Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings

WITNESS STATEMENT OF ANDREA MICHELLE STURGES

I, Andrea Michelle Sturges of [redacted] in the State of Tasmania, Chief Executive Officer (Public Officer), Kennerley Children's Homes Inc (**Kennerley**), do solemnly and sincerely declare that:

1. I am authorised by Kennerley to make this statement on its behalf.

2. I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.

3. I was assisted by my colleague at Kennerley, Monika Scott, Clinical Practice Leader, for Kennerley in preparing this statement. Monika Scott has a BA Law, Bachelor of Arts, BA Major Psychology, Professional Honours in Human Services, Post Graduate Certificate in Legal Practice, is completing the final modules of a Post Graduate Certificate in Developmental Trauma and Monika has in excess of 15 years' experience in clinical roles within Child Safety and in the Not For Profit space.

CURRENT ROLE

4. I am currently employed as the Chief Executive Officer (Public Officer) at Kennerley. I commenced this role with Kennerley in 2016. In this role I am responsible for the following:

Activities & Services

- Ensure that Kennerley has the appropriate management, human resources, assets, policies and procedures to provide its children with a safe, caring family environment.
- Ensure that Kennerley maintains its position with the government as a preferred supplier of services for children in care.
- Negotiate the conditions of the associated service agreement so as to fully recoup the cost of the service delivery and maintain Kennerley's sound financial position.
- Develop, foster and maintain cordial and constructive relationships with government at both a political and bureaucratic level so as to protect and enhance Kennerley's best interests.

- Implement work programs that provide effective contribution to the achievement of Kennerley's core aims and objectives.
- Be alert to opportunities to extend Kennerley's service deliveries and/or expand its funding base.
- Ensure that Kennerley contracts only for activities and projects that are within its identified core aims and strategic directions.

Human Resource Management

- Oversight and coordinate personnel and human resource management of Kennerley's staff ensuring equitable and consistent management in compliance with its human resources policies, practices and obligations.
- Oversight the supervision, directing and monitoring of activities, workloads and performance of staff.
- Ensure that the workplace, including recruitment, is free from discrimination and harassment.
- Encourage a team-based culture of mutual support and continuous improvement.
- Develop and maintain a close professional working relationship with the Operations Manager whose primary responsibility is the oversight of the care and welfare of the children in the care of Kennerley.

Financial Management

- Appropriately and effectively manage the organisation's financial assets.
- Ensure there is ongoing funding and cash flows to support Kennerley's programs and activities.
- Develop and coordinate financial strategies and annual budgets, and the monitoring and reporting of compliance with those budgets.
- Manage the placement and investment of funds in accordance with the Board's policy and direction.
- Ensure that Kennerley remains financially solvent and viable over the longer term.
- Manage the preparation and audit of the Annual Accounts and related schedules for the acquittal of grants received.

Risk Management

- Effectively manage and maintain Kennerley's constructed assets, including land and buildings, motor vehicles, fixtures, furniture and fittings.
- Ensure the appropriate insurance of Kennerley's assets and liabilities, and the implementation of effective risk management practices and audits.
- Ensure the installation, upgrade and effective operation of Information Technology hardware and systems necessary for the effective operations of Kennerley.
- Implement an effective system of on-site and off-site backups of systems and data.
- Ensure that there are appropriate procedures and practices to ensure the security of confidential information stored in information systems.
- Ensure that Kennerley does not become liable to legal action as a result of negligence on the part of any member of staff.

Governance

- Provide advice and assistance to the Board in the development of plans and policies necessary or desirable for the advancement of the organisation and its objectives.
- Provide such reports and information to the Board so as to facilitate the efficient discharge of its functions.
- Ensure that the Board is promptly kept informed of all significant issues, plans and programs being developed or implemented.
- Coordinate the development, implementation and monitoring of Kennerley's Business Plan, Annual Action Plan and Annual Report.
- Ensure that Kennerley acts in compliance with its legal obligations and within the law generally.

Public Profile

- Promote Kennerley as a caring, customer focused, and valued community service organisation.
- Represent Kennerley in matters of advocacy and in related forums.

BACKGROUND AND QUALIFICATIONS

5. I am passionate about improving the lives of children and adults and have had the opportunity to do so in Queensland, New South Wales and Tasmania. During my career I have been involved in the clinical and administrative oversight of child health and parenting services, family violence counselling, Disability Services, child protection, seniors, child death coroner sub committees, SCAN establishment, out of home care, licensing, monitoring, community youth justice and disaster recovery.

6. Between 2015 to 2016, prior to commencing my role at Kennerley, I was self-employed and worked as a private consultant with not for profits in areas of governance, tendering and policy writing, most of which were in the human services sectors. I was engaged by these organisations to consult on risk assessment, governance, and models of foster care,

7. Prior to this, I worked in the following roles at the following organisations:

   (a) Between 2014 to 2015 - Director of Services for a not for profit organisation based in the Illawarra region in New South Wales. In this role I was responsible for strengthening child protection training and development for the sector, and delivering greater sector confidence in our services through collaborative service delivery pilots;

   (b) Between 2010 to 2014 - Area Director, South Tasmania (Children and Youth) for the Department of Health and Human Services Tasmania (as it then was). In this role:

      (i) I was responsible for the management of Disability Services (prior to out-sourcing), Child Protection Services, Youth Justice, Family Violence Support Services and Child Health and Parenting Services for South West & South East Tasmania. This position also involved being a representative for the State-wide and National Disaster, Area Advisory Group Chair as well as Child and Family Centre establishment and Chair.

