He notes that Ms Wallwork described him in evidence as being in his late 40s and having wavy hair. In 1986 he was 35 years of age and had straight hair with a receding hairline.”*

11.14.3 Jennifer Ireland's evidence

Jennifer Ireland was the only female member of the Board at St Andrew's Hostel in 1986 and was interviewed by the Inquiry's investigators on 1 June 2012.

Mrs Ireland stated that she has no recollection of any meeting as described by Ms Wallwork. She is also “confident, given the serious nature of the allegations raised by Ms Wallwork, that I would clearly remember the conversation had I been present (t 3694).

This being so, Mrs Ireland is also certain that she was not the woman who was present at the meeting as described by Ms Wallwork.

11.14.4 Findings

Ms Wallwork was a credible and convincing witness and I am satisfied that she has given a truthful account of relevant events to the best of her recollection. She may be mistaken as to some of the details of what happened but I accept the accuracy of the substance of what she has had to say.

I am also satisfied that McKenna found Ms Wallwork very difficult to handle but ultimately threatened to suspend her and to have her expelled. McKenna then arranged for the meeting at his flat which Ms Wallwork has described in her evidence. Despite the possible error in Ms Wallwork's description of Mr Wilkinson I am satisfied that as the Chairman of the Board of the Hostel (and the person primarily responsible for dealing with issues of expulsion) he was present at that meeting. As to the identity of the woman present it is clear

that if she was a Board member then it could only have been Mrs Ireland (who was the only female Board member in 1986). However, given the uncertainty in this aspect of Ms Wallwork's evidence, I am unable to make that finding.

I am also satisfied that in the course of that meeting Mr Wilkinson indicated to Ms Wallwork that she would have to leave the Hostel if she did not apologise to McKenna. Ms Wallwork refused to apologise, but Mr Wilkinson changed his mind about having her expelled. That change of mind was brought about by her assertion that her aunt was a friend of the Minister of Education and would arrange for Ms Wallwork's allegation against McKenna to be investigated.

Although I cannot be certain why Mr Wilkinson took this course, I consider it probable that he did not believe that McKenna had been sexually interfering with boys. Nevertheless, he wished to protect the Hostel from any damage to its reputation likely to be caused by an investigation of the type indicated by Ms Wallwork.

Mr Wilkinson may well have thought at the time that he was acting in the best interests of the Hostel in the circumstances. However, it was not the first time that he had heard allegations of this type¹ and any reasonable Board Chairman in his position would have taken steps to have the validity of Ms Wallwork's assertions investigated. By failing to act appropriately in this way Mr Wilkinson also failed in his fundamental duty to look after the wellbeing of the students at the Hostel. That failure directly contributed to McKenna's ongoing ability to sexually abuse Hostel students up until 1990.

11.14.5 Conclusions

Len Wilkinson (in his capacity as Chairman of the St Andrew's Hostel Board) failed to respond appropriately to an allegation by Deborah Wallwork that McKenna had been inappropriately touching boys at the Hostel in that he:

1. Did not arrange for any investigation of that allegation.
2. Deferred the proposed expulsion of Ms Wallwork from the Hostel as a means of avoiding any investigation of that allegation by the Education Department.

¹ See Chapters 11.6 and 11.12

11.15 1986: Tom Fisher and Robert Hendry – a conversation at a tennis tournament

11.15.1 Tom Fisher's evidence

Tom Fisher is the farmer from Upper Kalgan (referred to in Chapter 11.6) who was one of the few people to believe Noel Parkin's allegation that Dennis McKenna was a paedophile. He is also the man who ensured the safe passage of his two sons through St Andrew's Hostel by warning McKenna that if he ever touched them inappropriately he would spend a great deal of time in hospital.

It is Mr Fisher's evidence that in "either November 1986 or very early 1987" he was at a tennis tournament when he had a conversation with Robert Hendry who he believed to be an "ex-Board member" of St Andrew's Hostel Board:

"Q. ...I approached him with the allegations that Noel had been making, and although he couldn't comment, and I believe he had absolutely no knowledge of those allegations at the time, he did tell me that, as advised, I should believe whatever the boys told me and act on what they said, and then sort out whether they were telling the truth later with regards of actions of anyone in the Hostel, but particularly Dennis McKenna.

...

Q. And just to be clear, it seems you're saying that from that chat with Bob Hendry, he had no direct knowledge?

A. I believe he had no direct knowledge of any impropriety, yes." (t 843)

11.15.2 Robert Hendry's evidence

At that time Mr Hendry was not an "ex-Board member" but a member of the Board of St Andrew's Hostel. (He commenced as a Board member on 19 March 1986 and continued until 22 February 1990).

Mr Hendry was a farmer at Bremer Bay south of Jerramungup and he had two children who boarded at the Hostel for overlapping periods between 1984 and 1990. He saw his role on the Board as being a delegate for parents from the Jerramungup area.

It is Mr Hendry's evidence that he does not remember having a conversation with Mr Fisher at a tennis tournament in 1986 or 1987. He knew Mr Fisher at that time and thought then (as he does now) that he "is a very nice guy". Mr Fisher had also known Mr Parkin as a player in the Ongerup football team when he had played for Jerramungup in his younger years (t 1937-8). However, Mr Hendry is very certain that he had no conversation with Mr Fisher about McKenna sexually interfering with boys:

“Definitely not. I would remember that. I would remember that. I would have acted on it.” (t 1940)

Mr Hendry explained why he would remember an allegation about McKenna sexually interfering with boys when he was interviewed by investigators on 6 April 2012 prior to giving evidence:

“...I may have heard things like, oh you know he’s a bit hard on this or...you know he’s picked on one kid for something not for another. But I never heard any complaints, um, of a paedophile type nature...because you know, that sort of complaint is...that’s like...rape, that’s - - that’s - - that’s murder, that’s up there, right up there.” (interview t page 32)

He conceded the possibility that Mr Fisher may have approached him at a tennis tournament. The advice that Mr Fisher claimed to have been given namely that “you should believe your kids first before everyone else and then figure it out” also sounded like what Mr Hendry would have said in response to the alleged information. However, Mr Hendry maintained that he definitely would have remembered such a conversation (t interview 25-6).

It is also Mr Hendry’s evidence that he was unaware during the 1980s of any allegations (whether by Mr Parkin or anyone else) that McKenna was sexually interfering with boys at the Hostel (t 1941). The only concern that he had during that time was that for various reasons he considered McKenna to be manipulative and a liar (t 1942-3). Even so when McKenna was first charged with offences in 1990 Mr Hendry “didn’t believe it”:

“...because as much as I felt he told lies, and as much as I thought he tried to control parents and kids and that sort of thing...I just did not believe that he was a paedophile.” (t 1949)

11.15.3 Findings

I have found the conflicting evidence of Mr Fisher and Mr Hendry to be one of the more difficult issues to resolve. Both men impressed me as being honest witnesses and it is unlikely that either of them would be mistaken about the subject matter of the conversation which Mr Fisher said took place, even though it occurred more than 25 years ago.

It is significant that Mr Fisher believes that at the time of that conversation Mr Hendry had no knowledge of any allegations against McKenna. The evidence generally shows that by 1986 Katanning was rife with rumours about “kiddie fiddling” (as it was commonly described at the time) by McKenna with boys at the Hostel. There is also evidence to show that prior to Mr Hendry becoming a Board member the St Andrew’s Hostel Board was specifically made aware of these allegations (see Chapter 11.6).

A possible explanation for Mr Hendry being ignorant of these matters is that he lived at Bremer Bay which was a considerable distance from Katanning and more than a three hour drive away. Mr Fisher’s evidence of the conversation at the tennis tournament also shows that there was no attempt by Mr Hendry to reject or avoid what was being put to him. I accept Mr Fisher’s opinion that Mr Hendry had no previous knowledge of the allegations when he first spoke to him on this subject.

While I tend to prefer Mr Fisher's version of events I am troubled by his evidence that Mr Hendry was an "ex-Board member" at the time of the conversation. If this is correct then the conversation would have had to occur after February 1990.

In Chapter 10 I have referred to the problems that can occur with the memories of witnesses after a long passage of time. There is a danger that Mr Fisher may have confused one memory with another, and in the end I am not in the position to find that the conversation took place when he said it did. (It is the type of conversation which could well have taken place soon after McKenna was arrested and charged).

After giving the matter careful consideration I am satisfied that Mr Fisher did speak to Mr Hendry at a tennis tournament as he claims, and that he has given a reliable account of the substance of that conversation. However, I am not satisfied that the conversation took place prior to McKenna being arrested and charged and while Mr Hendry was still a Hostel Board member.

11.15.4 Conclusions

The evidence does not establish any failings by Robert Hendry in his responsibilities as a member of the St Andrew's Hostel Board.

11.16 1986-1987: Kylie Haddow and Diane Renton - a note handed to a school official

11.16.1 The background

During 1986 and 1987 Kylie Haddow and Diane Renton (then Pascoe) were students in Years 10 and 11 at Katanning Senior High School (KSKS). Ms Haddow had commenced there in Year 8 in 1984, while boarding at St Andrew's Hostel. However, she was expelled from the Hostel at the end of 1986, and took up private accommodation for Year 11 in 1987. Mrs Renton had commenced at KSHS in 1986 and was living with her parents. However, for a brief period of approximately three weeks during the first term in 1987 she boarded at the Hostel.

At some stage during 1986 or 1987 Ms Haddow and Mrs Renton developed a short-term friendship which came to an end with the incident that I am about to describe. There are issues as to the date of that incident which I will refer to shortly, and the date is important because the school had different principals in 1986 and 1987. The School Principal in 1986 was Gerald Marriott whereas in 1987 the new Principal was Graham Young.

11.16.2 Diane Renton's evidence

It is Mrs Renton's evidence that on a date in 1986 which she cannot remember she was in a science class with Ms Haddow. They were writing notes to each other and Mrs Renton wrote a question along the lines of: "is it true that Dennis is molesting the boys?". Her reasons for asking that question and her evidence as to what then happened is as follows:

"Q. How was it then that you came to write that particular note to her?"

A. Because I heard whisperings, I heard rumours and I felt concerned. I remember the hostel boys and just remembering how naïve and sweet and nice they were, and so I was concerned because of what I was hearing.

Why was it that you wrote that note to Kylie?"

A. Because she was at the Hostel and she was friendly...with me and would talk with me. It was quite difficult to talk to other Hostel kids, but Kylie was forthcoming and friendly and nice.

.....

Did you get a response back from Kylie via the note?"

A. Yes, I did and I cannot recall the exact details but I can remember that Kylie had written a lot and I can remember responding back, asking more questions and Kylie responded back again, and so there were lots of details in the note and I just remember feeling this is so explosive, what am I going to do with this. That was my feeling.

.....

At the end of the class, who had the note?

Me.”

Q. You left the class, did you?

A. Well, because I think it was time for recess, it could've been lunch – it was a break – and I just had this sense of urgency that something should be done and so I took it to the front administration area and asked to see the principal.

Q. Can you remember who the principal was that year?

A. I recall it to be Mr Marriott.

.....

Q. Tell us then what happened?

A. Then I went into his office, he stayed seated at his desk and I said, “I think I have something that you should see.”, and he sat there and looked at the note and as he was looking at it, he asked me who I was writing it with and I told him, and then he said I could go and so I left and I didn't hear anything else from him about it.

.....

Q. Had you said anything to Kylie about the fact that you were going to take this note to the principal?

A. Absolutely not, no.

Q. Was there any reason for that?

A. Because I'm sure she would have been terribly upset. She was writing a note to me, in confidence, not thinking that anybody else would see it and I betrayed her.

Q. But the reason why you took it further?

A. I did it because I felt that the information in it – I couldn't just sit back and do nothing. And I felt that it was for the greater good and I didn't think that Kylie would get into trouble at the end...I was thinking he might call a department in Perth, or something, and have them investigate. I thought that something like that would happen.

Q. Did he say to you, when you had that meeting in his office, what he was going to do?

A. No.

Q. Was there any follow-up from Mr Marriott or any other teacher?

A. None.

Q. To you?

A. None. None. The only aftermath from that would have been – I'm pretty sure it was that day – at some point in class where Kylie would normally be in class she was not in class and then she came into the class looking terribly upset and angry and gave me a look.

Q. *And what sort of look was that?*

A. *One of dismay and very upset.*

Q. *Did you speak to her again after that?*

A. *Kylie and I didn't say a word after that. (t 347-350)*

11.16.3 Kylie Haddow's evidence

Ms Haddow did not enjoy her three years at St Andrew's Hostel. Although her parents had been very good at disciplining her sister and herself while she was growing up on the family farm at Ongerup, McKenna's form of discipline was "extremely controlling", inconsistent and demeaning:

"As a child going into this you had no idea whether you were right or wrong, what you were going to be told off for. You were well and truly in trouble, victimised, criticised, abused in all sorts of mental, emotional ways for something that the week before everyone else did" (t 357-8)

Ms Haddow was also troubled by McKenna's behaviour towards boys:

"A. ...for the whole time I was there, he was very open in his physical contact with the boys. He would mainly have junior boys sitting on his knee, quite openly, when there was all students sitting around when we would gather around for different events, just whether it's meals or sit in the office, passing by, he would have his hands up the boys' shirts, he would have it up their back rubbing their back. He would have his hand inappropriately placed on their legs, near their groin.

A. ...for any man, whether a parent or not, to have their hand placed high up on the leg near the groin of a boy, it never felt right. It never looked right. It made anyone who saw it uncomfortable.

....

Q. *Would he see you on these occasions when you saw that?*

A. *Yes. He quite openly had other girls or other boys coming and going around those events. He certainly did nothing to hide it from us, the students.*

Q. *Were there times when you made an observation as to how the boys' reactions were to this when this happened?*

A. *Yes, I did, which I guess added to my innate sense that something was wrong and something wasn't – they weren't okay with it. It was more often than not the look in their eyes. The boys would either hang their head in shame and couldn't look at you, or when they did it was almost a pleading look of "Get me out of here. Stop this". And I still remember that look." (t 360-1)*

McKenna also had favourite boys who were given special favours including invitations to his flat after hours. Sometimes other boarders including girls were also invited back to the flat and Ms Haddow went there on two occasions. Each time a horror movie was shown, and the first time it was the "Rocky Horror Picture Show":

“A. I believe I was in year 8 when I saw that. It turned my gut. It disgusted me. I couldn’t – I did not know what to do with what I was seeing. I was way too naïve and innocent to even comprehend what I was watching, and I couldn’t watch the thing in its entirety.

