

Under the Inquiries Act 2013

In the matter of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions

**Witness Name: Murray Houston**

**Statement No.: WITN0250001**

**Exhibits: WITN0250002-WITN0250021**

**Dated: 18.09.2020**

**ROYAL COMMISSION OF INQUIRY INTO ABUSE IN CARE**

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**Witness statement of Murray Houston on behalf of The Salvation Army**

**[CONFIDENTIAL VERSION: SUBJECT TO GRO ORDERS]**

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I, Murray Houston, will say as follows:

## 1. Introduction

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- 1.1 My full name is Murray Houston. I reside in Masterton.
- 1.2 I provide this statement on behalf of The Salvation Army New Zealand (**The Salvation Army** or **TSA** or the **Army**) to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the **Commission**) in respect of the Faith-based redress hearing that is scheduled to be heard in two stages before the Commission. The first stage is between 30 November and 7 December 2020, and a second stage in March 2021 (the **Faith-based redress hearing**). I understand my evidence will be given during the latter stage.
- 1.3 I am a senior employee of The Salvation Army. My current roles are two-fold: I am the Commercial Manager for The Salvation Army and am also Manager, Royal Commission Response. I have been employed with The Salvation Army since July 1999. I am not affiliated with the Church of The Salvation Army. I am a “lay” or “civilian” employee.
- 1.4 Since about the year 2000, I have had primary responsibility within The Salvation Army for dealing with claims and the redress process in relation to claims of abuse from children who were in children’s homes run by The Salvation Army. During my time in that role, I also had the job title of Referral Officer for these claims. I am, therefore, familiar with the subject matter of the Commission generally and, more specifically, the matters being considered by the Commission later this year as part of the Faith-based redress hearing.
- 1.5 As I understand things, the matters to be addressed at the Faith-based redress hearing are set out in a “Scoping Document” entitled “Redress Investigation: a case study into the redress

processes of the Catholic Church, Anglican Church and The Salvation Army". This paper was published in final form on the Royal Commission's website on or about 14 August 2020, although an earlier draft was provided by the Commission to TSA on 4 June 2020. My evidence has been guided by the content of this Scoping Document, including after confirmation from Ms Hanne Janes (one of the counsel assisting the Commission), via our solicitors that this is how I should approach this statement.

- 1.6 My evidence seeks to provide the Commission with information about how, since the early 2000s, The Salvation Army has dealt with and responded to claims of historic abuse by children who were resident in children's homes operated by The Salvation Army. My focus is very much on the children's homes context as this is where, by far, the majority of claims related to historical abuse of persons in the Army's care have arisen. I have some knowledge of other contexts in which claims of abuse in care have arisen within the Army and I comment on them briefly toward the end of this statement.
- 1.7 I note that I have endeavoured to ensure my evidence deals with matters at a general level, noting that the Scoping Document says that the Commission is not examining the merits of any individual claims, nor resolving disputed factual issues relating those claims. While this approach risks over-simplification in relation to some claims or persons, given that we have dealt with in excess of 200 claims, I have necessarily had to approach my evidence in this way.
- 1.8 I understand that Colonel Gerald Walker will also provide a statement of evidence on behalf of The Salvation Army for the Faith-based redress hearing.

## 2. Overview of evidence

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- 2.1 At a personal level I wish to say, at the outset, that I welcome the opportunity to explain the practices and processes around claims handling that The Salvation Army and me personally have adopted through time. My involvement in this work has taken up a large part of my life for nearly 20 years. My involvement was something of an unexpected journey, given my background was in commercial matters. But, I adapted to the role and, while harrowing at times, I have also found aspects rewarding in assisting people to reconcile with the past and achieve healing.
- 2.2 TSA's response to claims has evolved over time and I acknowledge that some of the earlier approaches we took were not as empathetic as they could have been. It would be fair to say that initially there was some naivety and lack of understanding of the abuse of children and its effects on survivors, sometimes lasting for a lifetime. In the early 2000s, when we received many allegations of abuse in a short space of time, the nature and extent of the issues raised came as a shock to the then TSA leadership. Further, once we had established that we had some insurance cover for claims of historical abuse, some of our early responses were also driven by insurance considerations.
- 2.3 It took some time for us to work through what was happening and establish a good process. There have been some mis-steps, and our approach has not been perfect. Undoubtedly, some people may have ongoing concerns and grievances about the process engaged in with us.
- 2.4 However, standing back, I do believe that we have tried our very best to do the right thing.



2.5 As I explain further below, from about early 2004, TSA leadership determined that we should generally try to take a non-legalistic approach to claim settlements and to ensure we had an approach that saw us take responsibility and that aided the well-being and healing of survivors. This approach was more consistent with the Christian values of The Salvation Army and our over-arching approach endures to this day. Importantly, when I say a non-legalistic approach, I mean that we do not require survivors to prove allegations to a particular legal standard before we settle with them and pay monetary compensation (although we do undertake claims verification as I describe below). We have also not relied on some legal defences that may have been available to us to exclude or limit our legal liability for some claims e.g. a limitation defence. As a result, apologies have been given and compensation paid even though the Army did not, or may not, have had a strict legal liability. We have sought to acknowledge our moral responsibility to people who were abused whilst in our care.

2.6 When I look at where we stand today:

- (a) I believe, and hope, that our current processes genuinely offer empathetic, efficient and effective redress with a focus on survivor well-being and healing. This is how I seek to go about my work. I understand the importance of survivors feeling like they have been heard and I give them that opportunity, doing all I can to ensure they are comfortable and supported in telling their story. It has been my thinking that at the point where a person has the courage to come forward, it was up to me, as TSA's representative, to engage with the person as soon as practicable because I believe that in them taking that first step to healing they were emotionally ready to tell us of their experiences and confront the past. For many this was extremely difficult for

them to do. I wish to acknowledge and appreciate early in my statement the many people who have come forward and spoken freely and honestly to me about very personal and painful events that happened to them.

- (b) The Army understands the importance of being seen to take, and actually taking, responsibility for the past. Our processes seek to do this in giving apologies and providing financial redress, while fully accepting that no amount of money could ever adequately compensate for abuse suffered.
- (c) I am well supported in the work that I do in advancing the Army's redress programme. As an organisation, The Salvation Army has committed significant resource, time and emotion in addressing claims related to abuse in its children's homes. Significant funding has been made available for me to travel to meet survivors and to ultimately settle claims. This work has been prioritised within the Army and I feel like my work is well respected within the Army.
- (d) I consider the Army has been diligent in addressing claims by appointing me, as a senior staff member, with broad authority and discretion, to deal directly and personally with survivors. This approach has ensured that we can address claims in a timely manner (most of the time) and with compassion for the survivor and their particular circumstances.
- (e) The Army continues to be committed to accepting responsibility for past wrongs, and in continuing to seek to provide healing and support to any person who was the subject of abuse whilst in its care. It has unreservedly

apologised in public forums, in personal letters and in meetings to those have suffered as a result of such abuse.

- 2.7 I would hope that many people consider their experience of dealing with us in relation to claims and redress has been ultimately positive for them. I have received acknowledgements of this through time from many survivors. I have been told that the claims process engaged in with us has assisted them on their journey.
- 2.8 But, as I say, our process has not been perfect and, regrettably, there will be some people who feel unfairly treated or that the process did not work for them. There have also been periods when my relationships with some stakeholders e.g. Cooper Legal, have been strained. But, to the extent such criticisms exist I would hope that the main criticisms are more directed to our approach in the 2000s. This was when we were still establishing our approaches and our views on how legal issues would be factored into our approach. During this time, we had large numbers of claims that we were dealing with and we also became involved in a number of formal legal proceedings (which created their own complexities and which I discuss further below). Today I think we are much more streamlined and clear in our approach.
- 2.9 The Army is open to suggestions and recommendations as to how it may continue to improve its processes in relation to any potential future claims. In this regard, I also note, that in carrying out work related to this Royal Commission, I have been proactively reviewing claims previously declined to ensure that any changes to our approach or views through time is fairly applied to those who may have approached us at an earlier point. This is still a work in progress for us.