      (ii) I was also involved in the rollout of the Signs of Safety framework to further advance and empower vulnerable families and children's experience of child protection services. This work was critical to enable our capacity building framework to assist parents to raise their children in a safe way assisting them to reach their maximum potential.

(c) Between 1990 – 2010 – I held various roles in the human services sector, mainly within the Queensland Government in various locations including Brisbane, Ipswich, Logan, Gold Coast, Roma and Cairns. My roles included:

(i) Acting Director - Office of the Director-General;

(ii) Manager – Child Safety Services;

(iii) Manager – Complaints Case Review;

(iv) Area Director Ipswich Western Zone;

(v) Director Disaster Recovery Cyclone Larry;

(vi) Establishment of the Investigations Branch;

(vii) Department Liaison Officer;

(viii) Ministerial Liaison Officer;

(ix) Principal Advisor to the Deputy General, Child Safety;

(x) Forde Inquiry Contact Officer; and

(xi) Parliamentary and Cabinet Liaison.

8. I have the following qualifications:

(a) Diploma of applied Science, Community and Human Services, BA Psychology and Executive Master of Public Administration (EMPA) from Griffith University, Queensland; and

(b) Executive Master of Public Administration (EMPA) from the Australia and New Zealand School of Government.

9. In 2018, I also completed the Australian Institute of Company Directors (**AICD**) course and completed the course modules.

10. A copy of my curriculum vitae is attached to this declaration and marked **AS-1**.

KENNERLEY – HISTORY, BACKGROUND AND OPERATIONS

11. Kennerley was first established in Hobart in 1869, by the Hon. Alfred Kennerley, mayor and premier elect of Hobart, as Kennerley Boys Home and Industrial School. At that time, Kennerley operated as an orphanage for boys.

12. Now, 150 years' later, Kennerley operates as a private, not-for-profit organisation providing out of home care services to families in Tasmania. Kennerley is run by a

volunteer board, and by dedicated professional staff, passionate foster carers and volunteers.

13. Following the National Royal Commissions findings and recommendations in relation to institutional child sexual abuse our nation was lost for words both in relation to the prevalence of sexual abuse, and, those that ignored the victims thereby sanctioning the perpetrators actions.

14. Kennerley Children's Homes stands with survivors of sexual abuse and takes pride in safeguarding children and young people in our care from all manner of abuse. Kennerley became a participating Institution in the National Redress Scheme in 2018 and was proclaimed a participating organisation. Kennerley wants to ensure that survivors of childhood sexual abuse are heard, and, experience justice and redress in a trauma informed and compassionate way.

Written response

15. Kennerley have provided a written response to a number of questions raised by this Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (**Commission**) (**Written Response**). I was assisted by Monika Scott in preparing that response. I refer to and adopt that Written Response for the purpose of this declaration. Attached to this declaration and marked **AS-2** is a copy of Kennerley's Written Response dated 31 March 2022.

Services

16. Kennerley offers the following services to the Tasmanian community:

    (a) **Family based foster care** – Kennerley currently has approximately 90 carers, who provide trauma informed family based foster care for children who are under statutory orders and are sent to the non-government, not for profit sector by Tasmania's Child Safety Services for placement in foster care.

    (b) **Community respite care** – Since 1989, Kennerley had also provided community respite care for children requiring temporary, short term care. This service is provided in situations where mums and dads and families are experiencing difficulties caring for their children and where, for unavoidable reasons, the child has to be separated from their parent or guardian. This program is focused on supporting families in the community and decreasing the likelihood of children entering the child protection system unnecessarily. Referrals for children to

community respite care come from a number of sources, including from hospitals, social workers working within hospitals, the Department of Education, Child Safety Services, or self-referrals from family members who need their child to be cared for a period of time. By way of example, recently Kennerley provided community respite care to a mother who required knee surgery who needed her child to be cared for a week. We also have a mother who has fibromyalgia and has outbursts and issues around pain management. When she is not doing so well, Kennerley will take the children, and they will go to one of our respite carers temporarily – usually someone that they know fairly well. Sometimes the children and young people involved in our respite care program will enter the foster care system. In that situation, those children and young people will already have a connection with Kennerley and our foster carers. That connection and familiarity is important in the context of children who are being removed from their families.

(c) **Moving on program** – Since 2003, Kennerley has offered a program to young people who are in the process of leaving the foster care / out of home care system in Tasmania. Kennerley started offering this service as it saw a gap in the services being offered to young people leaving care. The young people entering this program are over the age of 15 and have lived experience in the foster care / out of home care system, who are in need of coaching or mentoring to assist them to gain the vital life skills we all need to be confident adults. Kennerley currently have ten young people in this program. These are amazing young people. In terms of a social return on investment – these young people have gone on to be successful, thriving adults. One young person has gone on to be lawyer. One a Registered Nurse. We have people who now work in the disability services sector. These people have children and they are great parents, resilient and confident.