The second movie I know I watched in Dennis’ presence on one of these special occasions was the Texas Chainsaw Massacre. And again I had to get up and leave and not watch it all. I, to this day, cannot watch horror movies.” (t 363)

When Mrs Pascoe arrived at the KSHS in 1986, Ms Haddow “tried to forge a bit of a friendship” with her. This was an awkward thing for her to do because “Dennis didn’t allow anyone to have proper friendships” (t 364). According to Ms Haddow, it was in about second term of 1986 that the incident involving the note occurred. It started with a conversation in class when Mrs Renton asked Ms Haddow why she was unhappy at the Hostel. Mrs Renton also asked about the “weird stuff” that she had heard was happening there. Ms Haddow responded by telling Mrs Renton that McKenna was “doing bad things to the boys” and that there was “stuff happening” (t 367).

While they were in the middle of this conversation the bell went and the two girls had to shift to another classroom. When they arrived at the other classroom Mrs Renton sat behind Ms Haddow and they continued their previous conversation by exchanging notes. Mrs Renton handed a note to Ms Haddow asking “what sort of things?” Ms Haddow then responded with her own note:

“...in that note I expressed in possibly point form...the things he was doing. The boys were sitting on his knee, he was rubbing his hands up their back, he was touching them where he shouldn’t be, he was having them in his flat, the secret parties, he was, you know, going on secret holidays and trips with these boys and there is something really bad happening, you know, and I expressed some detail about the things I had seen and gave the note to Diane.” (t 367)

Mrs Renton ended up with the note at the end of class, and it was later that day (or perhaps the next morning) that Ms Haddow was summoned over the PA system to attend at the front office of the school. She went there in some trepidation because to be summoned in that way usually meant that the student was in trouble. When Ms Haddow arrived at the office she waited in reception until she was called into the principal’s office. The principal Mr Marriott was sitting behind his desk and McKenna was alongside him in another chair. According to Ms Haddow:

“A. I felt very intimidated instantly because Dennis was there because it was never good when Dennis was in any situation. He was always on the attack to me. So I took a deep breath...and I walked in and stood there and Mr Marriott asked me to sit down. I sat down and he passed the note across to me and said “Did you write this note?”. It was then immediately I had a whole heap of thoughts and feelings because my initial thought was that Diane had set me up, because that’s what happened at the hostel constantly, you would be set up to get into trouble. I was devastated because I thought she was someone who could be a good friend and was valuable, so I felt betrayed...I quite consciously took a deep breath and slowly read the note to give myself time to collect my thoughts, and I read it, and being just the honest person that I am, I looked Mr Marriott in the eye and said “Yes, I did write that”.

Q. Did Mr Marriott respond to that?

A. Yeah, it was quite an interesting meeting after that...I remember...Dennis sitting there with a smug look on his face the whole time. Mr Marriott said... "This is slander. You cannot write this about people. You are – the things you are saying are terrible" and I just...sat there and nodded and went "Yep", and that continued because I didn't give a lot back, what continued was a whole lot of threats.

Q. Can you recall what they were?

A. Yes, that my parents will have to be told, "This is possible grounds of expulsion from school", that the police will be called, I could be arrested and charged for slander, that I could be taken down the police station, that what I've done is terrible, and I should never write things like that and I should be very careful about what I say and what I do and what I have done is a terrible thing to a very nice man who has done nothing.

HIS HONOUR: Q. Who said that?

A. Mr Marriott.

Q. All of those things?

A. Yes. I was 14 and I was terrified.

....

Q. -- did you say anything in response to that.

A. I do recall saying "Not if it's true". I may have been scared but I was not going to be bullied and lied to and I knew the truth.

Q. Can you recall whether Mr Marriott said all of those things at once or was it there was an exchange?

A. It was kind of a – a bit on a continuation and certainly he was very gruff and, you know, from my point of view he was very – he was trying to intimidate...he ran out of steam after the threats came out and then he looked at Dennis and Dennis looked at him, and I continued to sit there and say not a lot, and he said "Well, Dennis, it's up to you. This is about you. What do you want to do about it? This young lady is, you know, in a lot of trouble here" and Dennis went "Yes, she is and it's terrible but I guess if she's willing to apologise and assure (me) that this is not going to happen again and she will not say these sorts of terrible things about me again we may be able to let it go this time"...and Mr Marriott went "Well, what do you have to say about that?".

.....

Q. So what did you do with respect to this offer for you to apologise?

A. Given that I felt like Diane had betrayed me and given my two and a half years at the hostel already and the amount of torment and bullying and victimisation I had suffered there already, and I had just survived and survived, I decided I had nowhere to go with this...So I just decided my best option was to apologise.

Q. Can you remember what you said?

A. Yes, I do. Because I remember thinking about it before I said it and I looked Dennis squarely in the eyes and I said "I am sorry if what I wrote offended you".

Q. Can you recall his reaction to that apology?

A. Yes, he got quite pissed off...his smug look had gone, which was nice, and he coughed a little and went "Well, all right then. Let that be it then" and I got sent out of the office." (t 368-371)

11.16.4 Gerald Marriott's evidence

Mr Marriott's first posting as a Principal was to Katanning Senior High School, and he was there for the three school years of 1985, 1986 and 1987. During that time Mr Marriott had a lot to do with McKenna who was not only warden of the Hostel (of which Mr Marriott was a Board Member) but also president of the P&C Association. According to Mr Marriott, McKenna "wasn't slow in letting people know that he was held in high regard", and in that respect:

"He was quick to say that the hostel was regarded now as the best Hostel in the State, and he made it clear that that was not an accident, that his wardenship of the Hostel was the reason why it had done so well, and I went along with that, I thought he did a great job with the Hostel." (t 2651)

Although Mr Marriott got on well with McKenna at a professional level he considers that their personal relationship was "rather cool". This was because Mr Marriott thought that McKenna "was rather obsequious and...keen to tell me things that he thought that I might like to hear" (t 2647-8).

Throughout Mr Marriott's time at Katanning he had a system of personal record keeping which was very meticulous and thorough. He had commenced this system in 1984 after attending a time management course. As a result he kept a Filofax diary which he carried with him at all times. He used this "planner" to record frequent cryptic notes of everything of note that happened to him in his working life.

While he was at Katanning the notes that Mr Marriott made in his planner were recorded under subheadings of "staff – teaching personnel", "staff – teaching meetings", "staff – non teaching", "students", "finance – buildings, grounds equip", "P&C", "parents", "Hostel", "external relations – education", and "external relations – not education".

When Mr Marriott was first summonsed to appear at the Inquiry he had no recollection of the names Kylie Haddow or Diane Renton (Mrs Pascoe). After reading the transcript of their evidence he still could not recall any occasion when he had met either of the two girls.

However, Mr Marriott then searched through his 1986 "planner" to see if he had any notes of a meeting with either of these two students. He found three notes of meetings which related to Diane Renton. On 3 November 1986 he met with Diane's mother Sue Pascoe and the note reads: "concern not working in the evenings". On 10 November he met with Mrs Pascoe herself and the note includes the comment: "expect improvement". On 24 November there was a note that Mr Marriott contacted Sue Pascoe again to report on his discussions with Diane's teachers (Exhibit 95).

Mr Marriott was unable to find any note in his 1986 planner of a meeting with Ms Haddow. However, on 29 October under the subheading "Dennis McKenna" there was a note:

"Kylie had been suspended for shouting at D McKenna. Parents want back Monday. Other Board Members want permanent exclusion. I recommend Board Meeting after Monday" (Exhibit 96)

With regard to the assertion that he was the principal who received the note from Diane Pascoe, it is Mr Marriott's evidence that:

"If a note along the lines that this one was had come to my attention, it certainly wouldn't have been swept under the carpet and I would have recorded that in my planner without doubt. So I am in the strong belief that I never saw a note along those lines or anything similar. Because that would definitely be something that I would have recorded and I'm sure that that would have been an item that I would have remembered to this day. So I am absolutely confident that that note didn't come to me. And the meeting subsequently described by Kylie Haddow in my office where I had McKenna in there, allegedly, and then brought the girl in, is quite preposterous. I would never set up a student of mine like that. I've spent my entire career being caring and compassionate to students and I would never slaughter someone like was described by Kylie Haddow, and the sorts of things that she accused me of saying to her about expulsion, which is out of the question, or being reported to the police and the police would gaoil her, are bizarre. Nothing like that could possibly happen, while I was principal at that school, with me." (t 2662-3)

It is also Mr Marriott's evidence that he never used the PA system at Katanning High School to summon students to his office, because "that would just disrupt the whole school and be extraordinarily embarrassing to the students" (t 2663). Instead, he had a system of eight students rostered in turn for half a day at the front office. Whenever he or his deputies wanted to fetch a student, one of the rostered students would be sent as a runner with a message to the appropriate classroom (t 2663).

11.16.5 The issue whether it was Mr Marriott who received the note

In light of Mr Marriott's interview with the Inquiry's investigators I requested that the investigators contact Mrs Renton and Ms Haddow once again (after they had testified) to clarify their degree of certainty that their meetings with the School Principal took place in 1986.

Significantly, Mrs Renton advised that when she had first tried to recollect the relevant events (in late 2011) her initial thought was that the incident had happened while she was at St Andrew's Hostel in 1987. However she had changed her mind after meeting Ms Haddow and being shown the 1986 school yearbook. As a result of seeing Mr Marriott's photograph in the yearbook she remembered him as the Principal to whom she had handed the note.

It is also significant that when Ms Haddow was first interviewed by the Inquiry's investigators she indicated at one point in her narrative that the incident occurred while Mrs Renton was at the Hostel.

However Ms Haddow maintains that she has “always believed the note passing incident occurred during a maths class and before I was suspended from the Hostel in Year 10 which was 1986”. Nevertheless, Ms Haddow also concedes that:

“Whilst my memory is that I spoke to Dennis McKenna and the principal in his office, it may be possible the principal was away and I was spoken to by a deputy principal but I cannot remember who the deputy was” (t 2606)

Given these uncertainties I considered that it was prudent to hear evidence from Mr Graham Young who was the Principal of Katanning Senior High School in 1987. When Mr Young testified he had read the transcript of Mrs Renton’s and Ms Haddow’s evidence, and he was “certain it was not me”. In that regard it was his practice as Principal at Katanning to discuss school matters with his two Deputy Principals every day. He has remained in regular contact with those former Deputy Principals ever since, and it is his evidence that all three of them have no recollection of the matter (t 2633). As to the manner in which Ms Haddow was dealt with, it is Mr Young’s evidence:

“It is very inappropriate. I feel sympathy for the principal concerned, that he got hoodwinked into believing Dennis couldn’t have done this, but it shouldn’t have been done the way it was done.” (t 2634)

11.16.6 Findings

Although there is clearly room for Mrs Renton and Ms Haddow to be mistaken about the dates and details of what happened I consider that they are honest and credible witnesses. Accordingly, I am satisfied that Ms Haddow wrote a note detailing the behaviour of Dennis McKenna towards male Hostel students and that she handed this to Mrs Renton. I am also satisfied that Mrs Renton then took the note to a person in authority in the administration area of the school, and that that person then summoned Ms Haddow to a meeting in the presence of McKenna. Ms Haddow has given a very compelling account of what happened at that meeting, and I am satisfied that it proceeded substantially in the way that she describes.

However I am not satisfied that either of those witnesses have correctly identified Gerald Marriott as the Principal involved. In that regard I have found Mr Marriott’s evidence to be convincing and I am in no doubt that he was not the School Principal or other official who met with either Mrs Renton or Ms Haddow in the circumstances that they describe.

In that regard, it is significant that Mrs Renton cannot recall any principal at Katanning other than Mr Marriott even though Mr Young was her Principal during 1987 (t 352). She also acknowledges that after looking at the 1986 yearbook it was by way of a process of deduction that she remembered going into his office. She has no memory of the meeting on 10 November 1986 as recorded in Mr Marriott’s “planner” (t 353) and therefore it is possible that her memories of two separate meetings have merged into one.

Although Ms Haddow is certain that her meeting with the Principal and McKenna took place prior to her expulsion from the Hostel at the end of 1986, she cannot be certain that it was not a Deputy Principal who was present. Mr Young has given a credible denial of being the Principal involved, and in the end I am unable to determine who it was that received Ms Haddow’s note from Mrs Renton.

Whether it was a Principal, a Deputy Principal or some other person in authority, it is clear that the incident was handled in a highly inappropriate way. It was wrong of that individual to first contact McKenna and then invite him to be present at the meeting. It was also very wrong to berate and threaten Ms Haddow with criminal proceedings on the assumption that what she had written was untrue.

Although the Education Department had not then issued any guidelines for the handling of complaints about sexual matters, common sense required that the individual who received the note should have taken a neutral stance on the truth of its contents. Quite obviously the first appropriate step would have been to meet with Ms Haddow on her own. If she had maintained that what she had written was true then at the very least the school official should have sought advice from his District Superintendent as to how the matter should be handled.

The school official unwittingly played into the hands of McKenna and allowed him to manipulate the situation to his advantage. Regrettably another opportunity to investigate a well-founded allegation was lost, thus enabling McKenna to continue with his offending.

11.16.7 Conclusions

1. An unknown school official failed to respond appropriately to written notes of allegations made by Kylie Haddow to the effect that McKenna was behaving inappropriately with boys at the Hostel, in that the official:
 - 1.1 Immediately informed McKenna of the allegations.
 - 1.2 Summoned Ms Haddow to a meeting with McKenna and himself.
 - 1.3 Berated Ms Haddow for making the allegations without (him) first enquiring whether or not they were true.
 - 1.4 Threatened Ms Haddow with the prospect of criminal defamation proceedings.
 - 1.5 Intimidated Ms Haddow into apologising to McKenna.
2. These actions by the school official were a significant contributing factor to McKenna's ongoing ability to offend.

11.17 1983-1987: Jody Brown and Rhonda Moore – two girls tell their teachers

11.17.1 The background

Jody Brown (formerly Haddow) and Rhonda Moore (formerly Goode) both attended Katanning Senior High School between 1983 and 1987. For most of that period they both also boarded at St Andrew's Hostel although Mrs Brown left at the end of 1986, and Mrs Moore did so a few weeks before her final exams in 1987. They had a great deal in common and shared a similar outlook; so they became close friends.

