

Our reference: #2138504

The Hon Jarrod Bleijie, MP
Attorney-General and Minister for Justice
Level 18, State Law Building
50 Ann Street
BRISBANE Q 4000

Dear Mr Attorney,

I write in relation to the Order in Council, *Commissions of Inquiry Order (No. 1) 2012*, that was made by the Governor-in-Council on 28 June 2012, appointing me to make full and careful inquiry into certain matters.

One of the terms of reference in the Order in Council, 3(e), refers to:

- e) reviewing the adequacy and appropriateness of any response of, and action taken by, government to allegations, including any allegations of criminal conduct associated with government responses, into historic child sexual abuse in youth detention centres.

Senior Counsel Assisting and some of the parties with authority to appear contend that the incorporation of the words “into historic child sexual abuse in youth detention centres” in 3(e) is a jurisdictional precondition to the making of any findings about “government responses”.

The practical effect of this, so those parties say, is to prevent me from continuing to hear evidence, or make findings about related facts or circumstances, unless I am able to confidently conclude that there was “historic child sexual abuse”.

To help resolve the jurisdictional issue, the parties were directed to file written outlines of submissions as to the construction of term of reference 3(e). Oral arguments were heard on 14 March 2013 about what 3(e) could and should be interpreted to mean for the further consideration of matters arising from the evidence.

The transcript of proceedings recording the competing considerations and constructions concerning the scope of 3(e) is attached for your information.

I am yet to form a definitive view or make a decisive ruling on these submissions.

However, as I read and understand it, the purpose of term of reference 3(e) is to allow me to examine allegations of child sexual abuse (believed to arise from or be associated with an industrial dispute at the John Oxley Youth Centre in 1989) and any related action by or response of executive government in 1990.

The evidence presented by the Counsel Assisting, as well as the questioning and submissions by the other parties with authority to appear, point in this direction, and reveal a common understanding of the subject matter to be inquired into under 3(e). No party with authority to appear has submitted to me that 3(e) refers to any different subject matter.

To date the Commission has heard from 135 witnesses and admitted 348 exhibits relating to term of reference 3(e).

However, I do not believe that it is prudent to continue to consider matters that might be said or expected to fall within 3(e) without putting the question of the Commission's jurisdiction beyond doubt.

One of the parties with authority to appear has submitted that I ought, in resolving construction and jurisdictional concerns, seek clarification of the language in term of reference 3(e), to make it clear that I am to examine (and make findings about) those matters clearly falling within the current wording of 3(e), as well as any other matters that have been the subject of evidence but which may not be unambiguously linked to allegations of "historic child sexual abuse".

To this end, I request that you recommend to Her Excellency the Governor a recasting or refinement of the *Commissions of Inquiry Order (No. 1) 2012*, so that term of reference 3(e) reads:

... to make full and careful inquiry in an open and independent manner of Queensland's child protection system, with respect to:

- e) reviewing the adequacy and appropriateness of any response of, and action taken by, the executive government between 1 January 1988 and 30 December 1990 in relation to allegations (including any allegations of criminal conduct) associated with:
 - (i) child sexual abuse in youth detention centres, or like facilities; and/or
 - (ii) investigations or inquiries into industrial disputes in youth detention centres, or like facilities.

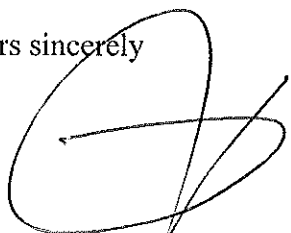
Expressing 3(e) in this way would allow me to fully consider the totality of the subject matter that appears to lie at the heart of 3(e) and to make relevant findings of fact without fear of the Inquiry being thought to be 'off course'.

I would ask that you give early consideration to this recommendation and provide advice to Her Excellency as soon as possible so that I can proceed accordingly without delay.

Notably, the suggested modification to 3(e) will not increase the cost or length of the Inquiry.

I am, of course, available to discuss this matter should you wish.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'T' followed by a cursive 'C' and a long horizontal stroke extending to the right.

The Hon Tim Carmody SC
Commissioner
Queensland Child Protection Commission of Inquiry

18 / 03 / 2013