(d) **Family Connections Program** – Since 2019, Kennerley has provided a service for families involved in the Family Court system where we offer supervision for family access visits. This is a fee for service program where the families involved pay Kennerley for the service provided.

Accreditation

17. In 2019 and following the findings in the National Royal Commission into Institutional Responses to Child Sexual Abuse (**National Royal Commission**), Kennerley undertook the Safeguarding Children Third Party Accreditation program with the Australian Childhood Foundation (**ACF**). This program is a voluntary accreditation scheme available

for organisations who deliver services or activities to children and young people and who have a duty of care to those children and young people.

18. Following a year of policy and procedural scrutiny we were proclaimed by an external panel to be a Safeguarding Children (**SGC**) organisation. Since 2020, Kennerley has been a SGC accredited organisation with the ACF. Kennerley's accreditation with the ACF is self-funded by Kennerley and costs the organisation $40 000 dollars with annual unit costs for licensing review and audit.

19. This accreditation requires Kennerley staff, Board, volunteers and each of Kennerley's foster carers to take part in the Safeguarding Children training offered by the ACF, from onboarding, recruitment activities and all household members. The screening and training modules must be built in to every service activity including with social work student placements.

20. Obtaining and maintaining this accreditation is incredibly important to Kennerley and its ongoing organisational commitment to best practice and quality improvement in relation to the protection of children and young people.

21. Any complaints in care (allegations about any form of child abuse) are reported to departmental officers, our Board of Directors and the ACF. Systemic analysis of the outcomes inform continuous strengthening and improvements of our management of children's safety.

Training of Kennerley staff and carers

22. In addition to self-funding our ACF accreditation, at our own cost Kennerley puts significant resources (approximately $60,000 a year) into training and developing our staff and carers.

23. The majority of our staff at Kennerley have graduate and / or postgraduate certificates in developmental trauma. At Kennerley, we believe that it is incredibly important to have that level of education and training, so our staff are actually able to assist and coach our carers if and when issues arise.

24. Kennerley also expose our carers to the same clinical and professional development that we give our staff, and invite them to participate in the training programs offered to our staff. I think this is very important, as it not only educates and develops our carers, but it helps to build and foster relationships with our carers. The closer the relationship Kennerley has with its carers, the more likely that carer will be to come to us if they require

help or support. Some training sessions have included: Risk assessment and child safety; trauma its impacts on development of children; parental risk factors in child protection; evidence based approaches; Reflective Meta Cognitive Development (practitioners); Sanctuary Model of care; Words and Pictures; Cognitive Distortions in Decision Making (parallel processing; professional accommodations; confirmation bias, to name a few); Resiliency and caring for children; conflict and how to manage it above and below the line behaviours; NDIS training; Sexuality, Gender, coercive control, healthy relationships vs unhealthy; Financial wellbeing; Workforce planning with carers and staff; Trauma and attachment and reparative parenting.

25. In addition to training and education programs offered, Kennerley also regularly monitors its carers. Kennerley will visit its carers at least once a month, if not more frequently. Annual reviews are conducted in terms of quality of care and carers support plans and professional development. Case and Care plan (**CCP**) activities are conducted where the child has a CCP. Only 5% of our children have a CCP on their file, most of which are out of date. The Child Safety Officer's may have current ones on their file, however given our experience of the system, it is more likely they do not.

Funding

26. Kennerley receives funding from the Tasmanian Government for its:

    (a) Family based foster care program;

    (b) Community Emergency respite care program; and

    (c) Moving on Program.

27. In terms of the family based foster care program, Kennerley receives a Board Payment from the Department of Communities Tasmania for each child it its care, which is a reimbursement for unit costs associated with caring. It is the lowest in the Nation (source: Report on Government Services (**ROGS**) data). The board payment amount is determined by the age and stage of the child, and is paid by Kennerley to the foster care family as soon as it is received. The Board Payment also varies dependent on needs assessment for the child (complex / intense/ standard) such as disability and trauma related behaviours. In my experience, this funding does not cover the actual unit cost of caring for the child and should be much higher. Much of the work performed by our carers and the services they provide to the children in their care is essentially done on a volunteer basis going above and beyond in terms of care. It is very difficult to get a higher Board

Payment through the Funding Panel; it is exhausting always having to "fight" for every cent.

28. Kennerley also receives $8,000 from the Tasmanian Government per annum per foster household with CPI applied annually. That funding goes towards Kennerley's operational costs, such as the provision of training to its staff and carers, provision of respite, additional trauma supports where required and costs associated with general business.

29. In terms of the community emergency respite care program, Kennerley receives a grant of money from the Tasmanian Government annually (with CPI applied) which is intended to cover the operational and administrative costs associated with providing this service including the recruitment, training and development of new carers, advertising costs, and community respite services.

30. The money Kennerley receives by way of government funding does not cover its operational or administrative costs (such as its training and accreditation programs), or the costs actually needed to look after the children in its care.

31. These additional costs are funded through bequests and donations Kennerley has received and continues to receive from former directors and donors. By way of example, we have a trust set up for the children and young people in our foster care system where they can apply for up to $1,000 per annum to assist with educational study or work related expenses. The income is generated by fundraising and sound ethical investments. Our Sponsorship and Assets are carefully made so that they do not support factors or industries which lead to children being harmed. For example, alcohol, gambling; therefore our portfolio does not hold shares in such activities.