From the very beginning of their time at the Hostel the two girls regularly witnessed inappropriate behaviour by McKenna towards boys. Mrs Moore particularly remembers one of the first occasions in Year 8 when she saw a boy on McKenna's lap:

"He was sitting on his lap, and Dennis had his hand right on the crease between the crotch and the thigh, and he was rubbing it up and down, sort of towards the boy's private parts, and I remember looking at that and I just thought, "Oh, that's not normal."...I just thought, "Well, my dad doesn't do that to my brother, so that mustn't be right", and that was the first really big thing." (t 407)

Mrs Brown on the other hand considered that it was very friendly of McKenna to have boys sitting close to him and thought "isn't this like a family environment" (t 386). However, after a while Mrs Brown began to realise that some boys sitting on McKenna's lap didn't look like they wanted to be there. She also saw that particular boys would "physically cringe" when McKenna walked into the dining room and try to "put themselves out of harm's way" (t 386-7).

By Years 9 and 10 both girls were concerned about the effects of McKenna's behaviour on the boys but felt they could not discuss this matter with other Hostel staff because they were all McKenna family members (t 387). Nevertheless they separately decided to tell their parents what they had seen. It is Mrs Brown's evidence that when she did this:

"Mum was probably a little bit head in the sand about it. Dad was aware that things was happening...Dad was aware that Dennis was a bit of a loose cannon and he didn't trust him. He was very glad that we were girls and we weren't boys. My now husband was at the hostel at the same time. My family's known him since he was 10 years old, and basically from my husband's second year onwards my father would ask him leading questions to make sure he was out of harm's way." (t 387-8)

When Mrs Moore told her parents:

"...mum and dad said, "Well, unless the boys come forward, you know, what can we do to help, and it's not specifically you that's being abused, so we can't do anything", and then our focus became our younger brother...to make sure that he was protected and fully aware of what Dennis was doing, and what he needed to do to get himself

through to Year 12 without actually being abused. And we often did this as a group of girls anyway, talked to the boys...specially if they were the young sibling or the cousin or something like that, you'd say to them quietly, "Don't go into Dennis's flat alone", you know, "Never go in there at night", and things of that nature to warn them, so that they became more aware of protecting themselves...My parents as well told my brother that he should not go into Dennis's flat under any circumstances." (t 418-9)

It was not until the two girls were in Year 11 that they gathered up enough courage to speak to someone else outside the Hostel. By that time Mrs Brown was particularly concerned about four boys who she believed were being sexually interfered with by McKenna. Over the space of four years she had seen one of these boys "disintegrate before my eyes" (t 391).

11.17.2 Jody Brown's evidence

According to Mrs Brown it was in 1986 that she and Mrs Moore became "brave enough" and decided that something needed to be done. They agreed to speak to three teachers whom they respected and trusted, and who they believed would be receptive to their approach. These three teachers were their year coordinator Ian Lockhart, Jody's math teacher Andrew Bourke, and their economics teacher Stuart Jones.

It is Mrs Brown's evidence that she and Mrs Moore managed to meet with the teachers all at once, but she is not "one hundred per cent sure that Mr Jones was there" (t 389). The meeting took place in the physical education office, and according to Mrs Brown:

"A. We said that we were very concerned that Dennis was sexually interfering with boys at the hostel and that something needed to be done and, "What do we do?" "Where do we go?" "Can you help us?"

Q. Can you recall whether there was a response to that?

A. ...I can recall them not being shocked at our allegations. They didn't shut us up. They didn't say, you know, "You're being stupid. Go home". I can't say who said it, but they went, "We know something is happening but... "we don't know what to do", or "yeah, we know something is happening but we need proof".

Q. Did they say anything further about what that proof would require?

A. They did, because...I was a very indignant young lady at that stage. I went, "What sort of proof do you want?" Like, "You've got to be joking! What proof do you want?" They said, "Until the boys come to us and tell us that something is happening we can't do anything."

MR URQUHART: Q. ...Did you give the names of anyone to them?

A. I gave them names of people we were concerned about.

HIS HONOUR: Q. How many names were there?

A. I gave four names that I am willing to lay my life on. There was – there was a possible list of 50, but there were four people that I was very concerned about - -

...

Q. Can you recall on what basis this meeting finished?

A. I came away from the meeting relieved that someone had believed us.” (t 390-2)

Mrs Brown hoped that as a result of raising the issue with the teachers something would happen, but she had not heard anything further by the end of 1986. When Mrs Brown returned to school in 1987 she was no longer at the Hostel and felt “more free to have informal chats with teachers”. It is her evidence that she spoke to the teachers again a number of times:

“A. It came up...two or three times informally, probably with one or two teachers. Only with either...Mr Bourke or...Mr Jones. Not necessarily with Mr Lockhart.

Q. How clear are you about these particular informal discussions?

A. Not a hundred per cent clear on these ones.

...

A. It wouldn't have been in-depth talks, it was along the lines of “Remember what we said before? Are you watching out for? Have you been watching?”

Q. ...can you recall what they said?

A. It's a long time ago...I didn't get anything back going “Yes, we are watching them”...it was like “We are onto it. Don't worry about it. We are doing the best we can”.

Q. Did they say anything about what would be required for the matter to move forward?

A. That they're just waiting for the boys to come forward.” (t 393-4)

According to Mrs Brown there was a final conversation involving herself, Mrs Moore, and all three teachers at the year 12 graduation party in 1987:

“We basically went into it again, like, you know, “This is still happening, what are we doing”. The teachers expressed sympathy with our situation. They...expressed concern but again were saying “There's not much we can do until we have cold hard evidence and the only way we can have cold hard evidence is if someone owns up to it”.” (t 396)

11.17.3 Rhonda Moore's evidence

Mrs Moore's recollections are quite different to those of Mrs Brown. According to her she and another female student went to see Mr Lockhart in either 1985 or 1986. She believes that the other student was Jody but is only “80 per cent certain” of that. The meeting with Mr Lockhart was in the physical education office, and although Rhonda feels in the “back of my mind” that someone else may have been there she cannot recall if any other teachers were present (t 421).

Both girls spoke to Mr Lockhart about boys being abused by McKenna, as well as the “way that Dennis was treating the girls”, and asked him for some help or direction.

According to Mrs Moore she raised the issue of the treatment of the girls because McKenna was “psychologically twisting the girls around”. However, the main focus of the discussion was on how the boys were being treated and in that regard:

“...I remember one of the boys coming up to me and saying that, you know, Dennis would get them...to masturbate him, and I am sure I would have mentioned that to Mr Lockhart, but I can’t recall, but I am sure I would have made some reference to things of that nature...” (t 422)

As to Mr Lockhart’s response to what she told him, it is Mrs Moore’s evidence that:

“I can’t remember specific things that Mr Lockhart said...I have a feeling that he said something about...going home and speaking to his wife about it. For some reason there’s something in the back of my mind that his wife may have been a social worker or something of that nature. I don’t know why I think that, and I cannot substantiate it in any way. It’s just something that has sort of popped back into my memory...I do recall him saying that he had to...think about what we were saying, and get back to us, and there was no real response from him that I can recall...” (t 422)

Mrs Moore does not remember any other teacher being involved in that meeting, and the only other relevant conversations with teachers that she can recall were with Mr Jones:

“Mr Jones was my economics teacher. I do recall having conversations with Mr Jones, but I didn’t feel like they were very specific, but I did feel that he had an understanding that there was a problem with the way the boys were being treated at the hostel, which is what I said before. Often the teachers were aware that things were happening, but because none of the boys came forward, they felt that – maybe they felt like they didn’t have any – it was all innuendo and rumour.” (t 427)

11.17.4 Ian Lockhart’s evidence

Mr Lockhart commenced his career as a physical education teacher in 1981 and was transferred to Katanning Senior High School in 1983. By 1986 he was 25 years of age and still relatively junior in the teaching hierarchy.

While Mr Lockhart was at Katanning he developed a close friendship with his fellow teacher Andrew Bourke, and that friendship continues until the present day. Therefore it is not surprising that before giving evidence Mr Lockhart and Mr Bourke discussed the matters the subject of the Inquiry “half a dozen or so” times, and “brainstormed” on the various possibilities of what might have happened (t 2033-5).

In 1986 Mr Lockhart was the Year Coordinator for Years 11 and 12 at Katanning High School. His role in this position was largely one of pastoral care and he describes it as being a “sort of father figure for the kids” (t 2008).

Mr Lockhart vaguely remembers Mrs Brown and Mrs Moore as students but cannot recall any specific situation when he spoke to those girls. His reading of the transcript of their evidence has not jogged his memory in this regard (t 2015). Although Mr Lockhart has no recall of the alleged conversations he cannot “categorically deny” that they occurred:

“...I don’t imagine that these two ladies, women as they are now, would have come forward to the Inquiry and said that they’ve had some conversations with us if there hadn’t of been some sort of conversation with someone at some point in relation to matters regarding the hostel. I guess there’s a lack of clarity around when some of these things occur, who was there, what was said, who said it and who responded in

a particular way. It's very difficult to be certain about anything, but if these conversations occurred, I suspect maybe they didn't carry with them the magnitude that – certainly I didn't take away the magnitude of the situation that it was obviously intended to carry. I mean, that's the only thing I can kind of add to it, hypothesise, speculate, I suppose...I feel that if this information had of been conveyed in the way that it was intended to be, or has been reported to be, it just seems so unlikely that I or any of the teachers that have been named wouldn't have done something about it... it would seem to me that the magnitude of the situation wasn't clear...if the conversations occurred.” (t 2019-2020)

Mr Lockhart also considers that if the two girls had clearly asserted that McKenna was sexually abusing boys, then this is something that he would almost certainly recall, even with the passage with time (t 2021). Furthermore if Mrs Moore had mentioned masturbation (even in colloquial terms) this would have set off “some pretty serious alarm bells” (t 2022).

Accordingly, Mr Lockhart believes that if he was told these things he would have responded very differently to what Mrs Brown and Mrs Moore have said. He probably would have spoken to his Senior Master or a Deputy Principal and taken advice on what he should do (t 2024).

11.17.5 Andrew Bourke's evidence

Mr Bourke commenced his career as a maths teacher in 1980. He was at Katanning Senior High School from 1983 until 1987, and he confirms that while there he became a close friend of Ian Lockhart.

For much of that period Mr Bourke tutored at the Hostel on some evenings. From his observations of McKenna he considered that he was “a bit of a bully” and that things were “not quite right” with his persecution of some students (t 1964, 1966).

Mr Bourke also recalls an incident when he saw a boy sitting on McKenna's knee. This was in the Hostel office and it “didn't look right” because the boy was in Year 11 and very tall (t 1968-1970). However Mr Bourke did not think that there was anything sinister about the boy sitting on McKenna's knee because they appeared to be sharing a joke at the time. Mr Bourke simply regarded what he saw was unusual because the boy was so tall.

Accordingly Mr Bourke did not think it necessary to discuss the incident with the boy and he was not concerned for his welfare (t 1972). He probably talked about what he had seen with fellow teachers but did not raise it officially with anybody (t 1971).

Mr Bourke remembers Mrs Brown as “a great kid, lovely to teach” (t 1973). She was in a maths class of only half a dozen students, and another student in that class was the boy he saw sitting on McKenna's knee (who was also the same boy that Mrs Brown describes as having “disintegrated in front of her eyes”).

Mr Bourke got along well with Mrs Brown and he does not consider it odd that she might have confided in him about any matter. However, having read her evidence and that of Rhonda Moore he has “absolutely no recollection” of the conversations that they refer to (t 1974).

If they did meet in the physical education office, Mr Bourke thinks this would have occurred by chance rather than by arrangement (t 1975). If he had been told in clear terms that McKenna was sexually abusing boys he thinks that he would have gone straight to the Principal Mr Marriott (t 1976). As to the assertion that he and the other two teachers said that the boys being abused needed to come forward, it is Mr Bourke's evidence:

"A. I think regardless of whether it's 26 years ago or five years ago or one year ago, a victim really needs to come forward before anything serious can be done. I think hypothetically if we were told about sexual interference and sexual abuse, then hopefully our response would have been different, and the fact that you had not just one person told, but three people told who are hopefully reasonably competent teachers with common sense, if one of us was a dill, that at least one of the others would have come forward and raised the matter somewhere else. That's what I feel would have, you know, happened. To my way of thinking we didn't hear those terms, and for a girl – a young female student 26 years ago to sort of bring these taboo subjects up with male teachers, that's a pretty courageous thing to do.

Q. Yes, I wouldn't argue with that. So just on that...do you have a view...if this conversation did take place, whether she might not have necessarily been that explicit about her description of what was happening?

A. That would be my guess.

A. And the reason I say that is because I don't think Jody would be a person to make things up. I can't recall what was said. And so to my way of thinking...a possible scenario is that we heard about bullying, but the terms of sexual bullying and that weren't used." (t 1977-8)

Nevertheless, Mr Bourke accepts the possibility that he was told by Mrs Brown and Mrs Moore that McKenna was sexually interfering with boys (t 1993-4). This is so even though he has no recollection of that conversation or of the other conversations said to have taken place in 1987 (t 1982).

As to the question whether (as a young teacher) he would have baulked in taking on a man with McKenna's reputation, it is Mr Bourke's evidence that:

"A. Probably back then I wouldn't have thought of taking him on for anything, but if...I had to, it would have meant you'd have to have clear evidence and then approach the appropriate people to sort of deal with it.

Q. ...you would be more inclined to take him on if you can make sure your side of the argument was compelling?

A. Yes.

Q. And a compelling argument in this instance, if, in fact, sexual abuse allegations were being made...would require the boys who were being sexually abused to actually come forward?

A. A victim to come forward, yes, because otherwise you're hearing secondhand information." (t 1987)

Mr Bourke also points out that unlike today, teachers in 1986 and 1987 were not provided with any training or guidance on how to handle such situations.

11.17.6 Stuart Jones' evidence

In 1980 Mr Jones commenced a career as an economics and social studies teacher. He was posted to Katanning Senior High School in 1986 and 1987. Although he recalls the former names of Mrs Brown and Mrs Moore, he has no recollection of the alleged conversations with them.