- 2.10 This statement contains the following sections:
- (a) a summary of the claims made to The Salvation Army regarding historical abuse in the children's homes it had operated (section 3);
  - (b) an overview of the approach to claims prior to 2003 (a time when the number of claims was relatively small) (section 4);
  - (c) an explanation of events from about August 2003 which saw an increase in claims emerge and how this affected (and necessitated) a change in The Salvation Army's dealings of claims made by those children who had been its care (section 5);
  - (d) an explanation of the process for handling and responding to claims that we put in place after 2003 and which endures to this day (sections 6 and 7)
  - (e) some brief comments on where our internal investigations included speaking to alleged perpetrators (section 8);
  - (f) other matters in the Scoping Document, not otherwise captured above (section 9);
  - (g) comment on redress in other contexts within the Army (section 10);
  - (h) conclusionary comments (section 11).

### **3. Summary of claims relating to children's homes**

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- 3.1 As noted above, my focus is on the settlement of claims brought to us by people who were in the residential care of The Salvation Army in our children's homes. To the best of my knowledge, since about the year 2000, I have dealt with all claims of abuse made against The Salvation Army in this context. There are a

small number of claims where I was not involved in the interview process (as I describe that further below), but I was ultimately responsible for the settling of all claims.

- 3.2 The allegations of historic abuse we have received have been wide-ranging including sexual, physical and psychological abuse and, related to psychological abuse, allegations of neglect or mistreatment. Such claims have included allegations against staff and officers of The Salvation Army but also allegations against third-parties, including abuse by other residents, visitors to the home and third persons such as family, foster parents or other caregivers. Often a claim we receive will include a series or combination of these sorts of allegations. The claims are heart-breaking.
- 3.3 As at 1 August 2020, The Salvation Army had received 238 claims of this nature arising from a children's homes setting. The first claim was made in February 2001. (I note that I am also dealing with a claim received after 1 August this year but I have not included that claim in the numbers I have outlined below as, at the time of this statement, it is still in its early days.)
- 3.4 The former homes of The Salvation Army to which the claims relate are (with the years of operation of that home noted and the number of associated claims identified):<sup>1</sup>
- (a) Cecilia Whatman Children's Home, Masterton, 1925-1985; 45<sup>2</sup> claims;
  - (b) Bramwell Booth Children's Home, Temuka, 1916-1986; 67 claims;

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<sup>1</sup> Some survivors made claims related to their time in care at more than one home.

<sup>2</sup> This includes a survivor who was resident at Whatman, but alleged abuse in a foster family context while on holiday from the home.

- (c) The Grange Girls' Home, Auckland, 1916-1976; 15 claims;
- (d) Hodderville Boys' Home, Putaruru, 1920-1986; 84 claims;
- (e) Mercy Jenkins Boys' Home, Eltham, 1909-1954/1955; 5 claims;
- (f) Florence Booth Girls' Home, Wellington, 1903-1969; 17 claims;
- (g) The Nest Children's Home, Hamilton, 1920-1990; 22 claims;
- (h) Mary Bryant Family Home, Hamilton, 1974-1999; 1 claim.

3.5 As at 1 August 2020 The Salvation Army has formally settled 166 of the children homes claims it has received. A settlement may include:

- (a) a personalised apology being made to the person making the claim;
- (b) a lump sum monetary payment from The Salvation Army to the person making the claim;
- (c) in some cases other more targeted financial payments such as:
  - (i) a payment toward a specific request e.g. to meet the costs of tattoo removal;
  - (ii) payments toward counselling costs;
  - (iii) contributions toward legal costs;
- (d) in some cases non-financial assistance. I recall one instance where we assisted a survivor's son undertake a TSA training programme (and also bought him a laptop to assist). In other cases we have provided additional funds

for family gatherings to occur, assisted with the installation of a headstone or assisted with Māori ancestry research.

- 3.6 The time taken to resolve a claim has varied. In some instances, claims have been resolved in less than two weeks from the time that the survivor (or their representative) approaches The Salvation Army to the date of settlement (with settlement typically represented by the survivor countersigning an agreed settlement statement). Most have taken longer than a few weeks but I am naturally quite an efficient person. With the support of the Army, I have prioritised this part of my role over the years to try to deal with claims as expeditiously as I can in as many instances as I can. I appreciate delay risks causing further upset to survivors.
- 3.7 But, some claims have taken longer to resolve for a variety of reasons. This may be because they are simply harder to resolve as information is incomplete, we thought it necessary to further investigate the claim, the person is not happy with what the Army may have offered by way of resolution or the Army itself cannot meet the person's requests. It may be because the person is not in a position to advance their claim for a period of time e.g. there have been instances where a person has gone to prison and they have held off on pursuing their claim for a period. Legal proceedings have also tended to cause more delay in resolution as the relevant legal processes are worked through. I discuss these court proceedings further below.
- 3.8 Other persons have, for whatever reason, not progressed their claim beyond an initial enquiry or discussion. In those cases it is not clear if they wish to progress matters or not. In any instances where there has not been a formal resolution the claim remains "open" if they choose to further progress their claim. There are around 60 in this category at present. Sometimes, the case may be that the person has not sought a formal apology, monetary compensation or any other particular action from us. Some

people simply wanted to tell their story (or the story of someone they knew).

- 3.9 I am aware of at least two persons who passed away following their initial contact with the Army. Those claims have not progressed further. More generally though I note that I have dealt with claims brought on behalf of others, including where the person subject to abuse had died.
- 3.10 Of the 238 claims we have received, there are currently two persons for which I would say the settlement process is still actively underway. These are persons who have relatively recently progressed a claim beyond an initial enquiry or discussion and have indicated they seek a formal resolution, but we have not been able to get in contact with them since their last correspondence.
- 3.11 There are 10 children's home claims that we have formally declined to settle. I note that there were two other claims that were initially declined but those have been revisited and subsequently settled. As I have noted above, I am in a process of further reviewing those claims we have declined to ensure that any changes to our approach or views through time are fairly applied to those who may have approached us at an earlier point.
- 3.12 The Salvation Army has been named as a defendant, or a second or third defendant to the Crown, in 11 legal proceedings relating to care in our children's homes. Several of these were initiated in the 2006 – 2007 period. But, ultimately, we have resolved all of the legal claims in which we were named as a defendant by agreement. That is, to the best of my knowledge, all have been resolved or settled out of court with no judgment against us for payment of a monetary sum. We have settled with ten of the persons concerned. All our settlements are voluntary.



The person we did not settle with had withdrawn their claim against The Salvation Army.

#### 4. **Claims prior to 2003**

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- 4.1 In the early 2000s but prior to August 2003, The Salvation Army had received some claims from individuals who advised that they had been in the care of The Salvation Army as children and had suffered abuse. I believe there were ten in this category.
- 4.2 One of the main complaints we were dealing with had come from a [[Ms Janet Lowe]] in early 2001. In addition to her own concerns [[Ms Lowe]] had been seeking to identify individuals who had also been in the care of The Salvation Army who may wish to bring a legal action against The Salvation Army for historical abuse. There were reported to be other persons who had come forward to [[Ms Lowe]] and there was media interest in [[Ms Lowe's]] claims.
- 4.3 I recall that leadership was involved in overseeing [[Ms Lowe's]] claims, with the matter largely being run internally by Major Russell Adams, who was our Secretary for Personnel at the time. There was significant concern about the very serious allegations being made. My recollection is that given the nature of the allegations, it appeared we might have coverage under one of our insurance policies. We initially dealt with [[Ms Lowe's]] claims via our usual lawyers, Bell Gully, but [[Ms Lowe's]] complaints were then referred to our insurer who, in turn, instructed the law firm, Phillips Fox and subsequently the law firm, McElroys, to assist. Mike Ring QC was also instructed at about this time.
- 4.4 Given my role as commercial manager, which included oversight of the Army's insurance arrangements, this was when I first started to have involvement in abuse claims against the Army.

4.5 When The Salvation Army started receiving an accelerating number of claims of abuse from former residents of children's homes in about August 2003, it is fair to say that we did not have any formal policies or procedures in place for responding to such allegations. Up until that point we had largely relied on our lawyers to help guide us through the process of how we should respond to such allegations. Any issues that arose were being dealt with in an ad hoc way. Events of August 2003 changed that.

## 5. **Events in 2003: the increase in claims and a process established**

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### ***Increase in claims***

5.1 An Australian documentary that was broadcast on New Zealand television on or about 18 August 2003 resulted in a turning point for claims against The Salvation Army in New Zealand. The documentary explored abuse in Salvation Army homes in Australia and included an apology on behalf of The Salvation Army in Australia.<sup>3</sup>

5.2 Within 24 hours of the documentary and apology airing, The Salvation Army had received multiple – I estimate over 20 – contacts from individuals who were concerned about the allegations in the documentary and/or who advised that they had unhappy experiences while in children's homes run by The Salvation Army in New Zealand. Not all of these contacts became formal claims but it was suggestive of what was to come. More calls and contacts quickly followed.