32. Kennerley also raises money through other philanthropic fund raising activities, such as sausage sizzles and the like.

HOW THE NON-GOVERNMENT OOHC SYSTEM OPERATES IN TASMANIA

Placement of children

33. Children requiring a foster care placement will either be put in a placement with a foster carer that is managed directly via Child Safety Services, or in a placement that is managed by a non-government provider, like Kennerley. We are the largest single provider in the State of Tasmania. The bulk of placements of children is determined by needs assessment and availability. Providers submit an interest in the child's needs and the

OOHC Team decide which provider's carers profile is the best fit. Sibling groups are usually placed with Key Assets (a sibling only group provider).

34. For children that are placed within the non-government sector, Child Safety Services will approach the non-government sector in relation to children requiring placement in foster care who are under statutory orders in Tasmanian. That process can happen in several different ways, and is not divided by regions or certain suburbs within Tasmania.

35. Child Safety Services will ordinarily send a group email to each of the non-government providers with information about the children that require placement. They will give us some details about the child or young person's age, name, needs, likes, dislikes and history where known.

36. The non-government providers then work together to attempt to match the child with the most appropriate carer, as best we can. There are approximately 4 to 5 providers of family based foster care operating in Tasmania, including Kennerley. In my experience, all the agencies are very committed to providing the best possible placement to the children and the best possible match.

37. At Kennerley, we have a really close working relationship with other providers. If we think another provider might have the capacity to care for a particular child better than we can, for example because we can see there may be a risk of breakdown with one of our carers, then we would work with that provider to facilitate that placement. In my view, the providers are very good at working together as a team.

Child Safety Services and Child Safety Officers

38. Each child in foster care will have an assigned Child Safety Officer (**CSO**) who works for Child Safety Services.

39. In my experience, both at Kennerley and working for the Department of Health and Human Services Tasmania (as it then was), there is a high turn-over of staff and, in turn, CSOs. The result is that many (if not all) children in the out of home care system in Tasmania will have multiple CSOs over the course of their time in care**.**

40. CSOs work in an emotionally charged field, where they are often unduly criticised. Broadly speaking CSOs are generally required to possess the following skills:

    - Deliver accountable and collaborative integrated child protection services that respect the culture and context of each child, young person, family and community in

accordance with departmental policies and procedures, statutory responsibilities, and the child protection practice framework.

- As part of a multi-disciplinary team (which may include representation from other agencies), undertake high quality strengths-based child protection practice including assessment, intervention, casework and case management.
- Participate and contribute productively as a team member to form culturally appropriate, professional working relationships with colleagues, stakeholders, including children, young people and families, Non-Government Organisations (**NGOs**), and other service providers.
- Foster a culture and philosophy of quality frontline service delivery based on collaboration, cooperation, commitment to excellence and professional ethics.
- Maintain quality case records in accordance with departmental case management requirements.
- Participate and contribute to a culture of continuous learning, training and professional development, to ensure practice knowledge and skills are contemporary and evidence-based.
- Draw on demonstrated provisional expertise in one or more disciplinary areas in order to undertake more complex and/or demanding workloads and/or provide coaching, advice and support to less experienced CSOs (when appropriate).
- Technical/role specific: work within the Framework for Practice (values, principles, practice tools, processes and core skills) providing a lens through which to view and guide professional practice within a multidisciplinary team environment.
- Understand the theoretical perspectives that relate to child protection practice, including the impacts of historical and contemporary policy and practices upon Aboriginal and Torres Strait Islander peoples.
- Support strategic direction: understand the organisational goals and recognise how your role contributes to the child protection reform agenda.
- Achieve results: use investigative and analytical skills to ensure that quality casework decisions are made and based on sound evidence, particularly when there are competing opinions, rights and emotions.

- Support productive working relationships: build and sustain positive relationships and work collaboratively with stakeholders to deliver integrated services for children, young people, their families and the community. You are an effective team member and have a good sense of the qualities you bring to the team.
- Monitor the safety and wellbeing of each child they are case managing ensuring their journey in care is recorded (words and pictures, life story work), the UN Charter of rights is explained, Case and Care planning and connection to siblings, culture and family where safe.

PROBLEMS WITH THE SYSTEM

41. I set out Kennerley's primary concerns with the out of home care system in Tasmania in Attachment AS-2.

42. I provide additional context and examples based on my experience working in both the government and non-government sector below.

43. I would like to preface what I say below by saying that I truly believe the people who work at Child Safety Services, and in particular the CSOs, are for the most part very good people who perform a very challenging and complex job. I have a great level of respect and admiration for these people and the important and difficult job they do. The concerns I have with the operation of the out of home care system in Tasmania are at a systemic level and the tone from the top.

Insular culture and failure to listen

44. Based on my experience working in both the government and non-government sector in Tasmania, it is my view that the culture internally within Child Safety Services is very reactive and insular. I acknowledge that this culture and my experience is not unique to Tasmania – it is something I have experienced working in both New South Wales and Queensland as well. It is a statutory system I have been a part of, that requires consistent improvement and the resourcing and commitment that allows for this.

