

OPENING ADDRESS

1. The Royal Commission into the Institutional Responses to Child Sexual Abuse which commenced in Sydney in 2013 now turns its attention to events which occurred in Marion, South Australia at St Ann's Special School for children with intellectual disabilities for the years from 1986 until 1991.
2. The Royal Commission will today commence a public hearing into the institutional responses to claims of sexual abuse of children with intellectual disabilities which occurred at St Ann's Special School, Marion. This is the 9th case study. Three institutions are the focus of the hearing: the South Australian Police, the Principal and governing boards of St Ann's Special School and the Catholic Archdiocese of Adelaide, including the Catholic Education Office.
3. The offender Brian Perkins was employed by the school as a bus driver. He also volunteered in the woodwork class and provided respite care to parents on weekends. He worked at the school from 1985 until 1991.
4. At the time of his appointment to the school Perkins had been convicted of three sexual offences against children in South Australia. In 1956, in the South Eastern District Criminal Court, he was convicted of the offence of abduction of a child by force or fraud and sentenced to a bond to be of good behaviour for three years. In 1969, in the Adelaide Magistrates Court, Perkins was convicted of carnally know or attempt to have carnal knowledge and sentenced to 12 months imprisonment. In 1974, in the Adelaide Magistrates Court, Perkins was convicted of carnally know or attempt to have carnal knowledge and sentenced to 2 months imprisonment.
5. In 1991, Perkins was first investigated by police and was found in possession of pornographic photographs of students who attended the school. In 1993 Perkins was arrested and placed on a bail agreement. In 1994 he absconded in breach of his bail. In 1998 the South Australian Police became aware of his whereabouts in Queensland. At this time, the police declined to apply to extradite him. In 2002 the South Australian police finally extradited Perkins and he was prosecuted for sexual offences against children at St Ann's. In 2003, twelve years after the allegations were first brought to the attention of the South Australian police, Perkins pleaded guilty to, and was convicted of, five sexual offences against three students of St Ann's Special School.
6. Perkins was sentenced to imprisonment for 10 years with a non-parole period of 6 years. He died in custody.
7. The case study is expected to provide insights into how Perkins came to be employed by the school, the monitoring and supervision of Perkins while he was an employee of the school and the response of the Principal and Board of St Ann's to the allegations of child abuse, in

particular the communication or lack of communication with other parents whose vulnerable children were also in the care of Perkins.

8. The hearing is also expected to hear evidence about the police response to the allegations, in particular the delay in bringing Perkins to justice and why the police investigation did not examine what may have happened to other students in Perkins care or at the very least why parents were not informed of the allegations against Perkins.
9. Finally, the case study will examine the response of the Catholic Education Office and the Catholic Archdiocese of Adelaide to the claims of sexual abuse, the communication with other parents whose vulnerable children had been in the care of Perkins, the circumstances in which the church provided payments of moneys to families and the efficacy of the Towards Healing procedures.
10. The hearing will begin with the evidence of one of the young men who was sexually abused by Brian Perkins. LH is now 36 years old. He has an intellectual disability. LH attended St Ann's School from when he was aged 5 until he was 21. He was aged between 11 and 15 years old at the time of the abuse. LH cannot read or write. LH will give evidence by a closed circuit television. We will need to have a short adjournment after the opening to put those arrangements in place.
11. LH will tell the Royal Commission of his contact with Perkins. He will say Perkins performed various sexual acts upon him and with him. In particular, there was one occasion when Perkins took LH to a man named Ted's house whereupon Perkins and Ted tied up his penis with rope and smacked him over his body. Perkins also encouraged LH to perform sexual acts with other students who were present at his home. Perkins was present when another convicted sex offender named Robert Hawkes took photographs of him naked. LH will give evidence of the terrible impact the offending has had on his life.
12. Next, the Royal Commission will hear evidence from the mothers of two boys, now men, who were also sexually abused by Perkins.
13. LK is the mother of LB. LB was a student at St Ann's School from 1983 until 1992 when he was aged between 5 and 15 years old. LB returned to the school from 1997 until 1998, when he was aged 20 to 21 years old. LB was born with Downs Syndrome.
14. LK will give evidence that in August 1991, the Principal asked her to attend a meeting at the school, at which the police were also present. It was at this meeting, LK first learnt of allegations Perkins had sexually abused her son. LK will give evidence that in the months and years which followed neither she nor her son received any offer of counselling or support from the school or indeed the Catholic Education Office. She will say she received very little information from the school or the police about the state of the investigation.