5.3 It is hard to do this period justice in this statement, but things escalated quickly as the extent of allegations and seriousness of

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<sup>3</sup> The documentary was entitled "The Homies", a colloquial term used to refer to children in care in Australia. The apology was given by Mr John Dalziel, Communications Director of The Salvation Army in Australia.

the matters being raised were clearly much more widespread and significant than any of us, then in senior roles at The Salvation Army, had been aware of (including in light of claims that had been made to date). There was intense media interest and shock and concern throughout the organisation at what we were hearing.

### ***Leadership's response***

- 5.4 The Salvation Army leadership, including the then Territorial Commander, Shaw Clifton, took immediate charge of this wider issue and what was established as our approach over the next few months, really set the foundation for our approach thereafter. In the early stages I would meet with Commissioner Clifton regularly, including to share information about in-coming calls and to discuss media queries.
- 5.5 An informal sub-committee was formed to formulate a plan and help guide our response in what was a very dynamic time. I was part of this sub-committee, together with Commissioner Clifton, Lieutenant Colonel Garth McKenzie, the Chief Secretary, and Major Alistair Herring, the Secretary for Programme.
- 5.6 Leadership very quickly made it clear that claims being received needed to be dealt with very seriously and in the most sensitive way possible. I recall Shaw Clifton and other senior leadership, including Alistair Herring and Ross Gower, had to front media at this time and it stands in my mind to this day that Shaw Clifton stated very early on that The Salvation Army would “*not duck or weave on this. I want it all brought out and put on the table*”.<sup>4</sup> That is, he stated that we should, and would, take responsibility and be up front. While we did not immediately have a formal policy, our leadership were frequently appearing on media during

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<sup>4</sup> One News Report of 26 August 2003 quoting Shaw Clifton [TSA.801.0005] / [WITN0250002].

this time. This was an opportunity to set out what our process was to be and hopefully also reach some survivors. Public statements like this which were, and remain, influential to our approach to redress included:

- (a) "Staff are following a set procedure with all those who allege abuse. Major Herring said initially staff offer to meet the person and hear their story if that is what people wish. For some that is enough to provide closure to incidents which occurred decades earlier. People are also offered counselling at the army's expense. Records of their time in Salvation Army care can also be handed over. Sometimes matters are resolved at that point. An apology is offered if that is seen as helpful."<sup>5</sup>
- (b) "We take whatever responsibility we can for the Salvation Army of yesterday."<sup>6</sup>

5.7 By the end of September 2003, approximately 45 contacts (out of approximately 100 contacts at that point) were in the nature of a formal claim. This shift in numbers meant there was a need to put in place a more formal and organised process to ensure the claims were dealt with in a timely manner, and appropriately, given the sensitive subject matter. Leadership determined that survivors would be central to the process and should be given an opportunity to be heard.

***My appointment and the involvement of The Salvation Army's insurers***

5.8 The Salvation Army appointed me to deal with the claims internally. When I was given this task, I did not have any formal

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<sup>5</sup> Newspaper report of 28 August 2003 quoting Alistair Herring [TSA.801.0013] / [WITN0250003].

<sup>6</sup> Newspaper report of 12 September 2003 quoting Alistair Herring [TSA.801.0018] / [WITN0250004].

training or experience in dealing with issues of this nature.

However, being a reasonably loyal and amiable person, I trusted the then-Territorial Commander's wisdom in appointing me to do this work.

- 5.9 As I have said above, we had an insurance policy that covered historic abuse claims. Because of the nature of the claims and the potential exposure, all claims were initially then to be dealt with under our insurance policy. As a result of this, the claims were forwarded to McElroys and Mike Ring QC, lawyers for our insurers, to help us assess and consider them.
- 5.10 We were not fully insured and were subject to significant excesses but, given the scale of the issue that seemed to be emerging, we needed to work alongside the insurer. There was an expectation that the insurer would be involved in the settlement of any claims but, in time, I was given reasonable authority to take settlements forward in consultation with Mike Ring QC.
- 5.11 Toward the end of 2003, along with our insurer, we agreed some guiding principles:
- (a) We needed to deal with each claim individually. This was already an important principle for TSA and we had already established that a key part of our response was that we would wish to arrange face to face meetings with each survivor.
  - (b) We would provide as much information as possible when someone requested access to their records from their time in the home, albeit we generally requested that such requests for information be made in writing.
  - (c) It would be important to take a consistent approach, including in respect of the first meeting with a survivor. We

developed a series of questions/topics that would act as a reference point for each meeting.<sup>7</sup>

- (d) We agreed that, if requested, we would provide funds for counselling, accepting costs from professionally registered counsellors, and without seeking feedback on the outcome of that counselling.
- (e) We discussed how to handle apologies and agreed that, where appropriate apologies would be given.

5.12 However, tensions arose between the various considerations, including the availability of insurance and maintaining our legal rights but also seeking to provide an empathetic and survivor based approach.

5.13 A key issue was around the possible limitation period. The claims we were receiving dated back to alleged abuse between the 1930s and the 1980s. Because of the time which had passed, we were advised that there were likely to be limitation issues from a civil liability perspective. As is to be expected, the insurer was keen to rely on that defence to limit exposure.

### ***Events in November 2003 and a change in approach***

5.14 This issue came to a head later in November 2003. There was a survivor, GRO-B, who was a former resident at Florence Booth Girls' Home. She had received a letter from McElroys and expressed shock at its contents. The letter and her shock was aired in a piece at 6pm on One News on 5 November 2003.<sup>8</sup> The letter had indicated that any claim against The Salvation Army for damages would likely suffer from limitation issues and would fail.

<sup>7</sup> Questions used in face to face meetings with survivors, first developed in about October 2003 [TSA.917.19189] / [WITN0250005].

<sup>8</sup> Letter to survivor dated 5 November 2003 [TSA.032.0019] / [WITN0250006].

- 5.15 This phrasing was, regrettably, common in other letters sent on our behalf at about this time. While this may have been the strict legal position, the phrasing was not empathetic, nor healing. I've come to appreciate the fact that people who have experienced traumatic events like abuse (especially during their childhood) may take some time to recognise the abuse. Reliance on a limitation period in such cases was not empathetic.
- 5.16 We did not want to close the book on anyone who had been in our care and who had suffered abuse. This event signalled a point in time when we changed tact. We did not want to be seen as being unduly legalistic.
- 5.17 Our correspondence with many survivors consequently softened. For example, in early 2004 our letters changed to say that despite the existence of the limitation period, our preference was not to deal with the claim on a strict legal basis. Iterations of this wording remained in use until around 2014. After that, mention of the limitation period (despite it still existing), was largely dropped altogether.<sup>9</sup>
- 5.18 I don't wish to give the impression that we did not continue to take and consider limitation and other legal points in some instances. We did. For example, when formal legal proceedings were issued against us, we would often plead, or prepare to plead, formal legal defences like limitation. While our reliance on insurance reduced through time, while some coverage remained, our insurer was obviously cautious about the risks involved in formally waiving legal defences. However, today, when most of

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<sup>9</sup> See by way of examples: letter to survivor dated 12 January 2004 [TSA.019.0046] / [WITN0250007]; letter to survivor dated 26 February 2004 [TSA.032.0017] / [WITN0250008]; letter to survivor dated 15 March 2007 [TSA.101.0065] / [WITN0250009]; letter to survivor dated 1 July 2014 [TSA.026.0002] / [WITN0250010]; letter to survivor dated 5 December 2017 [TSA.021.0022] / [WITN0250011].

our claims are resolved through direct and personal engagement with the survivor, these strictly legal issues are not raised by us.

- 5.19 By way of further general comment, it was also our desire to avoid Court action where we could. We had no desire to unnecessarily retraumatise survivors with an adversarial court process, and we believed we could make a better job of things by dealing directly or through advisers, to settle claims. Additionally, we had seen elsewhere that delays in settling claims promptly led to delays and backlogs, and additional expense.

## 6. **Process from 2003**

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- 6.1 In this section of my statement, I describe in more detail the process that I have followed in the vast majority of these cases.