It is Mr Jones' evidence that he would expect to remember two students asserting that the Warden had been sexually interfering with boys at the Hostel (t 2052) and also doubts that he would have failed to act if told that this was happening (t 2065). However, he can understand why a teacher would say in this situation that it was necessary for the boys to come forward before anything could be done:

"A. I can actually see the logic in a teacher saying that, and especially in the environment that people were working there...(then)...I mean, not like now, where there's a very set and specific policy, and you're trained in it, and you know what you're meant to do at each stage. I can actually see teachers making that comment in terms of, "Look, I need some first-hand information"." (t 2053-4)

If Mr Jones did have the conversations with the two girls as alleged, he considers there is a distinct possibility that there were crossed wires or some ambiguity about what was being said:

"If a student was to say something to the effect that they're being mistreated or abused, that – I mean, people might not interpret that as sexual abuse, they might interpret that as bullying or that sort of behaviour." (t 2057)

However Mr Jones believes it most unlikely that he would have forgotten any reference by Mrs Moore to McKenna masturbating boys (t 2058).

If Mrs Brown did provide Mr Jones with the names of the four boys being sexually abused he believes that he would have made efforts to speak to each of them. He does not believe that McKenna's "strong presence in the town" would have deterred him from taking that step (t 2059).

11.17.7 Findings

Although I consider that Mrs Brown and Mrs Moore are each honest and credible witnesses there are some significant differences in their recollections. While Mrs Brown remembers a meeting with three teachers, Mrs Moore's memory is of only one teacher (Mr Lockhart) being present or involved in the discussions. As to the outcome of that meeting, it is Mrs Brown's evidence that the teachers said that the boys would have to come forward, whereas Mrs Moore thinks that Mr Lockhart said he would go home and talk to his wife.

With regard to subsequent conversations, Jody has a fairly clear recollection of at least one occasion when the teachers again said that they were unable to do anything without the boys coming forward. Rhonda on the other hand can only recall some conversations with Mr Jones which were not "very specific". Accordingly, Mrs Moore's evidence is to the effect that she never made any clear assertion to Mr Jones that McKenna was sexually interfering with boys.

After carefully assessing all of this evidence I am satisfied that Mrs Brown and Mrs Moore did each attempt to tell their teachers that McKenna was sexually molesting boys at the Hostel. However, it may well be that Mrs Brown is mistaken in her recollection that this happened at a meeting between the three teachers and the two girls at the one time. I have no doubt that each girl kept the other informed at the time of what she was doing, and perhaps it is because of that that Jody remembers it as a joint move by the two of them.

Whether or not the two girls spoke to the teachers at the one time, I consider it possible that they did not clearly convey what they wanted to say in explicit terms. It was a very sensitive topic for 15 or 16 year old girls to raise with adult male teachers and it would not have been easy for them to make allegations of a sexual nature in very specific terms. I cannot be satisfied that any of the teachers clearly understood that the allegations being made were of sexual molestation. Because of what Andrew Bourke had seen at the Hostel he may have been in the better position to understand what the girls were trying to say. However, I accept his evidence that in the particular circumstances in which he saw a boy sitting on McKenna's knee and "sharing a joke", this did not arouse his suspicions.

Even if the teachers did understand that the girls were making allegations of sexual abuse, they were very junior in the teaching hierarchy and had received no training or guidance on how they should handle such a situation. The most appropriate course would have been for them to report the allegations to their principal. However in all of the circumstances I do not consider they should be condemned if they told the girls that they were unable to act on the allegations until the boys came forward to confirm firsthand that they were being sexually abused. For junior teachers uncertain about how they should respond to the information that may have seemed a reasonably sensible way of dealing with the situation.

11.17.8 Conclusion

The evidence does not establish that the conduct of Ian Lockhart, Andrew Bourke, and Stuart Jones fell short of what reasonably could have been expected of them in their official capacities as school teachers.

11.18 1987: Rhonda Moore tries to tell her principal

11.18.1 The evidence of Rhonda Moore and Graham Young

In 1987 Rhonda Moore (formerly Goode) was in Year 12 at Katanning Senior High School and she participated in a special project which was conducted Australia-wide by the Prime Minister's office. As I understand the evidence, various schools including Katanning Senior High School were asked to send a paper to the Prime Minister on the future of the education system through to 2020.

At Katanning, the project was led by the Principal Graham Young and he conducted a series of seminars in the staffroom at the school with a group of students including Mrs Moore. Mrs Moore considered Mr Young to be "quite an austere principal" and "very much an administrator". She did not feel inclined to go to him with any "pastoral care issues or anything like that" (t 424). However, Mrs Moore recalls that as one of the seminar meetings was breaking up:

"A. ...he took me aside and asked me how...things were going at the hostel, and how I was being treated by Dennis, and I had a very loose conversation with him about Dennis' behaviour with the boys because...I just didn't trust this guy at all...I wanted to vent and get this stuff out so that something would happen about it, but as I'm saying it I'm thinking to myself at the back of my brain, "I'm going to be in really deep trouble with this. This is going to get back to Dennis. So I then extricated myself and just went out, and he sort of pushed me out too. He really didn't want to know what I was saying."

Q. Can you recall what words to the effect of that you were saying?

A. I would have said something like – that Dennis was touching the boys, something of that nature. That is usually what I would say.

HIS HONOUR: Q. Now, this is in response to a question by him. He had initiated the discussion on this topic?

A. He initiated the topic. I had no relationship with him, other than having these meetings...and he just asked me about how things were going with Dennis and the hostel.

Q. ...can you suggest any explanation why he was asking you this?

A. No, perhaps because he got to know me a little bit better. It may have been in response to things that he heard, I don't know. He didn't explain himself. And once I sort of vented a little bit, he then just sort of shuffled me out. So it was almost like too much information that I was giving him, and he didn't really want to deal with that. It may have just been my response to a question, you know, "How are things going?", and then I've gone 'blerrr'." (t 424-6)

Mr Young's evidence of what he can remember about this matter is as follows:

“A. I can’t recall exactly what happened, but there’s a vague recollection that I spoke to Rhonda about having difficulties with Dennis.

Q. And that vague recollection, is that just conversations you had with her on one occasion or more than one occasion?

A. Just one occasion.

Q. And can you clarify anything further about that?

A. I feel that if she had been forthcoming we would have taken things further perhaps, but she sort of brushed it off and that was that...My recollection is that I asked her how things were going, and she more or less said, ‘Okay’, or ‘All right’, or whatever, and left.” (t 2621-2622)

11.18.2 Findings

I consider that Mrs Moore and Mr Young are both honest witnesses, and that they have each done their best to remember these events which occurred 25 years ago. However, Mrs Moore’s evidence does not satisfy me that she clearly communicated to Mr Young that McKenna was sexually interfering with boys at the Hostel.

Mrs Moore did not feel as comfortable with Mr Young as she did with her year coordinator Mr Lockhart. When Mr Young unexpectedly asked how things were going at the Hostel she is likely to have experienced some difficulty in articulating her concerns on such a sensitive topic to her “austere” principal. Therefore I am unable to find that Mr Young was in any way alerted to the possibility that McKenna was committing sexual offences at the Hostel.

11.18.3 Conclusion

The evidence does not establish that Mr Young was informed of an allegation of sexual abuse at St Andrew’s Hostel.

11.19 1988: Nikola MacLennan - the clash between a school psychologist and her principal

11.19.1 The background

In 1988 Nikola MacLennan was the Department of Education's newly appointed Guidance Officer (or School Psychologist) for the Katanning region. To perform her work she was required to attend for two days each week at primary schools throughout the region, and for the remaining three days at Katanning Senior High School (KSHS).

Ms MacLennan had first qualified as a teacher in 1974, but because of the change in direction of her career into school psychology work, she was on probation in her new position in Katanning and subject to regular reviews of her performance. The three person panel who conducted these reviews usually comprised the Principal KSHS (Ian Murray), Ms MacLennan's District Supervisor (Larry Hamilton), and the Education Department's District Superintendent (Murray Gatti).

At the beginning of 1988 Mr Murray was also new to his position as Principal of KSHS. It was his first posting as a School Principal having previously served positions as Deputy Principal at Cunderdin Agricultural District High School and Acting Principal at Swan View Senior High School. Because of his position as Principal Mr Murray was also a member of the Board of St Andrew's Hostel (the Hostel).

Early in 1988 and about a month after the commencement of the school year Mr Murray and Ms MacLennan had a difference of opinion over her handling of an incident involving a Hostel student. The student was a boy in Year 8 who had come to Ms MacLennan's office at KSHS considerably distressed and "sobbing his heart out". He wanted to ring his mother and Ms MacLennan permitted him to use her telephone so that he could do so. While the boy was speaking to his mother Ms MacLennan stepped out of her office to allow him some privacy (t 437-8).

When the boy left Ms MacLennan's office she "followed up" on his background. She ascertained that he was in a support class for children who lacked literary skills and were unable to cope with the full curriculum. Such children were generally identified by school psychologists as requiring a "fair amount of work", and it was Ms MacLennan's assessment that "clearly, this child was having difficulties at school" (t 439).

However, it is Ms MacLennan's evidence that she got into trouble with Mr Murray simply because she had allowed the boy to use her telephone. Mr Murray was aware of the fact that this had happened because when using the telephone the boy had first spoken to the school nurse on an internal line, and (according to Mr Murray and Ms MacLennan) the nurse had informed the Principal of the call. (The school nurse, Shirley Marshall, has been too ill to testify to the Inquiry. However she has told an investigator that she would have had no reason to inform the Principal of such a call).

11.19.2 Ms MacLennan's evidence as to what then happened

According to Ms MacLennan Mr Murray "sought her out" within half an hour of the boy making the telephone call. He told her that he had been alerted to the phone call by the School Nurse and he directed her to go to the Hostel to "see Mr McKenna and the boy's mum". Ms MacLennan then went to the Hostel where she met with Dennis McKenna, the boy, and the boy's mother. By then it was around lunch time, and it is Ms MacLennan's evidence that:

"The conversation was not really directed to me, but the conversation was from Mr McKenna. He looked patronisingly to the boy and the mum, and he said – the words I cannot recall exactly, but to the effect to the mum, "We look after your child. We can make him happy here. We look after him if there's any difficulties. We go on camps, we have fun. Don't worry about his emotional happiness," and Mr McKenna was most reassuring to the mum. The boy said absolutely nothing." (t 441)

Ms MacLennan did not play any role in that conversation and when it finished she left the Hostel. It was either later that day, or on the next day that Mr Murray asked her to come to his office. It is Ms MacLennan's evidence that when she went there Mr Murray said:

"A. ... "You don't need to have anything to do with the hostel students." I looked blankly, and Mr Murray went on to say, "It's the best-run hostel in the State." I don't remember making any comment at all, but he went on to explain that Mr McKenna was a very good psychologist, and I looked blankly at him. And then he said, "He's a very good amateur psychologist." I did not respond - I don't remember what I said if I did respond, but I must have said, "Well, what do I do if hostel students want to come - to use my services, so to speak?" I was there as the school psychologist, the counsellor, who has slightly separate and our own professional responsibilities and our own professional code of conduct - code of ethics that children, people, staff, students, parents can see us confidentially. That's what the job is. And Mr Murray said for hostel students I should let Mr McKenna know first, and that was probably the end of our conversation.

Q. So, as I understand it, if you were to see a hostel student --

A. I should let them know first.

Q. -- you should let Mr McKenna know first.

A. That was my instruction." (t 442)

Very soon after that meeting with Mr Murray Ms MacLennan received a visit from McKenna at her office. He came in without invitation, sat down and said "you don't need to have anything to do with Hostel students". McKenna also said that if students were homesick it was his job to counsel them (t 441-2).

As Ms MacLennan was very unhappy with Mr Murray's instruction concerning Hostel students she telephoned her Professional Supervisor (Mr Hamilton) in Albany and sought his advice. He instructed her that she had to do what Mr Murray said (t 442).

11.19.3 Ian Murray's evidence

Mr Murray agrees that following the incident involving the boy using the telephone in Ms MacLennan's office, he gave her instructions as to the services she was to provide to Hostel students. Those instructions were based on his understanding of Ms MacLennan's role at that time as a "Counselling Assistant" or "Guidance Officer":

"A. At the time fundamentally a guidance officer was to make sure that students' education was being followed according to their ability and capacity. They would help the selection of student courses, they would help guide the students into future locations, and a future away from the school, and if there were any learning difficulties, they would work on the learning difficulties to see if they could improve - - the learning difficulties for that child.

Q. Behavioural difficulties?

A. Behavioural difficulties they were a little bit involved in. They were just starting to get involved in that sort of thing in that particular period." (t 2245-6)

Accordingly when he spoke to Ms MacLennan following the incident he did not require her to make any distinction between Hostel students and day students at the school:

"The distinction I asked her to make was to make a distinction between those domestic behavioural experiences of the hostel, or the home, compared to the school. At the school...we could not interfere with the way parents did their work at home with their children. If there were any difficulties with the home, with their children, we could not interfere with that, and the hostel was the student's home." (t 2246)

It is Mr Murray's evidence that these limitations in Ms MacLennan's role were "standard operating procedures" which had "grown up over the years". These procedures were not in writing but had been confirmed by instructions he was given by the Country High School Hostels Authority (the Authority) and the District Guidance Officer. He received the Authority's instructions from its "Chief Executive Officer" when he visited its Head Office in Perth prior to taking up his appointment at KSHS. He similarly obtained verbal instructions as to Ms MacLennan's role from the District Guidance Officer (Mr Hamilton) who told him that her role was "in the school" and she was "not to be involved in Hostel matters" (t 2247).

It is Mr Murray's evidence that McKenna also had a view on this issue and "wanted the Hostel students to be controlled by him for their behaviour in the Hostel" (t 2247). In this regard the Hostel "had superb systems in place to manage things like homesickness" and problems with children doing their homework. There were also staff at the Hostel the students could go to with these problems (t 2247-8).

Mr Murray agrees that he would have described McKenna to Ms MacLennan as either a "great amateur psychologist" or "good amateur psychologist". The people at the Authority's Head Office in Perth had described McKenna in these glowing terms, and that description was consistent with Mr Murray's own personal observations:

"Well, he handled the hostel extremely well, yes. He hoodwinked me, yes. He conned me, yes. He conned the Hostel Authority, yes. He conned all of us, but he appeared to be a great amateur psychologist. Well, he was, because he handled the situation

brilliantly. I mean, he conned us all into thinking things were going great, and there was this evil underneath. He did a brilliant job.” (t 2249)

11.19.4 Larry Hamilton’s evidence

In 1988 Mr Hamilton was the District Guidance Officer stationed at the Albany District Education Office. The Albany District took in the town of Katanning, and Mr Hamilton was Ms MacLennan’s Professional Supervisor.