15. It was only after Perkins sexual offending became known to the wider school community in 2001, that LK had any contact with the Catholic Education Office. LK will describe that contact, individually and as part of a group of concerned parents who were represented by Parents Advocacy. LK will also detail her correspondence with Archbishop Wilson in respect of a “gift” of \$100,000 she subsequently received from the Church.
16. Importantly, LK will describe the deterioration in LB’s behaviour after 1991 and the broader impact the sexual abuse and the institutional response to the offending has had, and continues to have, on her son and family.
17. The second parent, from whom the Royal Commission will hear evidence is Helen Gitsham. She is the mother of LG. LG attended St Ann’s from 1975 to 1988. He had a chromosomal abnormality which resulted in intellectual disability. LG sadly passed away in 2005. In 2001, Helen Gitsham and her husband Brian Gitsham first became aware of Perkins sexual abuse of children at the school. Helen Gitsham was informed of the abuse by another parent. She will detail the contact Brian Perkins had with her child as his bus driver and through his volunteer work with the school. She will give evidence about why she believes Perkins sexually abused her child and of the deterioration of his behaviour.
18. Helen Gitsham’s evidence will also detail her contact with the Catholic Education Office and the Professional Standards Office, in particular in respect of her receipt of a “gift” from the church and her unsuccessful efforts to participate in the Towards Healing procedures. She will give evidence that she was given four reasons why the Church did not implement the Towards Healing process in respect of her family and son:

Firstly, we were told by Church representatives that that the police investigation prevented implementation of the process; secondly we were told that taking legal action against the church precluded any further involvement in the Towards Healing process even though families had been urged several times to engage a lawyer and our family had not proceeded with civil action; thirdly we were told that the process was not implemented owing to the disabilities of the victims; fourthly we were told that apart from the three victims cited in the court case, no other victim, including our own son could prove the facts of their case: (para 104)
19. Finally Helen Gitsham will speak of the devastating impact of the abuse and institutional responses on her son and her family.

20. The next group of witnesses are from the South Australia Police Force and were involved in various stages of police investigation from 1991 until 2003. Their evidence is expected to reveal the following details of the investigation.
21. On 21 August 1991, Detective Sergeant Mosheev and Detective Carr of Darlington CIB attended at Brian Perkins home address in Dovar Gardens. They searched his home and located a photographic studio. Two canisters of film were seized from the studio, one labelled Darren and the other Shane. Brian Perkins was present at the time of the search. However, he was not interviewed or charged at the time as the police did not yet know the content of the photographs. On the same day, one of the two canisters of film was developed or processed. The photos depicted two naked teenage boys.
22. On 25 August 1991, Detective Mosheev then spoke with the foster parents of LH, who confirmed two naked teenagers depicted in the photos were LH and their biological son MX. MX was also intellectually handicapped and a student of St Ann's.
23. On 26 August , a meeting was held at St Ann's which was attended by Principal Claude Hamam, Detective Mosheev and LH's foster mother. It appears LK was also present. On that day a statement was taken from LH. No other parents were informed of the allegations at this time by the school.
24. In late August and early September 1991, the police attended at Brian Perkins home on at least three occasions. He appeared to have vacated the house. Brian Perkins also failed to return to work at St Ann's. A police incident report was raised for the offence of induce a child to expose part of their body for prurient interest contrary to section 58A(1)(b) of the *Criminal Law Consolidation Act, (SA) 1935* (as it then was). This was a minor indictable offence. Perkins was listed as a suspect. The investigation was filed as the police could not locate Brian Perkins. A warrant of apprehension was not issued at this time.
25. On 27 September 1991, there was a further meeting at St Ann's School. Detective Clark attended this meeting along with Claude Hamam and about 8 persons including the foster parents of LH. It is unclear who else was present at the meeting. It is likely however, that LK, the mother of LB, was also present. Detective Clarke said he intended to apply for a warrant for Perkins arrest within a week. This did not occur. There appears to be no documentation of any further correspondence between the police and the school or the between the police and families of students at the school.