### ***Assistance***

- 6.2 While I have been involved in all claims, I have not worked alone. I have received assistance from other persons including from:

- (a) McElroys, who have continued to assist The Salvation Army with claims received, even when not subject to insurance coverage. If formal legal proceedings were issued then McElroys would deal with the formal claim. They would also help me with correspondence and file review. Over time, however, I have relied on them less and less and now if a claim came in it would be unusual for me to call on McElroys to assist.
- (b) Mike Ring QC, has provided advice to The Salvation Army on claims, claim processes, settlements and procedures the entire time I have been handling claims of historic abuse. The association and rapport I have developed with Mike Ring QC has been very helpful and supportive to me. I have continued to this day to contact Mike when I want to



discuss a claim or issue. Although there has always been an understanding of TSA's legal position, we have tended to put this aside in our discussions to achieve meaningful solutions to survivor's needs sensitively and with empathy. To the best of my recollection, Mike has never corresponded with survivors (or their lawyers) directly.

- (c) Staff and officers of The Salvation Army have assisted me with locating relevant records and files (as outlined further below).
- (d) Staff and officers have from time to time attended interviews (as discussed below) or prepared personal letters or apologies.
- (e) We also had an external investigator/researcher work with us on occasion. His name was [[Kevin Byrne]] and he was initially engaged by McElroys, as lawyers for our insurers, to assist with verifying someone's account where, for example, The Salvations Army's own records were incomplete or quite inconsistent with the claim, or there was some other unusual aspect to a claim. Overall, I estimate that this investigator assisted with no more than ten claims. Frequently this was when we needed additional investigative assistance where formal legal proceedings had been served on The Salvation Army, or, on one occasion, where formal proceedings were anticipated. This included, but was not limited to, helping us locate potential witnesses. At times, the investigator was tasked with finding out what he could about an alleged perpetrator or former Salvation Army staff member e.g. determining if they were still alive, or had existed at all. I did not see the investigator's role as necessarily focused on disproving claims (although that might result) but, rather, his work was to help verify matters.

- 6.3 While we did use an investigator as described above, I have never reached a point in time where I have stopped and considered it would be better for us to sub-contract the verification and investigative work away from the Army. The Army was best placed to conduct the verification process related to claims – as I describe that below – because of access to our own archive material and our access to staff who may have historical knowledge. While I appreciate that this might give rise to a criticism for lack of objectivity, I believe that I brought as much objectivity as reasonably possible to the overall process.
- 6.4 On this, I would also note, that at one point The Salvation Army did consider using a third party to help with our claims handling. In October 2003, we met with Hon Roger McClay, former Children's Commissioner. He was contracted for three months, beginning October 2003, to observe and monitor the processes we implemented to resolve children's home claims. Mr McClay was also to act as an advocate for, and liaise with, survivors. However, in short, his appointment was not well received by survivors. Unfortunately, survivors did not trust this process and Mr McClay was viewed as being on The Salvation Army's 'side', and that he would not be impartial. Mr McClay's role ended in January 2004.

### ***Process***

- 6.5 While we have sought to be adaptable and considerate to the needs of survivors, from late 2003 / early 2004 onwards, all claims have tended to follow a similar process involving the following stages:
- (a) Claims are initiated by a person either directly or via a legal advisor and, on occasion, a (non-legal) representative. Some people had no legal advisers to support them. Those that did tended to use two main lawyers – Sonja Cooper

and Grant Cameron – but also other lawyers from time to time. Sometimes the first contact we had may have been a request for a file from the person's time at the relevant home. I discuss this further separately below.

- (b) Following the first approach, I would organise a face-to-face meeting. As I explain below, we consider a face-to-face meeting with the survivor fundamental to our claims process and our non-legalistic approach. We see it as the cornerstone of our process. While there has been push-back about attendance at such meetings from time to time, mainly by Cooper Legal on behalf of some of their clients, the importance of this step is a position we have always maintained.
- (c) Following the meeting there would be a level of investigation and/or verification on the part of The Salvation Army. This was to form a basic view of the legitimacy of the allegations being made. In the early years I would also seek advice from Mike Ring QC and/or McElroys on the claim. But over time I would form my own view on the veracity of the claim, and, taking into account all the circumstances, decide on the probability that the events described did occur.
- (d) On behalf of The Salvation Army, I would then provide a formal response to the claim. If we considered it appropriate, the formal response would contain an offer of settlement and include a short form apology.
- (e) At times, there would be some back and forth on settlement terms. I pointed out to survivors that although I may not have the ability to fully investigate their claims or answer their questions, I attempted to be fair with each of them. If a settlement was ultimately reached, this would then be documented and a discharge signed.

- 6.6 Each of these stages are discussed further in the sections below. Obviously, there are instances where this process would not be strictly followed and so my description is generalised. For example, if a legal proceeding is filed, that may mean the resolution goes down a different pathway for a period while some of the legal issues are worked through. But, ultimately, we have tried to stick to this process as much as possible while maintaining some flexibility to address the individual circumstances of a particular person.
- 6.7 As The Salvation Army is a single entity, it has been possible for us to centralise our approach to claims in the way I have set out above. The fact I have been appointed to the role of managing such abuse claims within children's homes is well known within the Army. Thus, I have reasonable confidence that if such a claim is made to another Salvation Army officer or staff member it would be referred to me to progress and I would then adopt the above process.
- 6.8 We have not set out the above process in any formal manner either internally or externally; we have not published it. However, the process has been explained to both survivors and lawyers through time. So, for example, if a person has made direct contact with me, I have explained our process in detail including explaining our preference that we not discuss claim details by phone or email but look to arrange a face-to-face meeting. I have also set out this process in correspondence from time to time.<sup>10</sup>
- 6.9 We have had a website contact point from time to time through which it has been possible to make an enquiry about an abuse claim. I can't recall the exact dates of when this was in place. Since the establishment of this Royal Commission, we have also

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<sup>10</sup> An example of me setting out the process can be found in a letter to a survivor dated 1 February 2011 [TSA.1353.0001a] / [WITN0250012].

published contact details on our website for anyone who wished to contact us about abuse.

## 7. Description of the process

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### *First stage: approach by survivor*

- 7.1 In the initial period when claims were accelerating – 2003 – most approaches from survivors were either in writing to us e.g. a letter, or came via a phone call. These approaches were typically made directly by the survivor themselves. Sometimes a person would approach someone within the Army who they knew and that person would, in turn, refer the matter to me. As numbers of claims increased and certain legal advisors became more visible – including Cooper Legal and Grant Cameron – some survivors tended to group around the legal advisors and the first approach would often be in the form of a letter from the legal advisor on behalf of the survivor. While it is hard to provide a firm estimate, I would say that ultimately, approximately 50% of the claims that we have settled have come via lawyers, either Cooper Legal, Grant Cameron or others.
- 7.2 We have received approximately eight referrals via CLAS.<sup>11</sup>
- 7.3 Sometimes a claim was initiated by a legal proceeding, but this has been rare. We would often already be aware of the allegations before proceedings were issued but, for whatever reason, had not resolved the issue before the proceeding was issued.
- 7.4 Often part of the first contact would be a request for the person's file from their time in a home. We have never had any issue with

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<sup>11</sup> The Confidential Listening and Assistance Service (CLAS), was established by the Government in 2008 as an independent agency to provide assistance to people who had suffered abuse and neglect in State care before 1992. The Service was funded until April 2012. TSA received referrals from CLAS.

being asked to provide such files, and have always endeavoured to respond promptly. I have found that we could generally always find some records of the person's time in one of our homes, if they had been a resident. If a request was made, I would then action it with our Archives team, often ask our lawyers to review the file for personal information of others (so it that could be removed for compliance with privacy law) and then provide it to the person. I would often drop the file off to the person's lawyer in person, if they were in Wellington, or sometimes provide it to the person when I met with them (as described below). There has been the odd hiccup through time in finding files or in getting them delivered in a timely way but, in the vast majority of cases, this has not usually been a point of tension in our dealings with survivors.

- 7.5 Generally, we tried very hard to make sure redactions of information from a survivor's file was kept to a minimum, so as to ensure survivors received as much information as possible. We also aim to provide these files as quickly as possible and in less time than is required by the Privacy Act and sometimes in a matter of days, rather than weeks.