45. There seems to be a common theme that Child Safety Services, or a particular CSO, knows what is best for a particular child or young person in care, when in fact, they have had very limited involvement or interaction with the child or their family. The system is very adversarial.

46. In many instances, the school, the school counsellors, the paediatricians and our staff and the carers will have had a much longer and better connection with the child and their family

and history. Such people and professionals could provide very useful insight into care decisions being made about a child. However, in my experience, these people are very rarely consulted or listened to when care decisions are being made. The Independent Children's Lawyers also have for the most part never met the child and advise the court with no intimate knowledge of the child.

47. I believe if Child Safety Services were more willing to consult with and listen to the professionals and para-professionals surrounding the child and their family, better evidence based choices and decisions would be made about the care of the child.

Children who have been physically and/or emotionally abused and risk assessment

48. I also do not think Child Safety Services focus enough effort and attention on responding to the risks surrounding children who have been physically and emotionally abused prior to entering care and / or physically and emotionally abused whilst in foster care. I say that because studies have shown that children who have suffered either or both physical and emotional abuse or neglect are at a higher vulnerability to child sexual abuse.

49. In my experience, Child Safety Services have a high tolerance or risk appetite for responding to allegations of emotional or physical abuse. By that I mean decisions are often cognitively distorted and reactive. Decisions at the intake level can be made with poor information gathering; poor interagency collaboration; inadequate analysis of harm minimisation; are resource driven and fail to identify cumulative harm impacts. Assessments should (and must) include: individual, situational and contextual factors.

50. We know that children suffer more harm in high criticism, low warmth families. We can then understand how organisations reflecting this culture will cause similar harm to workers.

51. I believe there should be systems in place that:

    (a) provide a proper risk assessment at intake into the foster care system; and

    (b) allow for the child or young person who has experienced such abuse to be supported and nurtured early on through trauma-informed, wraparound care from appropriate allied health and human service professionals.

52. I believe if the system focused more effort and money on assessing and responding to children who had been subject to such abuse or neglect, and not just focus on reacting when sexual abuse allegations are made, these children and young people would be less vulnerable to child sexual abuse in the first place.

53. Another issue is that there is not a structured, actuarial based model applied (such as the Structured Decision Making model for child protection) when risk assessments are conducted by CSOs. Further, these CSOs are not properly trained or coached around making these assessments. This means that decisions are not being made consistently in a structured way – but are rather made based on the individual CSO's assessment, on that day, which may be impacted by subjective factors, such as how they may feel about a particular carer / biological family / values and beliefs / judgement or caseloads at that time.

54. An example of this poor decision making occurred whilst I was the appointed Area Director, Southern Tasmania where an allegation of sexual abuse was made by a young child in the care of a foster carer against the foster carer. Initially the alleged perpetrator was removed from the household whilst an investigation took place. The matter was referred to the police as is appropriate. At the conclusion of the investigation, I believe the matter was substantiated. The other children in the placement were all removed excluding one child with a disability. Whilst I was not part of the internal investigation I was concerned about the quality of the assessment and investigation; and the child that remained in the care of the two foster carers in question. I raised this decision at a Senior executive meeting, where the former Director of Operations and Deputy Secretary were present, and challenged the decision making. I recall the Deputy Secretary supported my opinion. The basis for my concern was if a foster carer is believed to have sexually abused a child, how can *any* child be left in their care? Whilst I do not recall the date of this meeting it was not long after this matter that I resigned. I believe the decision to leave a child in the care of someone they believed sexually abused a child is atrocious. The systemic harm that occurred to those children is unconscionable.

55. The Tasmanian Risk Framework has good principles, but it does not account for practitioner bias. Risk assessment is a process, not an event. Risk assessment is a systematic collection of information to determine whether a child is likely to be harmed in the future. Risk assessment factors are statistical associations (e.g. comorbidity -parental risk factors) derived from incidence and prevalence that offer correlations, not causation.

56. I have witnessed many decisions that have overestimated strength factors, minimised harms and resulted in a 'nullifying of risk'. This results in a system that exhibits cognitive distortions: confirmation bias, parallel processing, professional accommodation, transference and counter transference; deficits approaches, rule of optimism, and stereotyping.

Responding to care concerns / high risk threshold

57. During my time at Kennerley, I have not experienced (and understand the organisation has not experienced) a child who made a complaint or allegation of child sexual abuse while in care. I have, however, had experiences with children who have been subject to (or have been at risk of) physical and/or emotional abuse or neglect prior to entering care or while in State care.

58. By way of example, Kennerley had a concern about 12 of its carers who, in Kennerley's view, were not providing adequate or appropriate care to the children placed in their care. In one example, one carer had told the therapeutic co-ordinator and clinical practice leader that they had placed a three-year-old child in a room, without a self-soothe toy and the blinds down with the lights off, holding the door shut until the child learnt to self-soothe. The carer had done this so they could continue with their daily chores. The therapeutic co-ordinator also reported the carer has advised that they had restrained a child (3-year-old) in their high chair, not allowing the child to get out until the child apologised for throwing their bowl of food. I was concerned by the disclosures of these carers and that these carers might be emotionally abusing or neglecting the children in their care.

