

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950
 COMMISSIONS OF INQUIRY ORDER (No. 1) 2012
 QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

OUTLINE OF SUBMISSIONS ON BEHALF OF RUTH MATCHETT CONCERNING SCOPE OF PARAGRAPH
 3 (e) OF THE TERMS OF REFERENCE

1. Paragraph 3 (e) of the Commission's terms of reference is one not two separate concepts.
2. It requires the Commission to review the adequacy and appropriateness of government responses and actions provided these responses and actions are in response to allegations of child sexual abuse in youth detention centres.
3. It is an appropriate exercise of the jurisdiction to consider the evidence available to determine whether government action discussed in that evidence comes within the terms of reference.
4. In respect of allegations concerning the review by Mr. Heiner, if the evidence discloses that the government action dealt with in that evidence did not relate to allegations of child sexual abuse in youth detention centres, then it follows that the jurisdiction does not extend.
5. Once that preliminary determination is made, the Inquiry has no power make findings or, otherwise, deal with those matters.

Evidence before the Commission as to the Contents of the Heiner Review Documents

6. On the evidence placed before the Commission, the terms of reference¹ given to Mr Heiner did not require an investigation into child sexual abuse and no discussions had with him prior to the Inquiry's commencement raised this issue.
7. None of the original letters of complaint² provided by the Union contained child sexual abuse allegations.
8. Ms. Matchett gave evidence that Mr Heiner did not, at any stage, indicate that child sexual abuse allegations had been made to him in the course of his inquiry³. Ms. Flynn, who was present when Mr. Heiner met with staff, was clear in her evidence that no allegations of sexual abuse were raised during the review.⁴

¹ See exhibit 83

² See letters contained within exhibit 72

³ See evidence of Ruth Matchett 23:83, line 20

⁴ See evidence of Barbara Flynn 4:36, lines 40-50

QCPCI 3 (e)

Date: 14.3.2013

Exhibit number: 338

9. Once the Heiner material was delivered to Ms Matchett, it was sealed and not viewed by her.⁵ On the state of the evidence, no person viewed the contents of the box until they were viewed by the State Archivist and her assistant for the purpose of assessing whether the documents needed to be retained. On the Archivist's evidence, there was no mention of any sexual abuse in the material.⁶
10. Only two witnesses raise the topic of child sexual abuse in youth detention centres as potentially having been placed before Mr Heiner.
11. Frederick John Feige's evidence was that he was told by a fellow youth worker at the centre, Mr Owens (now deceased), that, when he was to appear before Mr Heiner, he intended to tell him about staff collaborating in drafting their statements regarding the Annette Harding matter.⁷
12. Mr. Feige's oral evidence seemed to support that this was to highlight that youth workers and non-youth workers were being treated differently by management rather than any discussion of the sexual abuse incident, itself.⁸
13. Importantly, Mr. Feige never had a discussion with Mr. Owens to confirm he had provided this evidence to Mr. Heiner. Accordingly, at its highest, this evidence goes to an intended course of action with no supporting evidence that the intention was carried out, apart from the circumstance that Mr. Feige did attend upon Mr. Heiner.
14. Michael Roch is the other witness who raises a potential for evidence of child sexual abuse to have been placed before Mr. Heiner.
15. On his own admission, Mr. Roch's memory was significantly affected by a stroke in 2007.⁹ At the time of giving evidence before the Commission, he had 'no recall' of what was said¹⁰ when he appeared before Mr. Heiner. He assumed that he spoke to Mr. Heiner about Annette Harding but agreed that he knew very little such that, even if asked, he would not have had much to say.¹¹ On further examination from Mr. Copley SC, Mr. Roch agreed that he never raised the topic of Annette Harding with Mr Heiner.¹²
16. Later, when presented with a suggestion that he had up to three conversations with a Courier Mail journalist, Bruce Grundy, concerning the Annette Harding matter shortly before the publication of an article by Mr. Grundy which quoted a 'former youth centre worker'

⁵ See evidence of Ruth Matchett 23:34, lines 15-25

⁶ See evidence of Lesley McGregor 20:70, lines 10-25

⁷ See evidence of Frederick John Feige 7:60, lines 10-20; 7:61, line 40

⁸ See evidence of Frederick John Feige 7:61, line 25-30

⁹ See evidence of Michael Roch 11:3, line 10

¹⁰ See evidence of Michael Roch 11:12, line 20

¹¹ See evidence of Michael Roch 11:16, lines 25-35

¹² See evidence of Michael Roch 11:19, lines 25-30

claiming that the rape was raised by Heiner in the inquiry, Mr. Roch agreed that he must have spoken to Mr. Heiner about that matter.¹³

17. It is our submission that this evidence cannot be accepted as reliable.
18. Mr. Roch presents as a classically unreliable witness. This can be seen by his evidence as to whether he had spoken to Mr. Heiner about Annette Harding. He would say one thing but then agree to suggestions put to him that contradicted the evidence previously given. The unreliability is particularly cogent in the context of his not having any independent recollection of the incidents themselves.

Submissions on the Evidence

19. On balance, it is submitted that the Commission would be satisfied that no evidence of child sexual abuse was placed before Mr Heiner. The Commission can base such a conclusion upon Ms. Matchett's evidence of her conversations with Mr Heiner where he did not raise anything related to child sexual abuse as having arisen from his inquiry. The Commission can also rely on Ms. Flynn's evidence as to what was said by witnesses to Mr. Heiner. Further, the Commission may rely on the evidence of the archivists that they did not identify any such material when reviewing the documents prior to the documents being destroyed.
20. As a consequence, it is submitted that the Commission has no authority to proceed further to consider the adequacy and appropriateness of the government's actions or any action taken by our client in relation to the documents that were produced as a result of the Heiner inquiry.

Further Evidence from Members of Cabinet

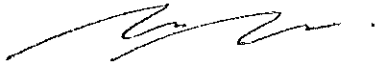
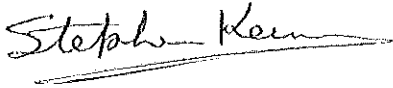
21. We make no substantive submission on the question raised as to whether the Commission need hear from all members of Cabinet. This is not an issue calculated to affect the rights of our client in any way.
22. We would observe that it follows from our above submission that the evidence suggests that there is no proper basis for seeking further evidence in respect of the Heiner materials.

Request for Notice of Potential Adverse Findings

23. Should the Commission determine the evidence does allow for further consideration by the Commission of events surrounding the ending of the Heiner Review under paragraph 3 (e) of the terms of reference, we would seek, on behalf of our client, to be advised of any potential

¹³ See evidence of Michael Roch 11:24, line 35

adverse findings or conclusions where the testimony of another witness is to preferred over our client's evidence. The purpose of the request is to allow our client to make specific submissions on any such issue arising.



Stephen Keim SC

Kate Juhasz

Counsel on behalf of Ruth Matchett

1 March 2013