***Second stage: face-to-face meeting***

- 7.6 Our preference has been not to deal with the survivors over the phone or by ongoing exchange of only written correspondence, but to meet with each survivor face-to-face. We would request this occur at an early point in correspondence and most were very willing to do so. I have met all survivors with only very limited exceptions from the early days, when another TSA representative may have met with them.
- 7.7 There are two main reasons why we considered face-to-face meetings with the survivors an essential part of the process:

- (a) First, we felt it was more empathetic. We wanted to demonstrate that we would make the time to listen and that we wanted to listen. We funded our own attendance at meetings, and at times, the attendance of the survivor. I have travelled extensively around the country (and, on occasion, to Australia) to meet with survivors and their supporters. I have met many survivors in jail. This was all done at the Army's cost and on the Army's time. The interviews were held at a time and in a place that suited the survivor. The survivor was able to bring any level of support that they wanted to and often they did include their legal advisers or other support people. These meetings provided me with an opportunity to hear from the survivors and to understand what they had gone through first hand.
- (b) Second, we thought it was an important part of the verification process to meet in person and hear their story. We recorded these meetings (with consent). Early on I developed a list of questions that I used as a guideline or basis to obtain relevant information.<sup>12</sup> Using these questions as a guide enabled me to extract relevant factual information about the abuse, but also to understand the harm that had followed. My questions have not really changed through time. I still use this as a guide for the face-to-face meetings. I describe the topics I cover further below.

7.8 There have been periods when Cooper Legal has raised issues with some of our processes, including our requirement for me to have a face-to-face meeting with a survivor. Unfortunately, at times through the years, my relationship with those at Cooper Legal acting for survivors has been strained as a result of various robust discussions about various claims and my approach to

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<sup>12</sup> As noted above [TSA.917.19189] / [WITN0250005].

some of them. (I believe our overall relationship has been much better in recent years.)

- 7.9 In terms of meetings with survivors, we considered it vital that I personally held these meetings as I brought consistency to the process. We were running this same process not only for Cooper Legal clients but also with many other survivors. We did not want to replace me with someone else and I have never been made aware of any broader concerns about my role. Regrettably, I think this delayed resolution of some claims. But, ultimately, I did meet with the relevant survivors.
- 7.10 While I would lead the face-to-face meetings, I would, on occasion, be accompanied by a Salvation Army officer or other staff member or representative. I would try to ensure in advance that the survivor was comfortable with another person accompanying me, including whether they were comfortable with that person being an officer of the Salvation Army and/or in uniform. I appreciated that might be confronting.
- 7.11 I do acknowledge that the meeting process was difficult for some survivors to go through but I always tried to ensure that I, and anyone conducting the interview with me, was sensitive to the stress and other consequences that might accompany a face-to-face interview. These meetings could last for several hours. We never rushed. I always tried to be patient and listen. It was an opportunity for the survivors to put forward their story.
- 7.12 In several instances, this face-to-face meeting with me was the first time ever the survivor had spoken about the abuse they had suffered to anyone. For some (and for me) this was most traumatic, but in many cases, it seemed to lift a burden they had been carrying for a long time. My experience is that a number of survivors ultimately found the interview process to be a positive one, in the sense that it gave the survivors a chance to tell their



story and to relieve some of the emotion, anxiety and/or stress which might have built up over time.

7.13 In terms of formalities, I would introduce myself at the start of each meeting. I would explain my position in The Salvation Army; that is, I am not an officer, but a lay person (the term for an employee of The Salvation Army who is not an officer). I would advise that I was also not associated with the Church of The Salvation Army.

7.14 As I say above, interviews were recorded where the survivor consented to the interview being recorded. Most survivors consented to me recording the interview. A few did not consent in which case handwritten notes were taken by myself. A survivor would be advised that a copy would be provided following the interview. In the early stages of our dealings with claims, the interviews were transcribed and a copy of the transcript provided to the survivor (unless they indicated they did not want one). Ultimately, however, we stopped transcribing interviews but would provide an electronic copy of the interview recording to the survivor. On rare occasions there was gear failure, if for some reason the recorder did not work or failed to record proceedings. On a couple of occasions I was not permitted to enter a prison with a recording device (this was prearranged but sometimes the message didn't get through).

7.15 The topics that I tried to cover in the meetings covered were:

- (a) basic information relating to the survivor;
- (b) the home or homes in which they were resident and any details they could remember (how long they were there, whether they were there with other family members, why they were in the care of The Salvation Army);

- (c) identifying, where possible, people they could remember from the home, including officers, staff and other residents;
- (d) a request to describe the events/incidents that occurred and to identify those which were of the most effect. Survivors were asked to provide as much detail as possible regarding the incidents, provided they felt comfortable doing so; and
- (e) to describe the effect that the abuse had on their lives both then and now.

7.16 The guideline questions also prompted a discussion around the remedies available to the survivor and the remedies that The Salvation Army could be willing to offer.

7.17 The guideline questions were a useful tool to ensure that the sessions remained as focused as possible and to ensure that as much relevant information as possible could be captured.

***Third stage: investigation and verification of allegations made***

7.18 Following the face-to-face meeting, we would then conduct an internal investigation of the allegations. The investigation was not directed at proving the allegations to a certain legal standard. To the contrary, our starting point was to largely accept the allegations at face value, but to seek to verify or corroborate what was said.

7.19 In the early stages of the claims process, investigation and verification was somewhat difficult. For staff assisting with the claims process in 2003, the allegations were new and a number were very shocking. The Army had not previously had cause to be looking through its archives or looking back at history with the lens that was now required.

- 7.20 The initial focus of the verification process was determining whether we were satisfied that the person was in the home in which they alleged the abuse had occurred. A second level of focus was on verifying that, where a perpetrator was named (and a specific person was not always named), that the perpetrator was at the home when alleged. Those two items formed a basic but our most significant form of verification. The Salvation Army has relatively good records relating to residents and the posts of its officers and staff.
- 7.21 Those assisting with the claims process would often search through the files held at Archives relating to the homes run by The Salvation Army. From those files, we could confirm that the person was in the home they said and the dates.
- 7.22 Given the time that had lapsed between the alleged abuse occurring and our meetings with survivors, many could not recall certain things. At times the survivor would be asked to elaborate further on the environment at the home in which they were in. For example, on occasion I would ask them to describe the physical environment; that is, to describe the home; for example, its location and features. I would seek to obtain as much information as the person could remember. This was useful for verification purposes. I recall one occasion where a survivor drew a diagram of where the alleged abuse occurred.<sup>13</sup>
- 7.23 The verification process is an important aspect of the overall claims process for The Salvation Army. On occasion, there were concerns about the veracity of the allegations being made. A red flag might be absolutely no record of the person making the allegations ever being resident in The Salvation Army homes (including against the backdrop of generally good home records, including roll books/day records). There might be additional

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<sup>13</sup> See a diagram from a survivor at [TSA.1409.0060] / [WITN0250013].

layers of inconsistencies on top of that. For example, the person might in no way be able to recall or describe the environment in which they were resident. They might not be able to recall any details of other residents or staff members at the homes.

7.24 Regrettably, our concerns about needing to undertake some checking and testing of allegations being made were heightened due to a prison inmate approaching us in about 2004. His name was GRO-B. He advised that a number of prison inmates were aware of the allegations being made against The Salvation Army and that a number of inmates were essentially attempting to piggy-back off a legitimate survivor by repeating that survivor's story. Those prison inmates had been made aware that the Salvation Army was open to settling claims and often that those settlements involved a payment in money. I was very concerned about the allegations that this person made, and naturally wanted as much detail as possible from him. I had always attempted to be as accommodating as possible to all persons bringing claims to us, including those who lacked detail or clarity around the events described. In these circumstances, I found it most disconcerting that any individual would seek to piggyback off the genuine pain and suffering of others. Such attempts could jeopardize our whole process and was disrespectful to survivors. I received another allegation that prisoners were making false claims to the Army from a prisoner in 2009.

7.25 It is for this reason that often when The Salvation Army was approached by a person who could provide very few details of their time in a home, we would need to seek further information and, if a request to meet face-to-face was declined, repeat the request to meet.

7.26 Another example of a verification process extending beyond The Salvation Army's records was in respect of a person who made

allegations of electroconvulsive therapy as a child. This allegation was unlike any other allegation which had been made previously. We considered that a more substantial investigation was warranted. I was able to locate the anaesthetist who had worked at the hospital at the relevant location at the time. That anaesthetist had been responsible for the sedation of electric shock therapy patients. He was able to categorically confirm that electroconvulsive therapy had not been performed on any person under the age of 18 years of age.