59. When Kennerley staff spoke to one of these carers about their behaviours, I understand they responded negatively and said words to the effect:

> *"Well I'm not going to do it differently until you tell me something that works or give me a strategy that works – this works".*

60. Kennerley provided additional coaching and training to these carers but did not see any change in their behaviours or parenting techniques.

61. I was worried that the children in their care were at a risk of being harmed, either physically or emotionally. On that basis, the Board of Directors suggested I approach Child Safety Services with my colleague Monika Scott and report our concern about these carers and the fact that, in Kennerley's view, the children should be removed from these placements and that the carers should be deregistered. Our intent was to offer our assistance to develop a policy and procedure for the official registration and deregistration of carer processes.

62. In response to us reaching out, Child Safety Services were not prepared to remove the children from these placements, and no care concern was raised or reported. I understand that Child Safety Services decided that the risk of harm to these children did not meet their reporting threshold or their threshold to remove the children from their

placements. I recall someone in Child Safety Services saying to me, words to the effect that:

> *"[Removing these children] is a luxury we do not have.*

63. On 12 May 2021, Monika Scott and I met with Child Safety to discuss the 12 transfers to the department and the themes we had recorded. In response to the information presented, a former senior executive said words to Monika and me to the following effect:

> *"Instead, perhaps you / your board need to revisit your risk appetite – or perhaps you should not be in the game."*

64. We were informed at that meeting that we would be informed of the outcome of a "desktop" review of the carers in question and minutes of the meeting, neither of which we have received. We are aware that more children have been placed with these same carers.

65. Given Kennerley's views on the issue, a decision was made that these carers could no longer be supported by Kennerley and they were transferred. We prepared closure summaries for those carers which outlined our concerns. Those closing summaries were provided to Child Safety Services. I understand those carers were transferred to Child Safety Services, and the placement of the children in their care became a placement directly managed by Child Safety Services. I thought that was the wrong outcome. All children deserve to feel loved and safe.

Differences across regions in Tasmania

66. While the process of placing children in the non-government sector is not separated by region, from my experience working with the DHHS, the approach within Child Safety Services to the placement (and how such placement was recorded) for children under statutory orders varied significantly depending on the region the children came from in Tasmania. I do not know if this has changed since I left the department.

67. As above, between 2010 to 2014, I was the Area Director for Southern Tasmania. This meant I had responsibility for the oversight of children from Southern Tasmania. At that time there were two other Directors: one for the North and one for the Northwest. Children were allocated to the closest system geographically (to where they lived).

68. During this time, I recall having conversations with a colleague about why I had so many children who would apparently leave the out of home care system and then come back. For many of the children being referred to, the answer was that they had not in fact left the care system – they had gone to Ashley Youth Detention Centre (**AYDC**) – and when

they were released from AYDC, they came back into the out of home care system and required placement. This is just one example of poor data. I saw that as a big issue in how the system recorded that data, because I did not think it was accurate to record those children who had been placed in temporary detention as having 'left' the system. Children were not closed when they entered AYDC, but their active case work stalled. Alarming statistics at that time saw about 70% of children having a dual order (Youth Justice (**YJ**) and Care and Protection Orders (**CAPO**)) showing glaringly how the State was failing children in foster care.

69. I also recall having conversations with other area directors where words were said to me to the effect*:*

"Why do you have so many teenagers in care in Hobart?"

70. The answer to that question was that in my region we would not automatically 'close' teenage children in the system, by which I mean closing of the intake; we would investigate and take action. If a matter is closed it means interventions end there. This sees young people being left at risk with no intervention.

71. My recollection is that *at that time*, the process adopted in the Launceston office was, for the fair majority of teenagers who were in the system from that region (being children and young people between the ages of 12 to 18) to automatically close them at intake and record them as being 'self-placed'. I understood this was because these young people were seen as too hard to case manage and monitor, so in most cases an assessment was made that these children could look after themselves, or 'self-place' / 'self-protect'.

72. The term 'the ability to self-protect' was used frequently in relation to teenagers in the system. This meant children were seen as having the ability to make a safe choice; remove themselves from an unsafe situation; recognise grooming behaviour; feed themselves or cook their own meals; get themselves ready and go to school; and if they are on the streets or homeless, find themselves somewhere to stay. That language and the idea or notion that young people (some as young as 12), would have the ability to make fully informed, safe decisions for themselves without a safe and protective guardian or adult around to help them was and is something I find incredibly difficult to comprehend. I do not know how that label can be applied to vulnerable children, especially children who have suffered trauma, when it is not a label we would apply to our own children. If there had been an actuarial model in place this would have prevented skewed decision making and premature closure of serious notifications. I am aware that the practice in the North West has improved due to the management and clinical governance, records from that

time would also highlight the poor risk assessments and the lack of robust professional development of practitioners. I am aware, anecdotally, of historical sexual abuse notifications being closed at intake despite ongoing risk. I believe this may still be occurring in terms of harms to children being closed at intake.

Decisions about removal of children

73. In my experience, Child Safety Services in Tasmania take a very binary view of the decisions that can be made about the care of a child. By that I mean in most cases the child is either left with the family or guardian or the child is removed and placed under statutory orders. However, there are alternative orders that could be used in Tasmania under the current statutory regime, such as protective supervision orders, which I have never seen used during my time working in Tasmania in either the government or non-government sector.