It is Mr Hamilton’s evidence that during 1988 he was aware that there were problems in the relationship between Ms MacLennan and Mr Murray which he did not think could be easily resolved. He also had concerns about Ms MacLennan’s professional performance as well as her capacity to meet the standards required for permanency (t 4261). Furthermore, Mr Hamilton disagrees with the evidence of both Ms MacLennan and Mr Murray as to the conversations that he had with each of them:

“With regards to hostel students no such conflict was ever brought to my attention by either Nikola or Ian Murray and I certainly did not instruct Ian Murray verbally or otherwise that Nikola was not to deal with hostel matters as stated in his evidence to the Inquiry.

Nikola never raised any issue with me in regards to conversations she may have had with Ian Murray relating to hostel students and contrary to her public evidence she was not autonomous in her role.

Given that she was a probationary staff member I had concerns that she far too infrequently sought my advice and counsel.

Had Nikola come to me and told me she had received an instruction from Ian Murray that she was to first get permission from Mr McKenna before dealing with any student who self-referred, I would have told her that was not required, especially if it was a social or emotional issue and would have taken this up with Mr Murray. I would much more likely have involved the child’s parents regarding the referral than I would have the hostel manager and would have guided Nikola similarly.

It is important to note that whilst Mr McKenna was in loco parentis if parental permission was needed it should have been sought from the student’s actual parents.” (t 4264)

Mr Hamilton has also confirmed that Ms MacLennan’s role as a School Guidance Officer was not limited in the way as suggested by Mr Murray and that she was required to deal with “social or emotional issues” as well as the “behavioural or academic issues” of students (t 4263).

11.19.5 The issues arising from the review panel’s appraisals of Ms MacLennan’s performance

Prior to Ms MacLennan commencing her duties in Katanning she had completed her first year of guidance work at primary schools in Narrogin while under close supervision. The

appraisal of her performance upon completing the 1987 school year had resulted in marks in the upper ranges of achievement (vis: "highly satisfactory" and "outstanding").

The appraisals of Ms MacLennan's work during the 18 month probationary period following her appointment to Katanning were conducted by a different review panel which included Mr Murray. These appraisals resulted in significantly lower marks than before. Ultimately, her probationary status as a Guidance Officer was terminated at the end of the first semester in 1989. The essential reason that she was given for this outcome was her "unsatisfactory communication skills with parents and teachers" (Exhibit 7.2).

An analysis of the documentation associated with the performance appraisals throughout 1988 and 1989 reveals that the negative results were largely due to assessments from KSHS rather than from the primary schools where Ms MacLennan worked. The Principal of Brayside Primary School in fact sought an extension of Ms MacLennan's appointment following her termination because of the high regard that he had for her performance (Exhibit 7.2).

It is Ms MacLennan's evidence that towards the end of 1988 she was informed by Mr Hamilton that she was "not going to get a favourable report in Katanning with Mr Murray, such that it would be more suitable to move" (t 456). She was then offered an alternative position in Albany for 1989 but did not accept it because she lived at Wagin which was about two and a half hours drive away.

Accordingly, Ms MacLennan continued in Katanning until her probationary period came to an end. There was then a final appraisal by a different panel comprising Mr Murray, the Brayside Primary School Principal (Mr Maclean), and Mr Hamilton. This panel made an assessment of "really substandard performance" which was sent to the District Superintendent Murray Gatti for approval. Mr Gatti then travelled to Katanning where he interviewed Ms MacLennan over the course of a day. The ultimate outcome was his report upholding the decision of the panel which resulted in Ms MacLennan ceasing to be employed as a Guidance Officer and School Psychologist (t 460).

Although Ms MacLennan does not directly assert that the review and appraisal process was tainted by Mr Murray's participation, the implication from her evidence is that he was biased against her because of the incident involving the Hostel student in early 1988. Mr Murray strenuously denies that he was anything other than objective in his appraisals of Ms MacLennan's performance and he has given very lengthy explanations as to the factors that he took into account in arriving at his assessments (t 2260).

11.19.6 Findings

The critical issue to be determined is the precise nature of the instructions that Mr Murray gave to Ms MacLennan on how she should deal with Hostel students who came to her with problems. There was no written record made of those instructions, and the issue turns on the content of conversations which took place almost 25 years ago. Obviously there is room for the witnesses to be mistaken as to their recollections, and in my view there is also the possibility that there was a degree of misunderstanding between Mr Murray and Ms MacLennan at the time. Therefore it is perhaps not surprising that there are conflicts amongst all three witnesses as to the relevant conversations.

Mr Hamilton was an entirely neutral party in respect of the problems between Mr Murray and Ms MacLennan, and it is unlikely that he would have advised either of them in a way which was contrary to Education Department policies at the time.

For that reason I accept his evidence that he did not advise or instruct Mr Murray that Ms MacLennan was not to deal with Hostel students. He also did not advise Mr Murray that her role as a Guidance Officer was limited in the ways that Mr Murray claims. Similarly, I accept Mr Hamilton's evidence that Ms MacLennan did not seek his advice on the instruction she was given by Mr Murray, and he did not tell her that she had to do what Mr Murray said. I am satisfied that if Ms MacLennan had sought Mr Hamilton's advice he would have stepped in and satisfactorily resolved the issue between her and Mr Murray along the lines that he has indicated.

It is common ground that Mr Murray's instruction to Ms MacLennan came about as a result of her allowing the distressed Hostel student to use her telephone. The instruction was to the effect that she was not to deal with such matters without first referring the student to McKenna. Mr Murray claims to have given that instruction because he believed that the role of the School Guidance Officer did not include any dealings with students concerning "domestic behavioural experiences" in the Hostel or at home.

Mr Hamilton's evidence shows that Mr Murray was completely wrong with that belief. When a Hostel student self-referred with a social or emotional issue, it was not necessary for Ms MacLennan to first get permission from McKenna before dealing with it. For this reason it was entirely appropriate that she dealt with the distressed boy in the way she did by allowing him to ring his mother at home.

With the benefit of hindsight it is also clear that Mr Murray unwittingly played into the hands of McKenna by closing off one possible avenue of complaint for the students who were being sexually abused. However, it is easy to be wise in hindsight and Mr Murray would have had no idea that he was doing that at the time.

The unfortunate aspect of what happened is that neither Mr Murray nor Ms MacLennan sought the intervention of Mr Hamilton to have the issue resolved. Had they done so Mr Hamilton would have put Mr Murray straight, and the Hostel students would not have been denied the opportunity of utilising Ms MacLennan's services.

There are some obvious flaws in Mr Murray's evidence as to the reasons why he gave Ms MacLennan the instruction that he did. However I do not consider these flaws to be due to any untruthfulness on his part, and in that regard I have commented in Chapter 11.2 on how his age and failing memory have impacted on the reliability of his evidence. There is nothing to suggest that Mr Murray deliberately departed from Education Department policy and as a newly fledged Principal it is reasonable to find that he made a genuine mistake. In all of the circumstances I consider it to be enough that I have determined the facts as I have. I do not propose to make any formal adverse finding against Mr Murray in respect of his instruction to Ms MacLennan.

With regard to the issues arising from Ms MacLennan's performance appraisals it is significant that the assessments were made by a three person panel and not by Mr Murray alone. The ultimate assessment that Ms MacLennan was unsuitable for permanency was made by a panel which included two members who had no involvement in her issues with

Mr Murray. The panel procedures appear to have been fair, and the ultimate assessment was the subject of a review by the District Superintendent before being adopted.

There is no evidence to show that Ms MacLennan's failure to gain permanency was in some way linked to the incident involving the Hostel student. Mr Murray's views as to Ms MacLennan's performance as a Guidance Officer were shared to some extent by Mr Hamilton, and there is no evidence which proves that his assessment was motivated by malice. For these reasons I do not consider that there is any basis for an adverse finding against Mr Murray in relation to the manner in which he participated in the appraisal of Ms MacLennan's performance.

11.19.7 Conclusion

The evidence as to Ian Murray's interactions with Nikola MacLennan does not justify any adverse finding against him.

11.20 1990: Todd Jefferis - the brave young lad who stood his ground

11.20.1 The background

Todd Jefferis boarded at St Andrew's Hostel between February 1989 and August 1990 while in Years 11 and 12 at Katanning Senior High School. Mr Jefferis' parents had separated when he was young, and he had been living with his father and stepmother (Catherine Jefferis) on a farm at Wagin prior to going to the Hostel. His mother (Lynley Day) lived with her partner at Burracoppin (near Merredin) which was a long distance from Katanning.

Once Mr Jefferis moved into the Hostel he was subjected to a long period of grooming by Dennis McKenna. This started with McKenna accustoming Mr Jefferis to the idea that his touching of boys was normal behaviour. Accordingly McKenna would frequently touch boys in Mr Jefferis' presence by putting his arms around them, putting his hand up their shirts, or having them sit close beside him. Mr Jefferis was also included in the group of boys that McKenna would regularly invite into his flat after hours. On most of these occasions McKenna would wear a bathrobe without anything on underneath. McKenna's usual touching and feeling of boys would then continue and he would sometimes take off his bathrobe and get into bed while the boys were still there. McKenna would also ask boys (including Mr Jefferis) to lay alongside him on the bed.

Whenever McKenna took Mr Jefferis and other boys on trips to Perth he would arrange the accommodation so that at least one boy would have to share his double bed. This had the result that upon arrival at the accommodation the boys would always rush to be first to claim one of the limited number of single beds. On those occasions when Mr Jefferis missed out and had to share the double bed he would make sure that he slept on top of the covers or in a different layer of sheets from McKenna. Even so, McKenna "used to put his arm across you and that sort of thing" and Mr Jefferis would "just try and ignore it".¹

Saturday 4 August 1990 was another night at the Hostel when Mr Jefferis went with other boys to watch television in McKenna's flat. Later as the boys were leaving McKenna instructed Mr Jefferis to go and get ready for bed and then come back so that he could talk to him.

Mr Jefferis did as he was told and when he returned McKenna was naked in bed under the covers. McKenna asked Mr Jefferis to lie on the bed next to him which Mr Jefferis did. The two of them then chatted about football and umpiring, as well as what Mr Jefferis would be doing when he left school. While discussing these matters McKenna pulled Mr Jefferis's right arm across his chest and started to rub Mr Jefferis's back under his shirt. McKenna went on to remove Mr Jefferis's shirt, pull down the bed sheets, manoeuvre Mr Jefferis into a position on top of him and then pull back the sheets over both of them. By then Mr Jefferis was wearing only tracksuit pants.

¹ *The Crown v Dennis John McKenna*: Trial in District Court at Albany 1991, p.122.

McKenna then began to behave in an overtly sexual manner by putting one of his legs between Mr Jefferis's legs, rubbing Mr Jefferis's arms and legs, and "pushing around a bit". While this was happening Mr Jefferis could feel McKenna's erection pressing against him.² Mr Jefferis felt "really scared" and after a while he:

*"...didn't worry about the consequences. I just got up and said it wasn't for me and said I was going to bed."*³

On the following day (a Sunday) Mr Jefferis telephoned his mother and told her what McKenna had done to him. He also told her that he "wanted to get out of there", and she agreed to come and collect him on the following afternoon. (Mrs Day could not come immediately because of the time of day she received Mr Jefferis's call and the fact that it would take a four and half to five hour drive to reach Katanning).

Mrs Day arrived at Katanning in the early afternoon of Monday 6 August 1990. While driving there she had decided that she should take her son to see the School Principal Ian Murray. Accordingly, when she collected Mr Jefferis after school they went immediately (without prior appointment) to Ian Murray's office.

11.20.2 The first meeting with Ian Murray

It is Mrs Day's evidence that she "informed Mr Murray that I was there with my son to report a sexual abuse by McKenna". When she said this to Murray he was "angry and just didn't want to hear what I was saying". He said straight away to Mr Jefferis "why would you want to be lying about a thing like this" (t 747). Mr Jefferis's evidence of Ian Murray's initial reaction is that he was:

"..aggressively defensive. You know it was almost like I had accused him. He was very put out, obviously disturbed about the accusation, and he didn't like it". (t 714)

According to Mrs Day Ian Murray went on to say "well this is a major allegation that you're making here and I have no interest in taking it further" (t 747-8). It is also Mr Jefferis' evidence that "as far as he was concerned, that was the end of the matter. He didn't want to know about it. It wasn't going to leave his office and it was up to us to think very carefully about where - what we were going to do" (t 714). Mr Jefferis and his mother both assert that Ian Murray did not provide any guidance on where they should go or what they should do with his complaint.

Ian Murray has given a very different version of that first meeting with Mr Jefferis. According to him:

"I thought that he was telling me that he had been physically abused...and I told the boy and his mother to go to the police...I was told (there) had been grabbing, pushing and shoving. It was so confusing. I had a boy who was very...very, very upset. I had a mother who was very angry, very, very aggressive...To tell you the honest truth, I really didn't quite know what he was alleging, but I had the impression, a very strong impression that he was alleging physical abuse and I didn't know how far that went... (E)very time I tried to ask a question I was told by either mother or son "You don't

² *The Crown v Dennis John McKenna*: Trial in District Court at Albany 1991, p.125.

³ *The Crown v Dennis John McKenna*: Trial in District Court at Albany 1991, p.126.

believe me, you are on Dennis McKenna's side". They told me that many times, that I did not believe them...Now, the words "sexual abuse" may have come up. I don't recall that." (t 2089-2090)

However, Mr Murray had a much fresher recollection when he testified at McKenna's trial in 1991, and his evidence at that time was as follows:

*"At the first meeting, Todd and his mother...came to the school at approximately 4:30 in the afternoon. I was working in my office and they walked into my office, and they said they wished to discuss something...They sat down and I sat down with them, and then she said that she wanted to complain about the hostel and the behaviour of the warden, and I said that really we were at the school and it was (not) a school matter, but I was prepared to hear what they had to say as a member of the board; a secretary of the hostel board. Then Todd...told me a story about Dennis McKenna making **sexual advances** to him"⁴ (emphasis added)*

Mr Murray acknowledges that during that first meeting he "repeatedly" said that he could not deal with Mr Jefferis's complaint. However he also said "over and over again" that Mr Jefferis should go to the police (t 2112).