- 7.27 As the claims process evolved, it became somewhat easier to verify allegations. As noted above, initially the claims which we were dealing with were relatively new. That is, both the resident and the home would be new to us with the claim in the sense that we had not previously had cause to look at the details of the home, its features or environment. As the number of survivors and allegations increased it became easier to verify what was being said. For example, to the extent that there were allegations about the Temuka Children's Home and Mr Gainsford, we already had a foundational understanding about what had taken place at that home.
- 7.28 It is important to stress again that while we did seek to verify allegations, we did not do so in order to disprove allegations. The focus was on finding records that were confirmatory of what the survivor had said. And, The Salvation Army itself often went to some lengths to try to find information to confirm a particular survivor was at a particular home and at the time alleged.
- 7.29 We sometimes requested medical records and other material but this has become less frequent through time. I would now query whether information of this nature, really fundamentally, changed our view or our response to survivors and I appreciate that collating such information is often not straight forward. In the early days it was more relevant to understanding survivor's

dealings with ACC and in regard to limitation periods but, as I note above, we have moved away from reliance on those matters through time.

- 7.30 As I also note above we have also, on occasion used an investigator to help collate and find information. This work provided useful background material but, once again, I would now query whether the sort of information collated fundamentally changed our view on many occasions.
- 7.31 As part of our process we would also speak to persons who were at the home at the time of the relevant alleged abuse and also to persons identified as alleged perpetrators of abuse. I discuss this further separately below.

***Fourth stage: formulating a response and the question of compensation***

- 7.32 Following the interview process and our verification process, we would compose a formal response. Where the person was legally represented, the letter would be directed to the legal adviser. Where the person was essentially representing themselves, it would be sent to them directly, but with the language modified to reflect the absence of a legal adviser. As I note above, I sometimes involved Mike Ring and/or McElroys in helping me prepare these letters but with the passage of time, I have tended to send all of these myself.
- 7.33 In responding to claims, and where we were satisfied there was a sufficient basis to the allegations made, The Salvation Army's focus was then on the meaningful and positive ways in which it could support survivors. Some key considerations were:
- (a) Whether The Salvation Army could provide access to support or counselling. This could include reimbursing a survivor for existing counselling expenses that they had

incurred. It might also, and regularly did, include payment for future counselling services.

- (b) Whether The Salvation Army could provide an apology. An apology was offered in many of our response letters. Where a survivor wanted a more formal written apology, including where they requested that it be signed by a particular person, then The Army would endeavour to arrange that. For example, one survivor requested the apology be from the Chief Secretary, and we were happy to oblige.<sup>14</sup>
- (c) What level of monetary compensation could and should be offered to assist the survivor.

7.34 Responses to claims were individually tailored. Mike Ring and I spent considerable time composing suitable and appropriate sentences and paragraphs for particular survivors but, through time, these have been adapted to meet similar circumstances. Some phrasing we have used for over fifteen years and there were frequently common themes to each response.<sup>15</sup>

- (a) The letter would generally record that, at face value, you (the survivor) have alleged some form of historical abuse whether sexual, physical or psychological.
- (b) Letters contained an unreserved apology for the pain and suffering the survivor had endured. The letters may acknowledge the hurt caused by that suffering. As noted above, the letter might also, where requested, be

<sup>14</sup> See for example the reference to the provision of a handwritten apology being provided in a letter to a survivor dated 31 May 2004 [TSA.014.0036] / [WITN0250014].

<sup>15</sup> See example letters referred to above: letter to survivor dated 12 January 2004 [TSA.019.0046] / [WITN0250007]; letter to survivor dated 26 February 2004 [TSA.032.0017] / [WITN0250008]; letter to survivor dated 15 March 2007 [TSA.101.0065] / [WITN0250009]; letter to survivor dated 1 July 2014 [TSA.026.0002] / [WITN0250010]; letter to survivor dated 5 December 2017 [TSA.021.0022] / [WITN0250011].

accompanied by a separate, formal written apology.<sup>16</sup> And, on several occasions, particularly in circumstance of serious abuse, I have delivered our response letter and apology in person.

- (c) We would record whether The Salvation Army had had the opportunity to investigate the claim or not and the outcome of those investigations. If The Salvation Army had not been in a position to investigate or verify the allegations, we would record that we had no reason to disbelieve anything that the survivor was saying but that The Salvation Army was not in a position to verify the allegations.
- (d) As I've discussed above, until it was entirely removed, the letter would often note that there were likely to be legal issues with any claim advanced by the survivor but our preference was to deal with claims in a non-legalistic way.
- (e) We would present a proposed settlement in the form of compensation. The offer would depend on the survivor's circumstances. This is discussed further below.
- (f) We would request that, as part of the overall settlement, the survivor sign a discharge. This is discussed further below.
- (g) Where the survivor was unrepresented, we would strongly recommend that the survivor seek legal advice. If I met the person for a second time to discuss our response (and that was reasonably common), I would reiterate that they should gain advice on what I was offering and, on some occasions, agreed to fund the advice for the survivor. Even where the

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<sup>16</sup> See by way of example of standalone apologies: letter to survivor dated 21 January 2010 [TSA.1409.0057] / [WITN0250015]; letter to survivor dated 11 May 2017 [TSA.031.0007] / [WITN0250016].



person was represented, we would strongly recommend they consult with their lawyer before accepting our offer.

***Offer of compensation***

7.35 Each letter set out the basis on which The Salvation Army was prepared to make an offer of compensation. There were a number of factors which fed into my consideration of that, including:

- (a) the individual circumstances of the survivor;
- (b) some legal considerations; and
- (c) equity/parity between survivors.

I discuss each of these aspects further below.

7.36 More generally, I do acknowledge that a wider “commercial” consideration would also be in the mix in considering a settlement proposal, most significantly, the likelihood of litigation and the prospects of a settlement avoiding that cost. This sort of consideration I think likely played more heavily in my mind in the earlier years when our overall approach was still taking shape. But, today, I really am much more focused on the above three factors. This is because our long history of claims settlement provides a strong platform for me to reach a view on a reasonable settlement that achieves healing for the survivor in all of the circumstances without really needing to turn my mind to what might be needed to avoid litigation.

*The circumstances of the survivor*

7.37 At a general level there were three considerations from the claimant’s point of view that we always considered:

- (a) what the survivor was asking for;

- (b) what the survivor might need; and
- (c) their overall circumstances.

7.38 The abuse which a survivor suffered was an important factor in determining the level of redress but I always tried to look at the overall circumstances of the survivor and how I could help in a meaningful way regardless of the severity of the abuse. I was also very alert to tailored solutions where we could help. Examples that come to mind include: assisting GRO-B with a family meeting; assisting GRO-B with tattoo removal; assisting GRO-B with ancestry research in Rotorua; and assisting a family with the purchase of a headstone.

7.39 Consistent with the above, compensation might be offered on one of two bases:

- (a) Unallocated compensation; that is compensation which did not have any purpose attached to it but was simply a sum available to the survivor to do with what they wish.
- (b) Allocated compensation; that is, compensation directed to a particular purpose. This was typically where the survivor had identified a particular need (e.g. accommodation or reimbursement of past costs). The compensation would be referable to that circumstance.

7.40 We also thought that a full and final settlement approach was best providing certainty for each party. If an offer were made for additional benefits such as counselling, we would try to represent this by adding it to the total payment. Although we often mentioned what the additional funds were for, we would often also say that it was still ultimately up to the survivors to decide what they did with the money.

7.41 I have sometimes looked to the expectations of other survivors' legal advice to establish an appropriate settlement figure for other survivors. I have always tried to look at the survivor's overall position and, as a result, I have at times probably settled for higher sums for those in dire circumstances.

*Legal considerations*

7.42 As noted above, The Salvation Army determined not to take an overly legalistic approach to the claims it received. However, that is not to say that there were not occasions on which legal advice assisted us in formulating a response to claims made. In particular, advice relating to compensation amounts that had been paid or ordered by a court in referable contexts assisted us with putting some parameters around the level of compensation that The Salvation Army should be willing to offer survivors.

7.43 In general terms, I understood that there were three potentially relevant categories of damages for claims in tort: ordinary compensatory damages, aggravated damages and exemplary damages. Given the operation of our ACC scheme in New Zealand, however, there would often be no legal basis for compensatory or aggravated damages to be paid because the harm that the claimant had suffered was a personal injury, covered by ACC. Exemplary damages were therefore the only common law remedy potentially available to survivors.