74. Protective supervision orders provide the State with statutory oversight over the child, however the child remains with their family.

75. Based on my experience working in Queensland, it was more common for protective supervision orders to be made. In those circumstances, while the child remained with their family, there were supports put in place for the child and family, and others like intervention with parental agreement. Both of these processes saw wrap around social and family services engage with the family with close monitoring and ongoing risk analysis and parenting support. The parents must consent to work with the services and orders can include things like family violence counselling.

76. Where such orders were made and used appropriately, I saw much better outcomes for the children and families involved. Families' attachment to their children was often less disrupted, relationships were more positive, families were supported to address maladaptive ways of parenting. Most parents I have worked with do not set out to harm their children, and transgenerational traumas, rather it happens out of ignorance or high stress factors.

Children with additional vulnerabilities / 'one size fits all' approach

77. From my experience working in the Tasmanian out of home care system in both the government and non-government sector, the system is not set up to appropriately address the needs of children with additional vulnerabilities, such as children with disabilities, children with different cultural or linguistic backgrounds, or Aboriginal children. The system and model is very 'one size fits all', where all children are given a base line level

of care, with the assumption that they do not deserve any better. This is something that causes me great sadness and concern.

78. With respect specifically to Aboriginal children in care, I do not think Tasmania has ever really mastered the art of working well with its Aboriginal partners and community to restore trust and to fully explore what they can offer to their children and their community. I am concerned that a lot of Aboriginal children end up in generalist foster care placements, which will not support their specific cultural needs.

79. In relation to children with disabilities, while these children and their carers technically now have access to National Disability Insurance Scheme (**NDIS**), in practice it is very difficult for carers to access everything a child in their care might need through the NDIS. Carers in this situation are signing up for a life-long investment in advocating for these children to ensure they get the support, funding and services they need. These children are often the most vulnerable and there should be a multi systemic response to ensure they reach their individual potential. Kennerley have encouraged two of our Family Based Foster carers to speak to the Commission directly about their experiences of the statutory system.

Lack of consistency in standard of care

80. There is a lack of consistency in the level of care and service that every child in the out of home care system receives from Child Safety Services, and the CSOs. I believe this is the result of there being no clarity around the base line standard of care expected of these workers and no mechanisms in place to ensure the service is being provided consistently.

81. There are some brilliant practitioners out there who will take the time to meet with and connect with the children on their case load, who will take the time to explore with these children who are safe grown-ups in their life and how they can get in touch with them. But this is not something all CSOs do, and it is not something they are required to do (or even think about doing) as part of their job.

82. I have heard of and witnessed situations where a CSO:

    (a) will not have a case in care plan set up for a child;

    (b) has never visited the child;

    (c) has not organised medical reimbursement for the child;

    (d) do not actually know where the child is living;

(e) have failed to give parental authority for children to go on camps seeing them missing out;

(f) have not arranged a passport for the child in time for the child to go overseas; and

(g) in some cases, have called the child the wrong name or do not know the child's name.

83. Further, I have witnessed case files for individual children that are atrociously inadequate in terms of recording keeping (which I refer to in the Written Response as **'RK'**) standards and information standards (**IS**). In my time working in the sector, I have seen too many records which just say *'home visit, all okay',* without any further context. The case notes will not record important context, such as who was there for the family visit; or if a parent was late, why they were late (and if it was their fault or if they had some reasonable excuse). In my view, it is vitally important that children and young people have a complete and thorough record of their childhood milestones and memories. It's their right.

84. In my opinion, these are base level needs and services that every child in the out of home care system is entitled to receive. I do not blame the CSOs involved. Because it is not their fault all the time, for the reasons explained below. For many, no matter how well intentioned they may be, there are not enough hours in the day to do everything that every child in their care needs.

85. However, in some instances there is genuine poor performance by staff and CSOs, and that poor performance is poorly managed by Child Safety Services.

86. But these systemic issues are preventing the system from providing a base line level of service that every child deserves, and these issues need to be addressed.

Lack of ongoing training, education and support for CSOs and effects

87. This is a very emotionally charged work environment. From my experience, the people working for Child Safety Services, the CSOs, are not provided with the professional training, development and support they need to do their job effectively. For example, in my experience very few CSOs are properly trained in how to take a proper case note of a visit, or in IS and their obligations. Affidavits are designed to be adversarial, seeing workers look for all the risks and 'bad parenting' and are not balanced.

88. Many CSOs are overworked and have unmanageable caseloads. I am aware that OOHC is the most poorly resourced with caseloads of sixty or more households per worker. Is it

fair to assume they can monitor the safety of those foster homes? There is a high level of burnout with some workers ultimately suffering from PTSD, without being provided with appropriate clinical supervision, trauma-informed psychological and psychiatric support.

89. This results in their being a high level of staff turnover and system being constantly under-resourced. This necessarily has negative impacts for the children in the system. There are children who will refer to their CSO as, for example, *'number 19'* – as that is who they are to the child. Number 19 in a list of CSOs.

90. In my view, all CSOs require specialist training in interviewing children and recording evidence, risk assessment and cognitive distortions common to statutory child safety and ongoing repetition with clinical reflective supervision.