26. The investigation did not appear to progress further until 11 May 1993, when a journalist produced a box of photographs of naked children to the Christies Beach Police Station. Detective Greg Ramm was allocated the investigation. The photographs and other intelligence became the genesis of what came to be known as Operation Deny. On 3 September 1993, Operation Deny was established to focus on five identified suspected paedophiles, one of whom was Brian Perkins.
27. On 10 September 1993, the police arrested Brian Perkins (and four other men in separate locations). The police also searched Perkin's residence and seized numerous photos. He was charged with two counts of induce a child to expose part of their body for prurient interest, an offence indecent assault on LH and possession of child pornography.
28. Perkins applied for bail, which was refused by police and again in the Magistrates Court. Perkins sought to review the Magistrates decision. On 27 October 1993, the Supreme Court released Brian Perkins on a bail agreement with conditions.
29. On 21 January 1994, Perkins failed to attend court. By this time, the DPP had conduct of the prosecution. On 21 January 1994, the DPP had filed another Information with the court which also charged Brian Perkins with two counts of Unlawful Sexual Intercourse, a major indictable offence. Both charges related to acts committed on LH. By this stage the sexual assault unit, the Police, had re-interviewed LH and he had given a more complete and serious account than his original statement to police.
30. On 21 January 1994, the Magistrates Court issued a warrant for his arrest. However, the warrant was only issued in respect of the earlier information charging the less serious offence. Further, the computer system, referred to as JIS, to which the prosecution and police can refer was not updated so it did not contain a record of the new major indictable charges. This would have occurred automatically had the warrant been issued in respect of the new Information. This oversight was the subject of a report by Senior Sargent McAvaney of 12 May 2004. He concluded it was a "one-off mistake".
31. After the arrest of Perkins and other offenders, Operation Deny was closed down. However, the investigations & prosecution of the other accused, along with intelligence gathering, continued. In 1998, Detective Ramm became aware of Perkins whereabouts in Queensland.
32. Detective Ramm sought approval for his extradition from Detective Chief Superintendent Bartlett. That application appears to have been considered by reference to the face of the warrant (and thus the earlier Information which did not include the major indictable

charges). DCS Bartlett also consulted Detective Mosheev and asked Detective Mosheev to consult the DPP.

33. Detective Chief Superintendent Bartlett will give evidence he decided not to apply for Perkins extradition. A large part of that decision appears to be based on the fact that the complainants were intellectually disabled so there was less prospect of a successful conviction on the charges which required them to give evidence and the perceived minor nature of the remaining charges of inducing a child to expose part of his body for prurient interest.
34. And there the police investigation matter lay until 2001.
35. In 2001 several parents of former students became aware of the allegations dating back to 1991. Family members who first became aware of the allegations were determined that other parents should also know their children could have been at risk of sexual abuse. Several parents recognised their children had been in the company of Brian Perkins. They recognised changes in their child's behaviour, development and demeanour which they could trace back to this time. The changes now resonated with them. The parents formed a group and sought assistance from Parents Advocacy. They informed the Catholic Education Office of their concerns. Contact was made with the South Australian Police about the failure apply to extradite Perkins.
36. As a result, on 2 March 2002, the Commissioner of Police established a task force named Operation Cormorant to investigate the sexual abuse at St Ann's between 1986 and 1991. On 20 March 2002, Brian Perkins was extradited from Queensland. Detectives Walter Conte and Leonid Mosheev were the investigating officers from 2002. The DPP assumed conduct of the prosecution.
37. In 2003, Perkins ultimately pleaded guilty to 5 counts of sexual offences involving 3 boys. On 12 September 2003, Perkins was sentenced to 10 years imprisonment with a NPP of 6 years. In August 2009, Perkins died in custody.
38. On 1 October 2003, Detective Inspector John McCaffrey issued a report on the efficacy of Operation Cormorant (SA.0004.001.0845_R).

39. The issues which arise from the investigation and the police response focus largely on the initial investigation and why a warrant was not issued in 1991, why the police decided not to extradite Perkins in 1998, the police communication with parents and whether the police told the school not to inform the parents of other children who had been in the care of Perkins of the allegations.
40. Returning now to the school's response to the sexual abuse of intellectually handicapped students by Perkins.
41. First, it is important to outline the institutional structure of the school, to the extent it may inform the school and indeed church response. St Ann's special school was established in 1975. St Ann's was governed under the 1975 Constitution. The Constitution provided that the *"supreme control and government of the property and affairs of the association shall be vested in a governing body the members of which are in this constitution called governors."* The Constitution provided that the Roman Catholic Archbishop of Adelaide, the Director of Catholic Education and every principal of school thus established shall be ex-officio governors.
42. The 1991 Constitution also provided for the establishment of a board of management consisting of the Treasurer and the principals of schools and not less than four members elected by the governing body and two members of and nominated by each of the respective associations of parents of such schools.
43. A new constitution came into effect in March 1992 which contained similar provisions except that the principal was required to share fully with the board of management all appropriate information from whatever source that may help members in discussion and decision making and shall service the board with reports and recommendations to that end. The principal was given the sole right to engage teaching staff and other school employees and assistants but was required to exercise this right in accordance with the policies determined by the Board of Management.
44. In summary, St Ann's was governed by a two-tier board structure. The Board of Governors had the ultimate legal control and government of the affairs of the school and the Board of Management had the day to day control and management of the general affairs of the school. The Board of Management was required to make a report of the preceding year to the annual general meeting of the Governing Body.