The unreliability of Mr Murray's present recollections about that first meeting is further demonstrated by the following comments that he made to an ABC reporter on 28 September 2011 when interviewed for the "7.30 Report":

"Todd came to me with allegations that – that – not about sexual behaviour. If I remember, Todd came to me with allegations that he was being picked on, and discriminated against. And so I went to the board of the hostel, and just mentioned to them that he had made these allegations. I also told Todd that if he had any further allegations they must be taken to the police because I was not a person who could deal with any allegations of harassment at the hostel. I was on the board of the hostel, but I ran the school not the hostel, and that's the information I told Todd that he should go to the police...I think he did go to the police too I think, if I remember correctly." (Exhibit 68)

In fairness to Mr Murray it is necessary to point out that I accept his evidence that he does not have a good recollection of his first meeting with Mr Jefferis, and that at the age of 74, he is starting to experience memory problems (t 2096). I also accept that Mr Murray has experienced considerable stress in appearing before the Inquiry (as have a number of other elderly witnesses who have been required to testify). I have had regard to these matters along with Mr Murray's good reputation, his record of service to the community and the character references he has provided when assessing his credibility.

11.20.3 Events between the two meetings

After Mr Jefferis and his mother left that first meeting with Ian Murray, they immediately went to a public phone box and called his father's home. His father was not there, but they explained to Mr Jefferis' stepmother what had happened. Arrangements were then made for Mr Jefferis' father and stepmother to collect him from the Hostel that same night.

⁴ *The Crown v Dennis John McKenna*: Trial in District Court at Albany 1991, p.234.

In the meantime Mr Jefferis' mother drove him back to the Hostel and accompanied him inside. While doing so she made a point of going to the glass window of McKenna's office and "giving him the glare". She did this because she was "one mad mother". McKenna's response was to glance at her, look away and then busy himself. He made no attempt to come out of his office to enquire why she was there (t 749).

As soon as Mr Jefferis returned to the Hostel it became rapidly apparent that other students, and particularly Year 12 boys, "knew that something was going on". When Mr Jefferis had left the Hostel earlier that day it had been "just business as usual", but upon his return "it was obviously clear they had been told something". In this regard, other boys commented to Mr Jefferis along the lines "why would you do that to Dennis?", and said "that I should pack my bags and piss off" (t 717-718). This happened even though Mr Jefferis had not told anyone in the Hostel about the incident on the previous Saturday.

(Mr Jefferis was later informed by a fellow student that prior to him returning to the Hostel from his first meeting with Ian Murray some Year 12 students had been told that "I was making up a story to get back at McKenna for the fact that he reckoned he had caught me out stealing from the canteen" (t 719)).

Because of this hostility from the other students Mr Jefferis decided that he should leave the premises as soon as possible. Accordingly he went to a telephone that students were not supposed to use and called his father. His father agreed to come and collect him straight away. Mr Jefferis then went and told Neil McKenna that his father would be arriving shortly to take him home.

11.20.4 The second meeting between Todd Jefferis and Ian Murray

When Mr Jefferis' father and stepmother arrived to collect him from the Hostel, Ian Murray and the Hostel Board chairman Garth Addis were already there. There was then a meeting in McKenna's office between Mr Murray, Mr Addis, Todd's father and stepmother and Todd. Todd's father has since passed away, but he and his stepmother have given broadly consistent evidence. According to Mr Jefferis:

"We went through the allegations again. Once again all we got hit with was rebuke. It was like, you know, didn't believe us, didn't want to know about it...there was...healthy discussion about...the fact that they thought I was making this allegation up...to square up with McKenna over some previous minor issues..." (t 721-722)

Throughout this discussion McKenna remained in his flat which was only a few metres away. It is Mr Jefferis' evidence that his father and stepmother said:

"Well, you know, if the kid's making it up and this is all some sort of concocted story, then there must be a reason, so let's get to the bottom of it, so how about we get McKenna in here and let's work it out and let's get to the bottom of it, find out the truth, whether I'm making this up or whether there's a reason" and, you know, dad and Cathy made the point that, you know, if they'd been accused of something of that nature, the first thing you'd want to be doing, if you're innocent, is defend yourself. You know, you wouldn't want to be running off hiding in a room, and so dad made the point...quite boldly, "Get him in the room. If he's got nothing to hide, get him in

the room”, and Ian said, “Oh, no...he’s too upset. He’s crushed by the accusations...”
(t 723)

According to Mrs Jefferis she asked Ian Murray if he was going to investigate the truth of what Mr Jefferis was saying but her question was ignored. It is Mr Jefferis’ evidence that either Mr Murray or Mr Addis suggested that he should take his allegations to the police, but this was said in a tone which indicated that it was not “serious advice or anything of that nature, it was simply a case of, you know, take your problems somewhere else” (t 722).

Mr Jefferis and his stepmother also say that they were warned of the possibility of defamation proceedings if the allegations were unfounded. According to Mrs Jefferis: “they were both talking about defamation. It was the whole feel of that meeting” (t 767).

It is Mr Murray’s evidence that he has no recollection of that second meeting at all (t 2121, 2130-1). However at the 1991 trial of McKenna, Mr Murray testified that:

“I went to the hostel at approximately a quarter past 8, and Mr and Mrs Jefferis were present at that meeting with Todd and we went into the warden’s office at the hostel. Again the same allegations were made. The story varied in a few details, minor details, from what had been given to me in the afternoon, but the story was essentially the same; that Dennis had made sexual advances towards Todd. I repeated again – I don’t know how many times I repeated; 3, 4, 5, 6 times – that this was a most serious allegation and must be taken to the police forthwith. Mr Addis said that it should be put in writing and given to the board, but he echoed my sentiments that it should be taken to the police.”⁵

Based on the evidence he gave in 1991 Mr Murray now believes that he attended the Hostel that evening after a Rotary meeting. He went to the Hostel for a Board meeting and while there told McKenna of Mr Jefferis’ complaint (t 2125). Mr Murray has no memory that McKenna was devastated by the allegations against him (t 2134). As to the assertion that he and Mr Addis accused Mr Jefferis of making up the allegations it is Mr Murray’s evidence that he knew about “the money stealing accusation” beforehand (i.e. prior to the first meeting with Mr Jefferis). However, he cannot recall whether or not he had this in his mind during his meetings with Mr Jefferis (t 2131-2).

As to the assertion that Mr Murray warned the Jefferis family of possible defamation proceedings, it is his evidence that:

“...whenever...a person...came to me as a principal and made allegations against teachers or anybody of any sort, I would always warn them not to make the allegations public because if it was not true...they could stand at the risk of defamation. I’ve said that 20, 30 times in my teaching career, especially when they are making comments about teachers and – parents are making comments about teachers and alleging – or not proper things.” (t 2135)

Regardless of whether it was one or two meetings that Mr Murray had with Mr Jefferis, he was asked to comment on whether he had followed the Ministry of Education’s guidelines for such situations. These “Guidelines for the Identification and Notification of Child Abuse and Neglect” were issued by the Ministry of Education in December 1987 (Exhibit 59) and they included the following advice:

⁵ *The Crown v Dennis John McKenna*: Trial in District Court at Albany 1991, p.234

When responding to a disclosure:

- *Discuss the matter in private within the school.*
- *DON'T panic or express shock.*
- *Express belief that the student is telling the truth.*
- *Reassure the student that it was right to tell; he or she is not to blame and it is not his or her fault.*
- *DON'T pressure for details; collect the minimum information required for action.*
- *DON'T make a judgment about the perpetrator.*
- *Determine the student's immediate need for safety.*
- *DON'T promise not to tell.*
- *Use appropriate vocabulary.*
- *Tell the child that support will continue at the school, but that someone may come to talk to him or her – probably an officer of the Department for Community Services or the Child Care Unit of the Police Department.*

Mr Murray accepts that he did not act in accordance with those guidelines, but states that he was unaware of them at the time. The Department claims to have circulated the guidelines while he was Acting Principal at Swan View High School, but he does not recall receiving them there nor seeing them while at Katanning Senior High School. For these reasons Mr Murray did not follow the guidelines but it is his evidence that:

"...when people make allegations of any sort to me, I have never really expressed an opinion one way or another. That's one of the things I try – I've always tried to (be) neutral." (t 2144)

It is also Mr Murray's evidence that with the benefit of hindsight:

"If we'd have known fully that he had been sexually abused, he was treated badly, and we should have done something about it...I have immense sense of regret that we couldn't have done things differently. It's the first time I've ever come across anything like that in my life, the first time I'd been totally and utterly duped, totally and utterly conned, and I have an immense regret." (t 2162-3)

11.20.5 Events subsequent to the two meetings

After spending approximately one week home from school, Mr Jefferis returned to Katanning to continue his education (his family having arranged private accommodation). He then learned that a story was being spread that he had been expelled from the Hostel after being caught stealing from the canteen. He was also dismayed to discover that nearly all Hostel students were shunning him, and that all but two of his teachers were treating him in a way which made him "feel like I was the villain" (t 727).

Not long afterwards Mr Jefferis was summoned to the office of the Deputy Principal (Patricia Pringle), and it is his evidence that:

"...she took me to task over why I was making up such absurd allegations and that, you know, "How do you think it's going to look for you?", you know, rah, rah; "You've been expelled for stealing" and rah, rah, rah. And I just, you know, I said, "Well, I'm not making it up and I didn't get expelled for stealing", so – and that was the end of that conversation." (t 728)

Patricia Pringle was summoned to give evidence to the Inquiry but regrettably was unable to do so because of a serious illness. However she did participate in an interview with the Inquiry's investigators, and the following is her version of what occurred between her and Mr Jefferis:

"MS PRINGLE: Todd came with his mum and was interviewed by Ian Murray. When they went, Ian came and told me that Todd had accused Dennis of – now, I don't know whether he said "assault" or "sexual assault", but I think it was sexual assault. And I thought, "Why would he do that?" I knew that his mum lived a long way away and I knew that he – when he wasn't at the hostel, he lived at home with his dad and didn't get along with his stepmother, so when I heard this I thought, "No, that can't be true." And I immediately thought, being a child of divorced parents, he's trying to get the attention of his parents. So I didn't really believe what he said. He was never in my office ever, unless I enrolled him with his mum or dad, which I don't recall. He said it was the day after he – the day after, I think, and that he was in my office. That's not true. He was on the verandah waiting for his English class to go in, and I walked over to him and I said, "Todd, can you tell me why you accused Dennis?", and he said, "Ms Pringle, it's all true, it's all true." And he says on that statement, "But she didn't believe me." Well, I didn't, but I didn't tell him that. And I certainly didn't rant and rave or accuse him of being a liar or a thief. I don't know where that came in until I read the transcripts; but, you know, I was feeling for him because he had parents that, you know, weren't loving him enough, that's what I thought.

INVESTIGATOR: Why didn't you believe him?

MS PRINGLE: Because there had been – in three years I'd been there, there'd been no question of anything like that happening, and he was – he was a Year 12 student and I thought, "How could Dennis sexually assault him?" I mean – but anyway. I regret now I didn't believe him...

INVESTIGATOR: I think in his evidence he talked about you – he said that you took him to task for making up such absurd allegations.

MS PRINGLE: No, I didn't do that, and I would never have called a child a thief and a liar, never." (interview t 9-10)

Mr Jefferis's evidence that he was shunned by fellow students after he had complained to Mr Murray is corroborated by two other witnesses. Anissa Williams was another student at the Hostel, and it is her evidence that after Mr Jefferis left she and the other students were made aware that he had been expelled for reasons which were not clearly explained. There was also a directive from McKenna that Hostel students were not to speak to Mr Jefferis or to have anything to do with him (t 506). At that time Ms Williams had a previous arrangement with Mr Jefferis to accompany him to the Year 12 school ball, but McKenna

directed that she was not to do so and instead arranged a replacement partner whom he “deemed appropriate” (t 507). According to Ms Williams it was not just the Hostel students who ostracised Mr Jefferis:

“So many turned a blind eye or were brainwashed into believing that Dennis was wonderful. Cathy (Todd’s mother) and Todd, I call them my bravest of the brave. They went against everything – entire communities – to bring this to light. You know, they were ostracised by everyone.” (t 510)

Dean McKenna (a distant cousin of Dennis who was then a teacher at Katanning Senior High School) confirms that at the time of Mr Jefferis’ complaint there was some “low level bullying” directed against him. This came from non-Hostel students in his class who accused Mr Jefferis of being a “faggot” or gay, and suggested that “you’re all into it over there”. There wasn’t any level of support from Hostel students for Mr Jefferis who “seemed to be a little bit alienated from both groups at that stage” (t 1061-3).

Dean McKenna decided that he should speak to the class as a whole when he overheard students taunting Mr Jefferis with allegations about Hostel staff “being involved”. He spoke to the whole group and said that “if you are going to make allegations like that you either need to take it to the relevant authorities or take it to the principal, or not make statements like that” (t 1062).

Soon afterwards Dean McKenna attended a staff meeting called by Ian Murray. Mr Murray advised the staff that there had been “unsubstantiated allegations against member(s) of the management of the Hostel”. He also suggested that the staff “shouldn’t sensationalise it, that we should keep it in-house” (t 1064-5).

Dean McKenna understood from what Ian Murray said that he was speaking in support of McKenna, but at that time all staff were quite incredulous about the alleged conduct (t 1064). In that regard:

“Ian always spoke very highly of Dennis. Ian was right into his Rotary and the community links, so I think he prided himself that he professionally had aligned himself with Dennis in the way in which he ran the hostel, because I think he saw it as a very effectively run business. He was clearly fond of him on (a) professional and, I think, a personal level.” (t 1064)

(Mr Murray describes his relationship with McKenna at that time as that of a close colleague and “professional friend” – t 2082)

On 27 September 1990, McKenna was arrested and charged with three offences of gross indecency in relation to Michael Hilder. (The identity of the complainant was not known at that stage and Mr Murray assumed that it was Mr Jefferis – t 2203). This event was a great shock to the local community and in particular to the Hostel students and their parents. When the Hostel students attended at school the following day Mr Murray made an announcement over the PA system that they were to return to the Hostel. When they did return to the Hostel Mr Murray conducted a meeting in the dining room. It is the evidence of Tania Edwards who was one of the students present that when Mr Murray spoke to the meeting:

"A: I don't recall his exact words, but my interpretation of it, I guess, was basically he said that Dennis had been falsely accused; that we were to throw our support behind him. We were encouraged to write letters of support for Dennis, yes.

...

Q: Did he say what he had been falsely accused of?

A: No, I don't believe he did. I don't think I actually realised for a long time what Dennis had done wrong, and what he had been charged for.

...

Q: And the letters of support, what were they supposed to be?

A: I think just advocating Dennis and how good he was and – yes, and all the students were encouraged to write them. We were asked to give them to Neil McKenna, and not to seal the envelopes.

...

Q: So with respect to this asking of students to write letters of support, did you write such a letter?

A: Yes.

Q: And why did you do that?