7.44 In relation to the approach of the New Zealand Courts in respect of exemplary damages, the guidance we received was that in the early 2000s there had been no awards greater than \$50,000. The Courts tended to approach damages in emotional relief cases in a constrained, cautious and modest way. There were similar comments in relation to the maximum types of damages you would expect to receive in a punitive damages case. This legal analysis and comparison to other contexts provided us with

some guidance on appropriate levels at which to offer compensation to survivors. As noted, this is not to say we considered (or admitted) that the Army would be liable for such sums if a strict legal approach had been adopted but it gave a sense for what a fair payment might be in a voluntary settlement situation.

- 7.45 While the \$50,000 sum therefore operated as something of an upper limit initially, the senior leadership of The Salvation Army did not impose any limits or caps on the amount at which a claim could be settled. This was left to myself to assess, sometimes in conjunction with the Army's legal advisers. Some claims have been settled above \$50,000.
- 7.46 As a matter of formality, I note that our internal processes require two persons to sign off on payments of this nature. In addition to me, the persons with authority to sign off were the Secretary for Personnel, the Chief Secretary and the Territorial Commander. Thus, while formal approval was required to "draw the cheque" on a settlement, I did not otherwise need to seek sign off from leadership. I did also provide annual estimated budgets that may also have made allowances for possible future settlements but I can't recall any questions ever being raised about that.
- 7.47 I don't wish to leave the impression that the Army is "happy" to pay such sums or is happy with the level. It is fair to say that, especially in the early- mid 2000s, there was some reluctance by some people within the Army to pay compensation. There have been times when certain Officers and even senior leadership were more skeptical of the process and the demands of survivors. In my view, these views were formed from:
- (a) A lack of understanding that abuse occurred in the first place and the effects of that abuse on people;

- (b) The view of some as to whether money could really ever compensate for the harm caused; and
- (c) The view of some that if we did not have strict legal liability then perhaps we should not be exposing ourselves to this financial cost moving forward.

7.48 Not everyone has had the same level of understanding of the issues through time. I understand Colonel Gerry Walker will briefly outline the Army's "general change" protocol and so there is frequent change in leadership through time and different priorities and perspectives are natural. (In my time at TSA I have worked under seven different Territorial Commanders and eight Chief Secretaries.) I was never restricted in reaching settlements at levels I considered appropriate – our process has endured through all leadership changes – but, I would acknowledge that, at times, the fact that some people may frown upon higher settlement sums may have weighed on me. However, I always did my best to respect survivors as best I could and to retain parity as best I could.

7.49 Certainly over the last decade, I think there has been a wider acceptance of our approach within the organisation. Settlement sums are agreed that take into account the particular circumstances of the survivor. I believe the wider benefits to survivors of assisting them by way of a financial payment to move forward with their lives has been acknowledged within the Army.

7.50 While the Army is (naturally) concerned about the financial costs of settlements – and the risk of future claims emerging – my perspective is that the organisation can see the wider value in taking an approach that has included the provision of some financial compensation. For many people, the only real tangible expression of acknowledging wrongs of the past is compensation. Taking this into account, in most cases, we have

attempted to make settlement meaningful and, in some cases, making a real difference in a survivor's life.

*Equity/parity*

- 7.51 A final layer to tailoring compensation was ensuring that there was a level of equity between the survivors and the sums that they were receiving in response to their claims.
- 7.52 While all levels of abuse were difficult to comprehend, the alleged abuse could be placed along a spectrum. For example, allegations of repeated sexual abuse over a prolonged period might be more properly placed at the upper end of the spectrum. To illustrate, those survivors who made allegations in respect of Mr Gainsford, were more likely to be at the extreme end of abuse suffered. That in no way, is meant to downplay other forms of abuse, including both physical and psychological abuse. However, a view was taken that sexual abuse over a period tended to have a significant impact on the survivor. The Salvation Army acknowledges however that sustained physical and psychological abuse was, on occasion, difficult to set apart from some sexual abuse. Together with our legal advisers we attempted to take an overall view of the abuse alleged and attempted to achieve relativity with what was known to date and the existing settlements at that point in time.
- 7.53 As I noted above, many of the survivors were represented by lawyers who had engaged with us on other claims and, I understand, had also likely had involvement with other organisations. I have taken some comfort that those lawyers would also have had an eye on parity with other settlements. In fact, lawyers would often tell us what they considered to be comparable and I would take that into account in reaching my view.

- 7.54 Financial settlements have generally ranged from \$5,000 to \$85,000, but with at least one exception of either side of this range.
- 7.55 For completeness, I note that some claims which were settled have been reopened in light of extenuating circumstances which became known following a settlement being reached. The most significant examples are some women who had made claims related to the abuse they suffered at the hands of Mr Gainsford. While those original settlements were at the upper end of the scale of settlements reached by the Salvation Army at the time, those amounts were revisited and raised following his convictions.
- 7.56 In reaching settlement sums:
- (a) We have not had a formal matrix approach or other formal criteria over and above what I have described above. Our approach has evolved through experience.
  - (b) We have made payments completely independently from claims the survivor may have made on other organisations. That is, we have not taken into account other payments a person may have received from ACC, the state or elsewhere. This includes case in which a person may have been in a Salvation Army home as a state ward and where they may also have sought compensation from the Crown. This has just not been a relevant factor for us.
- 7.57 The Scoping Document says that the Commission will investigate whether the criteria for monetary and non-monetary redress has been applied consistently and transparently. As I say, we do not have a formal set of criteria for monetary settlements and we have not published these. We like to address the whole person and their circumstances. We have been accountable in the ways

I have outlined above e.g. through experience, legal advice and recommendations, attempts at parity and by having the benefit of regular engagement with some lawyers who have worked on many of these types of claims.

7.58 I have reflected on the settlements through time as part of preparing for this Royal Commission. While I have not spent a great deal of time analysing each settlement retrospectively, reflecting on matters in the round, I have not identified any material trends or inconsistencies in my approach that I would now query. I have tried to settle claims efficiently and all by agreement. We have paid settlement sums quickly and sought not to unduly retraumatise survivors through delay. I like to think there is also some intrinsic value to this approach.

7.59 I am clear in my own mind as to how and why each settlement was reached at the time. The complexity of allegations and the nature of each person's circumstances and the effect the abuse has had on them, makes comparisons very difficult. My own personal view is that having a hard and fast matrix also feels somewhat impersonal. But, I acknowledge that some errors of judgment or assessment may be expected in some cases. I truly believe that there nothing that I or TSA has done that is irreversible if we were called upon to reconsider any particular issues.

***Fifth stage: finalising settlements and discharge***

7.60 Each response to a survivor was accompanied by a document called a "discharge". The discharge document was fairly simple. It indicated that on "x date" a payment of "x amount" would be paid to a bank account nominated by the survivor. It would record that the parties had agreed to bear their own costs associated with the settlement and discharge of the claim (except where separate arrangements had been agreed). The discharge



noted the terms of the settlement and discharge were confidential but only to the extent that the survivor wanted them to be confidential. We have never insisted on a confidentiality agreement. The discharge also noted that the discharge was in full and final settlement of the claim advanced by the survivor.<sup>17</sup>

- 7.61 If the survivor was unrepresented at the time of The Salvation Army's response, we strongly recommended that the clamant seek legal advice before accepting the level of compensation and signing the discharge. Similarly, if an offer was made immediately after an interview and the survivor's lawyer was not around, I urged them to call their lawyer.
- 7.62 The Salvation Army did not insist on making its settlements with the survivors confidential. It was important to us that the survivors be given the opportunity to speak about their experiences and the overall claim process and their dealings with The Salvation Army. That said, we recognised that the survivors themselves might want to keep their particular circumstances and their interactions with the Army confidential. It is for this reason that the confidentiality clause permitted the survivor to disclose the settlement arrangements.

## 8. Internal investigations

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- 8.1 I noted above that part of our verification process may have included speaking to persons against whom abuse was alleged. I was involved in some of these interviews – probably about eight or nine through time – but, more widely, it has not been part of my role to be involved in the discipline of Salvation Army staff or officers. I also note that given the historical nature of the allegations and that our children's homes were closed in the

<sup>17</sup> Examples of discharges used through time include: discharge of survivor dated October 2004 [TSA.037.0024] / [WITN0250017]; discharge of survivor dated October 2009 [TSA.917.04420] / [WITN0250018]; discharge of survivor dated October 2009 [TSA.917.05189] / [WITN0250019]; discharge of survivor dated April 2019 [TSA.036.0006] / [WITN0250020].

1980s, often persons who were alleged to have engaged in the abuse were either no longer in our employment, had retired as an officer, were very elderly or were deceased.