45. In 1991 and 1992, Chairman of the Board of Governors was Archbishop Faulkner. The Director of Catholic Education, John McDonald sat on the Board along with the Principal of St Ann's, who was at that time, Claude Hamam. The Chairman of the Board of Management was Paul Morrisy. The principal, Claude Hamam also sat on the Board of Management.
46. In 1997, a new constitution was adopted by the Board of Governors, which was again replaced in 2011. Under the 2011 Constitution, there is no longer a two-tier governance structure but solely a Board of Management.
47. More broadly speaking, in 1991, St Ann's was part of the Catholic school system. St Ann's was owned and operated by a separate incorporated body Catholic Special Schools Incorporated (ICCS), but was under the control of the Archbishop. As such, the school would have been expected to follow South Australia Commission for Catholic Schools (SACCS) policies. It would have also been expected to follow policies circulated by the Catholic Education Office. As of 2011, the Director of Catholic Education is now delegated by the Archbishop of Adelaide to exercise the governance of St Ann's subject to the Archbishop's overriding directions.
48. With that structure as context, Claude Hamam and Martin Aartsen (the assistant principal) will give evidence to the Royal Commission. Claude Hamam is expected to say he was responsible for employing Perkins and that he did not conduct a police check which may have revealed Perkins previous convictions for sexual offending. He will also give evidence about the monitoring and supervision of Perkins as an employee and as a volunteer. The evidence of Claude Hamam and Martin Aartsen , along with other documentation is expected to reveal what was, and was not, told to members of the Board of Management and Board of Governors of the school, and the response of both boards in 1991 and the years that followed.
49. The Catholic Archdiocese of Adelaide, Archbishop Wilson and the Catholic Education Office commissioned a report on several aspects of the school's response expected to be raised in Claude Hamam's evidence. This report was prepared by Mr Hayes QC and is known as the Hayes report. The report is found in the tender bundle: PS.0124.002.0081_R
50. The report was limited to three issues. First, how Perkins gained employment at the school. Second, whether there was any knowledge of his background or propensities. Third, when the allegations of sexual abuse were raised in 1991, how the matter was handled by those having responsibility to do so at the time.

51. The report relied on witness statements rather than oral testimony and did not involve a fact finding inquiry. To that end, there was no attempt to make any findings as to the truth or veracity of the statements.

52. The author came to the following conclusions in relation to what communications if any occurred between the Principal or any other member of staff at St Ann's and others (found at paragraphs 71):

"There was no communication with the Board of Management of St Ann's as a board

There was no communication with the Board of Governors

There was very limited communication with the Catholic Education Office although the Catholic Education Office was clearly alerted to the allegations and there was no communication with any other representative, division or constituency of the Catholic Church

There was a report made to Family and Community Services (SA)

The allegations against Perkins were never discussed or considered in anyway by the Board of Management, the Board of Governors or indeed by anyone or more of the members of either of them.

To the extent that individual members of the Board being the Chairman, the Principal, the Acting Principal and the representative of the Catholic Education Office considered the allegations, such consideration was at best cursory and at worst no consideration at all."

53. The evidence of Claude Hamam and Martin Aartsen will also provide some insight into why other families with children who had been in the care of Perkins were not told of the allegations. Both witnesses will say they relied on advice given to them by police that they should not discuss the matter with families as this could jeopardise the investigation. The police officers involved give a different account of this purported advice.

54. The final group of witnesses relate to the response of the Archdiocese of Adelaide and the Catholic Education Office after 2001. In 2001, Alan Dooley, the Director of the CEO became aware of the allegations through a parent. In late 2001, the St Ann's taskforce was set up to manage the church's response to St Ann's. This taskforce was chaired by Archbishop Wilson. Other members included Ms Sue Cain, who became Director of the South Australian Professional Standards Office in June 2002 and Vicar-General David Cappo.

55. Alan Dooley will give evidence of his contact with police and parents particularly in the years between 2001 and 2003. Of note, from 2004 to 2006, Mr Dooley in addition to the Hayes Report, commissioned numerous reports as a result of the child abuse which occurred at St Ann's. Mr Dooley concludes in his statement to the Royal Commission:

“the abuse which occurred at St Ann's was shocking and appalling and the immediate handling of it in 1991 was unacceptable.”

56. The Royal Commission will also hear evidence from Susan Cain who as Director of the Professional Standards Office was responsible for the implementation of the Towards Healing procedures. She was also a member of the St Ann's Taskforce, her primary role within which was to determine the financial component of the church's response. Her evidence will provide insight into how the monetary payments or “gifts” given to numerous families were calculated, the form of acceptance which accompanied those gifts and the interplay of the gifts with the implementation of the Towards Healing procedures, that is, whether they were paid in lieu of the families participating in the Towards Healing process.
57. Finally, the Royal Commission will hear from Archbishop Wilson who assumed this position in December 2001. The Archbishop will give evidence about his role as the head of the Catholic Church and his specific involvement in the church's response to the parents of those boys who had been sexually abused at St Ann's.