A: I was terrified of Dennis and wholeheartedly believed that he would come back and I think – I knew that if I wrote the letter of support, you know, hopefully I might stay on his good side. I was terrified to be on the other side, and that's why I wrote the letter." (t 689-690)

It is Mr Murray's evidence that he called the meeting of Hostel students because they were very upset about McKenna being charged. It is his recollection that he said "straight out that McKenna had been charged with sexual offences" which was received "with a fair amount of shock by the kids". Students then asked if McKenna had been "set up" and Mr Murray replied to the effect of "well he could have been set up but he could be guilty" (t 2204).

According to Mr Murray another student asked what could be done to help McKenna and one of the mothers present also said "can I write to Dennis?". Mr Murray then replied that yes they could write to McKenna and "tell him of your support and give it in to the Hostel" (t 2205).

Mr Murray denies telling the meeting that McKenna had been falsely accused and also denies that he directed that the letters of support be placed in unsealed envelopes. He agrees that in hindsight a more balanced approach to the advice he gave to the students would have included a suggestion that they could also write a letter of support to Mr Jefferis if they wished (t 2206-7).

Most parents simply did not believe that McKenna could have committed such offences and they decided to organise a public meeting to express their support. This meeting was held at the Hostel on 15 October 1990 and was attended by approximately 150 parents, students, and other members of the public. The Authority was represented by Colin Philpott and he agreed to chair the meeting.

Mr Jefferis' mother also attended, and it is Mrs Day's evidence that she attempted to tell the gathering the story of her son's sexual abuse and how his "character had been sullied by McKenna to cover his own dirty track". This latter statement was a reference to the false story then being circulated that Mr Jefferis:

"had been accused of stealing from the canteen, that he had lied about the sexual abuse from McKenna and that he had been expelled, which he hadn't, because we had taken him out of the (Hostel)." (t 751)

It is also Mrs Day's evidence that she was unable to give this account uninterrupted because there were murmurings and boo-ings around her and Mr Philpott abruptly told her to sit down. Nevertheless, she was determined to do something to combat the false rumour about her son, and when the meeting concluded she and her partner went to the school office "to confront Ian Murray yet again". There she spoke to Mr Murray:

"...about the fact that Todd had this terrible accusation that he had stolen from the canteen, that he had been expelled and that he had lied about the sexual abuse from McKenna and I wanted to know what he was going to do about it and I expected an apology to be made publicly to Todd about this." (t 752)

According to Mrs Day, Mr Murray's reaction to this was very aggressive. He said "(I) don't want to know any more about it. I am not discussing it. Now leave my office" (t 752).

At some stage after returning to school, Mr Jefferis telephoned his stepmother and told her that he was being given a hard time by his teachers, and was not allowed to attend the school ball which was to be held at the Hostel. Mrs Jefferis then telephoned Mr Murray to remonstrate with him about these matters. She told him that Todd felt as though he was being victimised, that the teachers were giving him a hard time, and that he was not allowed to go to the school ball. She also said that she wanted something done about Todd's complaint against McKenna, and that Mr Murray was the one who should be processing it. According to Mrs Jefferis Mr Murray responded in a very dismissive manner and simply said "the boy's lying" (t 769).

Not long after that telephone call Mrs Jefferis received the following letter dated 20 November 1990 from McKenna's solicitors:

"Dear Mrs Jefferis,

I act for Mr. Denis McKenna.

It has come to our client's attention that at a public meeting in Katanning on the 15th October 1990 and about the 7th November 1990 in a telephone conversation with Mr Ian Murray of Katanning Senior High School, you said words which implied that Mr. McKenna has taken part in activities involving child molesting of a sexual nature in relation to Mr Todd Jefferis and others.

It has also come to our client's attention that similar allegations are being spread by word of mouth around the community in which you live and there is a possibility that you may be the source of such allegations.

These allegations are completely untrue and constitute grave defamation upon our client.

We are therefore writing to demand that you –

- (i) *write a letter containing a suitable withdrawal and apology in terms to be approved by us on our client's behalf to Mr. Murray;*
- (ii) *that you publish in the "Great Southern Herald", the "Wagin Argus and Arthur Dumbleyung Lake Grace Express" and "The Western Australian" newspapers a withdrawal of your allegation and an apology in terms to be approved by us on our client's behalf;*
- (iii) *indemnify our client in respect of the legal costs to which he has been put in the matter;*
- (iv) *provide us with an immediate proposal as to a sum which our client claims by way of damages he is entitled to for the injury to our client's reputation.*

We must ask that you let us have your reply by the 23rd November 1990. In the meantime, it must be clearly understood that our client reserves all rights to take legal proceedings in respect of the matter.

Yours faithfully,

CORSER & CORSER" (Exhibit 17)

Mrs Jefferis did not respond to this letter (which in any event allowed less than three days to respond), and McKenna never commenced any legal proceedings against her. Mrs Jefferis had only ever had one telephone conversation with Mr Murray and it is reasonable to assume that this must have occurred on 7 November 1990 as stated in the solicitor's letter. Mrs Jefferis does not recall speaking at the meeting on 15 October 1990, but Mr Jefferis' natural mother (Mrs Day) did speak and did refer to the sexual abuse by McKenna. Therefore it is probable that there was some confusion in the solicitor's instructions as to the identity of the parent who had spoken at the meeting.

It is Mr Murray's evidence that he has no memory of the telephone call from Mrs Jefferis on 7 November 1990, but he does not deny that it occurred (t 2152). According to Mr Murray:

"I was getting so many telephone calls and being pushed and hammered by so many people urging me to do all sorts of things; so, you know – and I recall very few of them." (t 2155)

Mr Murray accepts that if he had heard any rumour or assertion that Mr Jefferis had been expelled from the Hostel for stealing, he would have known this to be false (given that he was on the Hostel Board and well aware that there had been no such expulsion). However he denies that he ever heard of any such rumour (t 2157). Mr Murray also maintains that even if he had been told of such a rumour it was not up to him to do anything to correct it. This is because the school was not accusing Mr Jefferis of anything or telling any lies (t 2161). (Although not specifically put to Mr Murray, he clearly does not accept Mr Jefferis' evidence that the Deputy Principal Patricia Pringle was one of those who had accused him of being expelled from the Hostel for stealing – t 2162).

Mr Murray denies that he was responsible for the defamation letter being sent to Mrs Jefferis by McKenna's solicitors, but accepts that it would be "totally inappropriate" if he was (t 2164-7). His explanation for the reference in the letter to the phone call she had made to him is that he may have mentioned this matter to the Board and one of the Board members may have passed that information on to McKenna (t 2167).

According to Mr Murray the fact that the minutes of Board meetings did not record any such disclosure is not significant, because “we often chatted and things weren’t put in the minutes” (t 2168).

Mr Murray also denies that he was very supportive of McKenna after the latter was charged. However this evidence is contradicted by a number of contemporaneous documents including the following letter dated 29 October 1990 (an unsigned copy of which was found on Hostel files):

“Dear Dennis,

The Board of Saint Andrews Katanning Residential College wishes to express its complete support for you in your current personal situation.

The Board has full confidence in you and trusts that you will be able to clear your name in the very near future before returning to your position as Warden of the College.

The Board has accepted the Country High School Hostels Authority’s decision to suspend you pending the resolution of the action but wishes to advise you that such suspension will be “with pay”.

It is hoped that you will commence work immediately with the Authority so that some of your experience and knowledge can be passed on to others.

We trust that you know that the Board’s thoughts are with you and individual members have expressed the wish that you should feel free to contact them if the need arises. If you need help, please ask.

Have courage Dennis. Clear your name and then get on with your life.

Good Luck,

Yours sincerely,

Ian W MURRAY

Secretary of the Board” (Exhibit 61)

It is also clear that McKenna believed he had Mr Murray’s continuing support, because following his arrest (and shortly prior to Christmas 1990) he sent an undated circular letter to “Dear friends” which contained the following statement:

“I know if it wasn’t for these people, your letters, Ian Murray, Colin Philpott, the Authority staff and my family I would not have made it to the present time” (Exhibit 64)

However Mr Murray doubts that it was him who sent the letter dated 29 October 1990 to McKenna, and suggests that someone else may have written the letter and put his name to it (t 2217, 2221). His reasons for suggesting this are that he always signed letters with the names “I W Murray” or “Ian Murray” and has never used the formulation “Ian W Murray”. Furthermore his tendency is to write “fairly short, terse letters”, and the letter dated 19 October is not in his style (t 2217).

However the minutes of the previous Hostel board meeting on 25 October 1990 (Exhibit 65) recorded a resolution that a "letter to Dennis from Board outlining support to be written by secretary". Furthermore, those minutes were signed by Mr Murray as secretary in the name of "Ian W Murray".

The minutes of the subsequent board meeting on 22 November 1990 (Exhibit 62) confirmed that the "correspondence outwards" since the last meeting included "Mr D J McKenna - letter of support". Notwithstanding this contemporaneous documentation confirming that he was the author, Mr Murray maintains that:

"I don't accept that I sent that letter" (t 2239)

Further evidence that Mr Murray continued to support McKenna following his arrest comes from two circular letters which he sent to parents of Hostel students (extracts of which were quoted verbatim in the Great Southern Herald newspaper of 7 Aug 1991 - Exhibit 63). In the first circular letter dated 28 Sep 1990, Mr Murray stated that McKenna:

"intends to vigorously defend the charges and I, the board and the chairman of the hostel authority are certain as we can be that Dennis will be found innocent.....You can show Dennis you care by making this hostel work as well in fourth term. You can take other action. You can give Dennis your support"

In the second circular letter dated 30 October 1990 Mr Murray asked parents to "devote your energy into providing character references etcetera from current and past students and parents".

11.20.6 Findings

The contents of these various contemporaneous materials lead to the inevitable conclusion that McKenna had the active and continuing support of Ian Murray after he was arrested and charged. I am also satisfied that Mr Murray was the author of the letter to McKenna dated 29 October 1990. His refusal to acknowledge this obvious fact tends to undermine the credibility of his evidence as a whole.

The significance of this ongoing support for McKenna is that it is evidence of Mr Murray's likely attitude toward Mr Jefferis' complaint at the time it was made. The vehemence of Mr Murray's subsequent expressions of support for McKenna is entirely consistent with the evidence from the Jefferis family that he was aggressively dismissive of Mr Jefferis' complaint.

Mr Jefferis, Lynley Day and Catherine Jefferis all impressed me as honest and credible witnesses. I am satisfied that there were two meetings on Monday, 6 August 1990 between Mr Murray, Mr Jefferis, and members of the latter's family. I am also satisfied that Mr Murray made statements during those meetings which were substantially along the lines as claimed by the Jefferis family witnesses.

I accept Mr Jefferis' evidence that when he returned to the Hostel on 6 August 1990 soon after his first meeting with Mr Murray he was met with hostility from fellow students. The comments made by some students indicated that they were aware of Mr Jefferis' complaint against McKenna even though he had not disclosed this information to anyone at the Hostel.

The only reasonable inference in these circumstances is that Ian Murray had communicated with McKenna about the complaint prior to Mr Jefferis returning to the Hostel.

I am satisfied that when McKenna was informed of the complaint he circulated a false allegation that Mr Jefferis had been caught stealing from the Hostel canteen. He did this in accordance with his usual modus operandi of fabricating an allegation of stealing against any victim who was causing him trouble. The effectiveness of this stratagem is demonstrated by the fact that there are people in the Katanning district today who still believe the lie that Mr Jefferis was expelled from the Hostel for stealing (t 821). (It is perhaps for this reason that those responsible for the treatment that Mr Jefferis received in 1990 have never offered him any apology, and why he still feels a stigma which has "never really cleared itself" - t 730)

The Board's belief that Mr Jefferis was making a false allegation because he had been caught stealing from the canteen was probably the main reason why it expressed "complete support" for McKenna when he was arrested and charged. At that time the Board members including Mr Murray mistakenly believed that those charges against McKenna arose from Mr Jefferis' complaint (when in fact they related to Michael Hilder). The Board had at no time investigated the truth of Mr Jefferis' complaint but had simply accepted McKenna's assurances that no sexual abuse had occurred.

Notwithstanding the arresting and charging of McKenna, Mr Jefferis continued to be isolated and ostracised at school. On 7 November 1990 Mrs Jefferis telephoned Mr Murray to remonstrate about these matters, and in the course of that conversation referred to Mr Jefferis' complaint against McKenna.

As a result of that telephone conversation Mrs Jefferis received a letter from McKenna's solicitors threatening defamation proceedings. I am satisfied that the solicitors would not have sent that letter unless informed by Mr Murray of the date of the telephone call and the details of the conversation.

When Mr Jefferis complained to Mr Murray about what McKenna had done he was only 16 years old and McKenna was one of Katanning's most admired and respected citizens. It required considerable courage to take this step and he was entitled to look to his School Principal for support and to have his complaint taken seriously. However, he was rebuked and told he was lying. He was also vilified and ostracised by his peers. Instead of the Hostel Board and the School Principal supporting Mr Jefferis, they allowed him to become a pariah within the school and the local community and they publicly supported the alleged offender. With the benefit of hindsight even Mr Murray concedes that "it would have been extremely difficult for that lad" (t 2214).

The evidence shows that Mr Murray and the other Board members behaved as they did because they disbelieved Mr Jefferis' allegation. In that regard I accept Mr Murray's evidence that he and the others were "conned" by McKenna. Nevertheless Mr Murray, the former Hostel Board members, and the others in the local community who treated Mr Jefferis so badly should be ashamed of what they did to him.

The difficulties that Mr Jefferis had to endure, and the angry response that he received to his complaint were positive proof of what all of McKenna's other victims had always known. They knew that if they were to complain about his sexual abuse to any person in authority they would not only be disbelieved but would also be punished in some way for having done so. That factor was one of the main reasons why McKenna was able to continue his sexual

offending unabated for 15 years. In the end it was only one young lad with the courage and endurance to withstand the pressures applied against him who triggered a train of events which brought the offending to an end.

11.20.7 Conclusions

1. Mr Ian Murray (in his capacities as the Principal of Katanning Senior High School and the Secretary of the St Andrew's Hostel Board) failed to respond appropriately to the allegation from Mr Jefferis that he had been sexually abused by Dennis McKenna, in that he:
 - 1.1 Rejected the allegation as a lie and responded in a partisan way in support of McKenna.
 - 1.2 Immediately informed McKenna of Mr Jefferis' complaint.
 - 1.3 Actively organised support for McKenna amongst students and parents but provided no support to Mr Jefferis.
2. The St Andrew's Hostel Board as a whole failed to respond appropriately to Mr Jefferis' allegation that he had been sexually abused by Dennis McKenna, in that it:
 - 2.1 Made no effort to investigate the truth of the allegation.
 - 2.2 Instead, provided active and public support of McKenna.