8.2 Where allegations made amounted to allegations of possible criminal conduct our process was to encourage the survivor to contact the Police and report the allegations. We told claimants that the Army would cooperate fully with the Police if such a complaint was made. However, we did not approach the Police separately in light of allegations advanced by a survivor. We took the view that it was not for us to take it upon ourselves to make a complaint to the Police in relation to historical abuse claims, particularly where the matters were of a very sensitive nature. I believed this was consistent with our strict legal obligations too i.e. that we were not required to make a Police complaint in relation to historical claims of abuse.

8.3 I am aware that a number of complainants did approach the Police. I have been involved in assisting to respond to enquiries from the Police through time about various alleged perpetrators.

8.4 I understand that for some survivors, the treatment and follow up with a perpetrator is of particular concern to that person. This was sometimes raised with me by survivors. For example, I have explained to several survivors that [[Allan Galley]] is deceased and that John Gainsford or Ray Vince had been to prison for their crimes of abuse. I would always seek to provide any information I could about what had happened to a perpetrator.

## 9. **Other matters**

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9.1 The Scoping Document for this hearing includes other topics for inclusion in the redress hearing that I have not touched on above. I deal with these matters briefly now.

- (a) Consistency of our redresses processes with applicable human rights principles.

I do not recall us having specifically sought to obtain advice on or tailor our approach to redress to address applicable human rights principles. I would hope that our process has been fair and open to all. We have sought to address claims promptly, thoroughly and effectively. While we have run the process “in-house”, as I note above, as a civilian or lay employee (and not an officer, soldier or otherwise affiliated with the Church of The Salvation Army) I do bring a level of separation between officers of the TSA and survivors.

I also note that since 1999, our Sexual Misconduct Policies and Complaints Procedures Manual has incorporated the Human Rights Act 1993 in the context of investigating a complaint.

- (b) Extent to which the principles of Te Tiriti o Waitangi / the Treaty of Waitangi and tikanga Māori are incorporated into our redress processes

I do not recall us having specifically sought to obtain advice on or tailor our approach to redress to specifically address the principles of the Treaty of Waitangi. But I do recall a claim in which there was an allegation of a loss of cultural identity. I had not had a complaint of that nature before and as it was not something I was familiar with I wondered if I could adequately address the concerns being raised. So, when I went to meet this person (in Melbourne), I took Tau Matakī (a Māori TSA cadet) with me. The person subsequently emailed expressing his surprise and

appreciation for having a Māori TSA representative there.<sup>18</sup> Thus, I would like to think I have been sensitive to such issues and that we, as an organisation, would continue to be so in future.

(c) Total costs in settlement and in legal expenses.

I have estimated that from 2003 to date, The Salvation Army has paid about \$5 million to survivors in settling historic abuse claims including lump sum compensation payments, financial contributions toward other matters (e.g. counselling costs) and contributions toward survivor legal fees. I estimate the costs involved in me travelling to meet survivors (and in other incidental claims handling administrative costs) from 2003 would be in the order of \$185,000. (This does not include an allocation toward salary.) I estimate we have incurred legal fees of our own in relation to claims matters in the order of a further \$1.1 million.

I am frequently asked where the funding comes from to deal with abuse claims. The Salvation Army receives income from a variety of sources and for a variety of purposes. We have strong accounting policies and systems in place to ensure that these funds are appropriately allocated to, and used for the purpose for which they were given. One source of income we receive is a return from the investment of excess funds. It is these untagged funds that have been used to fund the costs of settlement of abuse claims.

## 10. Redress in other contexts

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10.1 As I have emphasised above, my involvement in claims redress has been mainly focused on claims of historical abuse in a

<sup>18</sup> See email chain of 2014 with survivor [TSA.915.0142] / [WITN0250021].

children's homes context. However, given my experience in that role, I have also been asked to, and have, assisted in some other contexts too.

- 10.1 Some of those about which I have some knowledge:
- (a) Have arisen in what The Salvation Army refers to as a "corps" context. That is our phrasing for a church and there are some claims related to conduct of TSA soldiers (i.e. churchgoers) or officers arising from a wider church context where it may be said those persons were in care.
  - (b) Have arisen in the context of our Bridge Programmes (being an alcohol and drug treatment service) or other residential adult care situations where, again, it may be said the persons were in care.
- 10.2 However, as compared to children's homes, to the best of my knowledge such claims are relatively rare. Outside of children's homes, I am only aware of less than 10 claims which have been settled with financial payments in relation to claims of abuse in the 1950 – 1999 period and only approximately 36 claims that may fall into this category overall. I may not necessarily know of all such claims or settlements – and particularly if they occurred before the year 2000 – but I have made extensive enquiries for the purposes of this Royal Commission and this is the extent of my knowledge.
- 10.3 In terms of how such claims are handled, my observation is they are dealt with in a less structured way than how I have described the process we follow in relation to claims relating to historical abuse in children's homes. This is partly because we do not have a central place for such claims to be directed, unlike how things have developed in a children's home context where it is well known that such claims are referred to me. However:

- (a) because of my background and role, it has sometimes been the case that claims of abuse in other contexts will still make their way to me either for me to be used as a sounding board for how it is being handled or for me to then pick up and manage;
- (b) in instances where the claim is against a current serving officer or soldier, the Secretary for Personnel will be involved given it may also involve a disciplinary matter. In turn the Secretary for Personnel may also involve me in the matter.

10.4 I should note that the lack of process in relation to other historical claims is partly because the contexts and allegations are often more complex than the children's homes contexts and because, as I note, the claims are relatively infrequent. (To be clear, we do have a more formal process in relation to current claims of abuse through our various policies.) But, when such claims have made their way to me, I have tried to follow a process similar to the stages I have set out above including placing significant importance on a face to face meeting where that is possible. Any settlements I have been involved in have also been very similar in terms of the matters I consider in determining what form of response the Army should consider offering.

## **11. Conclusion**

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11.1 I make the following final concluding comments.

11.2 In 2003, it became apparent that a number of survivors were also state wards. We did work with CYF in these early periods to some extent but not in a formal way or in a way that impacted the way we chose to go about addressing the claims we were facing. As I note above, whether or not a person had also obtained compensation from the state was not factored into our

assessment. I am now aware through evidence filed for the state redress hearing that there was some sort of CYF investigation and/or unit established into the possible impact of claims against The Salvation Army. To my knowledge TSA did not contribute to this investigation.

- 11.3 As I said at the start of my evidence, the Army is open to suggestions and recommendations as to how it may continue to improve its processes.
- (a) We could consider publishing our process, as I have described much of it in this statement, more prominently e.g. on our website and elsewhere. We could consider what more we could do to make the process better known and accessible to Māori, Pacific people, and people with disabilities, mental illness and other vulnerable groups.
  - (b) We could consider developing a more formal claims matrix. I personally feel this may risk making claim resolution less personal and tailored but I am aware this has been looked at in other contexts and it is something for possible consideration.
  - (c) Another option may be to have a second person more actively involved in assessing and agreeing with my proposed offer of compensation. However, one of the great benefits of our approach to date has been its speed and the fact we channel financial resources toward settlement and not legal and other costs. I would be concerned the risks of slowing down claims resolution if too many additional steps and checks are included.
  - (d) I have commented on the work I have commenced in reviewing claims that were previously declined. I would be open to suggestions as to how this work could be further

progressed or enhanced. It is not necessarily straightforward to first locate and then approach someone about these matters, including as that person may well have moved on with their life. Similar considerations may apply to persons who made a claim but is now deceased. Reopening the claim with an estate when a significant amount of time may have passed may not be straightforward.

- (e) I have considered if there is more we can do to assist in access to files. We could consider digitalizing children's home files but doing this for all such files may be disproportionate for us as compared to the number of children who may seek access to such files. The number of children we had in our care through time was many thousands. Also, and I appreciate there are exceptions, I believe we have generally been able to respond to requests for files in a reasonably short space of time. We also already endeavour to keep redactions to an absolute minimum.
- (f) We already have policies and training for officers and staff regarding child protection and in responding to abuse claims but we can continue to review and update these policies and training to incorporate key learnings from this Royal Commission (and not only waiting until its conclusion).

### **Statement of Truth**

This statement is true to the best of my knowledge and belief and was made by me knowing that it may be used as evidence by the Royal Commission of Inquiry into Abuse in Care.



Signed: \_\_\_\_\_  
Murray Houston

Dated: \_\_\_\_\_