11.21 1991: The events surrounding the removal of Neil McKenna from the Hostel

11.21.1 The relevant background

On 27 September 1990 Dennis McKenna was arrested and charged with three offences of gross indecency (which had been committed against Michael Hilder in 1979). He was then released to bail subject to conditions that he was not to contact Mr Hilder and was “not to have Hostel boarders at his flat at the Hostel”. The St Andrew’s Hostel Board (the Hostel Board) initially suspended McKenna from his position as Warden, but he was reinstated by the Authority on 9 October 1990 on conditions that he was not to have any supervisory role and was to live “off campus at night”. Ultimately, and as a result of legal advice Dennis McKenna was transferred to the Authority’s Head Office in Perth where he was assigned the task of compiling a Pastoral Care Handbook.

In the meantime, (and as from 12 October 1990) the Authority had appointed Neil McKenna as the Acting Warden. It is Colin Philpott’s evidence that the Authority had little choice but to make this appointment because there was no other suitable person who was immediately available (t 2568).

Neil McKenna remained the Acting Warden for more than 11 months until 9 September 1991 when Cornelius Burro was appointed to fill the position (t 1762). Mr Burro had transferred from Amity House Hostel in Albany where he had been Warden since 1987. Mr Burro also had previous experience as a Head of Residence at a private college (t 1762-3). Soon after arriving at St Andrew’s Mr Burro identified some behavioural issues which he believed were due to substandard supervision and management of the boarders by Neil McKenna. These behavioural problems included some instances of consensual sex between male and female students, the supply of alcohol to students by Neil McKenna, bullying amongst boarders, and the smoking of marijuana (t 1774-6).

Given these problems Mr Burro could not understand why Neil McKenna had been appointed as Acting Warden (t 1777). To his credit he informed the Hostel Board of the student misbehaviour and of Neil McKenna’s poor standard of supervision. He also implemented disciplinary measures and closely monitored Neil McKenna’s continuing supervision of students (t 1777-8).

The St Andrew’s Board at that time was chaired by Garth Addis (now deceased). Another Board member was the then Principal of Katanning Senior High School, Bernard Clayton. Although it was the first time that Mr Clayton had ever served on any board, he had received no guidance or training, and initially was unaware of who was responsible for the running of the Hostel (t 3133-5).

11.21.2 The suspension of Lance Hart from the Hostel

In either September or October 1991 there was an incident involving Neil McKenna and a Year 12 male boarder, Lance Hart. As a result of this incident, Neil McKenna telephoned Lance Hart's father Thomas Hart who was a farmer at Ongerup. He told Mr Hart that his son had been "stealing and sneaking out to parties" and for that reason had been suspended from the Hostel. Mr Hart was also told that he should immediately drive to Katanning to collect his son and take him home. (Notwithstanding that the telephone call was at 11 o'clock at night).

Mr Hart was not happy with this suggestion and immediately telephoned the Board Chairman Garth Addis and got him out of bed. Mr Addis was not at all receptive to this call and told Mr Hart that Lance Hart was "a disgrace to the Hostel" and that he should go and pick him up. Mr Addis then hung up the phone.

Mr Hart was outraged by these comments but after discussing the matter with his wife, telephoned Neil McKenna and arranged that they would meet at a halfway point between Katanning and Ongerup so that Lance Hart could be taken home (t 851).

When Mr Hart collected Lance Hart and asked him about the allegations his son told him that they were "rubbish". Lance Hart also told his father that his suspension had come about because he had walked into Neil McKenna's office while the door was shut. When he walked inside he found Neil McKenna in a compromising situation with a young girl and "things were going on that should not have been going on" (t 853).¹

11.21.3 The Hostel Board meeting on 23 October 1991

Following Lance Hart's suspension he and his father were required to attend a Hostel Board meeting on 23 October 1991, and the Board confirmed that Lance Hart would be suspended until the end of the year. As Lance Hart was about to commence his Year 12 exams this effectively meant that he was expelled from the Hostel (however he was able to complete his exams after finding private lodgings). It is Mr Hart's evidence that after this decision was made by the Board he said "I hope you are aware that Neil McKenna is interfering with the girl students". The reaction of the Board members to this statement was that:

"They all stared at me in stunned disbelief, as though I had two heads. I was some creature from outer space" (t 853-4)

Mr Burro was present at that Board meeting, and his version of what happened is a little different:

"...I think we had just expelled his son and he'd come to pick up his son and the gear from the college. He asked to see us, because we were having a Board meeting, and he came inside, we welcomed him in and he said, "This may sound like sour grapes,

¹ Lance Hart has since elaborated on these matters in a statement provided to the police in 2011. It is clear from the contents of this statement (if correct) that prior to being suspended from the Hostel Lance Hart had been aware that Neil McKenna was in a sexual relationship with a girl at the Hostel. Apart from the incident in the office Lance Hart had also disturbed Neil McKenna at the back of the Hostel cinema while he was rubbing the inside leg of another girl.

but the person you should be worried about is Neil McKenna.”, and then he explained that a certain student there was terrified of him, he had control over the boys because the boys knew what he was doing with the female students; that was basically the line of what he advised us.” (t 1772)

Mr Clayton has no memory of that Board meeting, but it is clear from the evidence overall that the Board members did not question Mr Hart about his allegations or resolve to do anything about them. All that happened was that (in Mr Hart's words) he was “shown the door” (t 854).

11.21.4 The action then taken by Mr Burro and Mr Clayton independently of the Board

At that time Neil McKenna was away from Katanning temporarily relieving in a position of supervisor at St Michael's Hostel in Merredin. It seems that immediately following the Board meeting, Mr Clayton and Mr Burro jointly decided that they should do something about Mr Hart's allegations. Mr Clayton does not have a good recollection about the sequence of events (t 3135) but I accept Mr Burro's evidence of what happened:

“Well, we went into my office after the meeting because nothing had been discussed at the Board meeting to alter that, and we had a chat and we said, “Listen, you know, we've got to do something about this, we can't do what people have been doing and ignoring things, so let's get the girl and mother and have a chat and just find out”...we both came to the consensus of we had to do something immediately, and even if it was a false rumour, to do something about it.” (t 1779)

Either Mr Clayton or Mr Burro then telephoned the mother of the girl they believed to have been the subject of the allegation made by Mr Hart. They arranged for the mother (Barbara Groves) and her daughter to come to the Hostel that same night. They then conducted an informal interview of the girl and Mr Clayton did most of the talking (while also keeping notes):

“...He asked her if she was happy, if she had any issues at the Hostel; did she get on all right with Neil McKenna – those sorts of questions. I don't remember all of them, but basically along those lines, because we didn't want to give the girl a hard time, but we wanted to give her the opportunity, if there was something, because she was away from the college, she would let us know if she didn't.” (t 1782)

All that the girl said in response to these questions was that she felt “uncomfortable around Neil McKenna”. The girl and her mother then left but she returned to the office about ten minutes later, this time in company with another girl. The two girls were “very distressed” and started making allegations about Neil McKenna. Mr Clayton and Mr Burro then “stopped them in their tracks” and asked that they await the return of Mrs Groves before continuing (t 1787). When Mrs Groves returned the two girls went on to make a number of allegations concerning sexual misconduct by Neil McKenna. Mr Clayton had the foresight to reduce each girl's statement into writing and to have those statements signed. Arrangements were also made for another Board member (who was a Justice of the Peace) to witness the two signatures (t 1791, 1794, 3149).

In essence, each girl alleged that she had been sexually assaulted by Neil McKenna. However, Mr Clayton, Mr Burro and the other Board member did not immediately report these alleged offences to the police. They decided that it was necessary to have a special Board meeting to decide what should be done. This was because it was “up to the Board to follow through” (t 1794).

Mrs Groves has testified that by the end of the second meeting her husband as well as the mother of the second student were also present (t 676). Although Mrs Groves cannot recall what was said word for word, her evidence is to the effect that she and her daughter didn't want the matter to go to the police. The girls wanted to “get on with their lives and just complete their TEE exams”. However they did make it “very clear that they didn't want to face Neil McKenna, and they wanted him out of the Hostel” (t 678).

11.21.5 The special Board meetings held on 24 and 25 October 1991

On the following day the Hostel Board held a special meeting in Mr Clayton's office at the high school. The written statements from the two girls alleging sexual misconduct by Neil McKenna were read out, and after much discussion the Board passed the following resolutions:

“(1) On his return from Merredin Neil McKenna was to be made aware of the allegations against him regarding sexual misconduct

(2) Another special full Board meeting was to be held on 25 October 1991

(3) That Mr Burro was to advise Neil McKenna that he was not permitted onto Hostel premises until he had attended the next meeting

(4) That Neil McKenna was to be informed that he had to vacate his flat on the night of 25 October, and that he and his family were to be booked into a local motel at the Hostel's cost”

The minutes of the second special meeting of the Hostel Board on 25 October 1991 recorded the following:

“Mr Addis welcomed all the Board Members and Mr Neil McKenna and thanked them for once again coming in on short notice.

Mr Addis then asked Mr B Clayton if he would explain to Mr Neil McKenna the allegations made against him.

Mr Clayton explained to Neil the allegations were of a sexual nature.

Mr McKenna was told there were two statements written under oath in the presence of a J.P. by two female students of the Hostel.

Mr McKenna was then invited to answer the allegations, which he denied and stated that he thought it was victimization against him, mainly because of Dennis.

Mr McKenna asked the Board what his prospects for the position at Merredin would be if he resigned and he was informed that it is was up to the Authority to make their decision.

The Board offered Mr McKenna time to leave the meeting to think over the situation before he made any decisions, but Mr McKenna decided to resign and voluntarily wrote out his resignation which the Board accepted and Neil was advised that he was no longer employed by the Board or the Authority.

The Board advised Neil that accommodation in a local motel would be arranged for him and his family for the night at the Board's expense, and would he please organise an agent so as his possessions can be collected from the Hostel." (Exhibit 112)

One of the Board members present (Reverend John Taylor) has testified that when the allegations were put to Neil McKenna he started weeping and crying. According to Reverend Taylor he then said to Neil McKenna:

"...“Look, mate, if you are guilty you are guilty” or words to that effect. I said “If you are guilty you are guilty”, I said, “And if you claim you are innocent”, I said “I think we will have to bring the police in to verify that”, I said, “But if you’re, you know, guilty”, I said “It seems to me that it is the parents’ wish that you resign, get out of it and that’s the end of the matter”.” (t 801)

It was as a result of that advice that Neil McKenna agreed to resign. In answer to the question whether in hindsight the matter should have been reported to the police, it is Reverend Taylor's evidence:

“Well, not really because the parents – I was given the impression that the parents wanted no fuss at all and they were quite happy with McKenna out of the way.” (t 802)

11.21.6 Findings

Although obvious in hindsight, it should also have been readily apparent in 1990 that Neil McKenna was an inappropriate choice for appointment as Acting Warden of the Hostel while his brother was facing charges of sexually abusing some of its students. Apart from anything else it should have been apparent to the Board that Neil's appointment would make it difficult for any other victims of Dennis McKenna to come forward. (No doubt this decision was made because the Board members simply did not believe the allegations against Dennis McKenna).

The evidence shows that the Hostel Board and the Authority collaborated in that appointment (t 2568) and that it was made because there was no one else immediately available who might be suitable (t 2568). Assuming that there was that difficulty in immediately finding a suitable and qualified replacement for Dennis McKenna the reason why the Board and the Authority were in that situation was that they had allowed all of the Hostel's supervisory positions to be filled by his close relatives. In any event, Neil McKenna continued to act as Warden for nearly a year, and during that time little effort was made to find an alternative replacement.

The way in which Neil McKenna manipulated the Board into expelling Lance Hart was very reminiscent of the methods that had been used by his brother Dennis when ridding himself of any student likely to cause trouble. Although Lance Hart has not given evidence to this Inquiry it seems very probable that he was expelled on the basis of a false allegation of

stealing. This suggests that at some time there may have been some collaboration or sharing of tactics between Neil and his brother Dennis.

At its meeting on 23 October 1991, the Hostel Board let the Hostel students down badly by failing to act on the allegations made by Mr Hart. After its recent experiences with Dennis McKenna it could be expected that the Board would have learnt its lesson and have realised that any allegation of sexual misconduct against a staff member could not go unaddressed. But for the unexpected and very commendable initiatives of Mr Burro and Mr Clayton, it is highly probable that Neil McKenna would have remained at the Hostel indefinitely and continued to sexually offend.

Mr Burro and Mr Clayton deserve great credit for deciding to act promptly and independently of the Board in an endeavour to discover the truth of the allegations. They are also to be commended for the very sensitive way in which they handled their meetings with the complainants and obtained the written statements. Although it could be argued that they should have gone to the police with those statements, I accept that it was reasonable for them to heed the wishes of the parents and to place the matter before the Board for determination.

The Board in the end did at least achieve the removal of Neil McKenna from the Hostel. Yet again, a decision was made not to go to the police but to heed the wishes of the two girls and their parents. Given the legal environment of those times and the likely trauma that the two girls would have faced in pursuing their complaints through to conviction² I do not think that it was unreasonable for the Board to make that decision.

(Furthermore, it is in the public interest that child complainants and their parents should have a say in what happens to their complaints. If this was not to happen there would be a tendency for children who have been sexually abused to become reluctant to make complaints).

The Board's decision to allow Neil McKenna to resign rather than be dismissed increased the prospects of him finding employment elsewhere which might involve supervision of young girls. However in circumstances where there was no clear admission of wrongdoing the Board's options were limited. A dismissal may have resulted in proceedings in the Industrial Commission, and in the absence of any complaints to the Police there was no point in taking a middle course such as a suspension. In my view there are no reasonable grounds for criticising the Board for taking the action that it did.

11.21.7 Conclusions

1. At its meeting on 23 October 1991 the Hostel Board failed in its obligation to ensure the wellbeing of its students by ignoring Thomas Hart's allegation that Neil McKenna had been sexually interfering with female students.
2. Nevertheless the Hostel Warden Cornelius Burro and the Board member Bernard Clayton took commendable action by independently investigating the allegation and bringing about an outcome which resulted in Neil McKenna's removal from the Hostel.

² See Chapter 18