Training and support for carers and reporting care concerns

91. The system currently relies on a child or young person self-disclosing incidents of abuse, which is concerning, as the fair majority of children in the out of home care system are very young (between the ages of zero – 10) and they do not have the capacity to understand the reporting systems in place (such as who the Child Advocate is, or how to contact them). Without the care and support of a trusted adult, it is likely these children will never report or self-disclose.

92. The adults with responsibility for these children, including their carers and their CSOs need to be properly trained in trauma-informed care to recognise possible warning signs in the children in their care and know how to properly respond, in a trauma-informed way when disclosures are made.

93. Kennerley provides training and education to its carers regarding their rights and ability to report any form of mistreatment and recognising the risks and signs of a child who has suffered trauma. We also run education programs for the children in our care (which is age and stage related). For example, we run a program for the young people in our Moving On Program about consent around sexuality, gender identity, coercive control and other matters; resiliency – what it is – what it is not; trauma – unpacking its impacts with our carers and adolescents; self-regulation tools; and above and below the line behaviours and self-management.

94. I am concerned that this type of training and education is not being provided to carers who are managed directly by Child Safety Services.

Lack of funding

95. In my view, the out of home care system in Tasmanian is incredibly underfunded, and carers are not provided with the monetary support they need to provide the necessary care and support for the children in their care. The board payment is tokenistic. Our funding is similar.

96. I have experienced situations where the children in our care required additional care and supports, such as psychiatric or psychological assessments. Those children and their carers were unable to obtain the funding they needed from the Government to provide those supports. In those situations, Kennerley has funded those supports and assessments, to ensure the children are receiving the care they need.

Lack of oversight and monitoring

97. Kennerley are required to report to the Department of Communities 6 monthly via antiquated templates that do not mean much in terms of quality of care. Those reports are not focused on child safety and wellbeing. They are focused on the number of children in our care, how long they have been at their placements, and the percentage of how many referrals we do not accept etc. We report annually about financial accountabilities and acquittal of grant funding.

98. I can only recall one instance, in around 2017, where Kennerley was required to report to the Tasmanian Government (specifically, the quality and safety unit within the Department of Health and Human Services) in relation to issues concerning the safety of children in our care largely around policy and procedures and governance. We received a glowing report.

99. In contrast, as part of Kennerley's ACF accreditation, Kennerley is required to report annually regarding any allegations of abuse or any complaints in care for the children placed through Kennerley. Those reports require Kennerley to identify what its organisational response was to the report or complaint and what ongoing improvement mechanisms we have in place. In my view, Kennerley are held more accountable by the ACF in relation to upholding the safety of children in our care than we are by the Department of Communities and Child Safety Services.

100. As above, Kennerley voluntarily signs up of this accreditation scheme and this additional layer of monitoring oversight, because as an organisation we are committed to ensuring we follow best practice in relation to safeguarding children. We were also concerned to ensure that an independent, third party was providing that monitoring or oversight, so we

were not 'Caesar judging Caesar'. However, this is not a standard imposed upon us (or other organisations involved in the care of children) by the Tasmanian Government, which I find concerning.

HOW THE SYSTEM CAN BE IMPROVED

101. I set out Kennerley's suggestions on how the out of home care system in Tasmania could be improved in Attachment AS-2. I provide additional context below.

102. In Kennerley's view, the out of home care system could be improved through the following changes:

(a) Mandated adoption of National Child Safe Standards – in 2018 the Attorney General of Tasmania came out publically and said that Tasmania were going to adopt the National Child Safe Standards recommended by the National Royal Commission. However, we have not heard anything further since then. In Kennerley's view, these standards should be adopted, without amendment;

(b) Independent oversight and monitoring – There needs to be independent oversight and monitoring of the system. In Kennerley's view, the Children's Commissioner should not be a political appointment. Further, the Child Advocate position should be independent of the Department of Communities and sit either with the Children's Commissioner, the Public Guardian or the Office of the Ombudsman. In this regard, I am aware of the model they have in place in Victoria, and consider this is a model the Tasmanian Government should look to adopt;

(c) Implementation of a Reportable Conduct Scheme to oversee allegations of child abuse and misconduct, similar to the system they have in place in Victoria;

(d) Heavily regulated Third-Party Accreditation of all organisations caring for children (i.e. heavily regulated like childcare) – I believe all state and territory governments if committed to Safeguarding Children should make provision in their grants funding for organisations to be third party accredited or at least contribute. All future tenders should require it mandatorily;

(e) Trauma informed practice models across the care continuum – from entry to exit, including practice guides for intervention. For example post graduate studies in developmental trauma and its impacts, and multisystemic therapy (or **MST**) interventions;

(f) Increased funding – the Tasmanian Government should increase funding to the sector, spending money on the long-term investment in children and giving them better outcomes and a brighter future;

(g) Adopting a 'zero tolerance' policy to all forms of abuse for children in foster care;

(h) Improve Social Work Practice frameworks, which focus on critical reflection and analysis – Clinical practice and governance to ensure reflective tools are used to their full advantage;

(i) Improve understanding of parental risk factors and their impact on the health and development of the child in the short and longer term – parental risk factors refer to a heightened risk of child maltreatment where the following comorbidity factors exist: cumulative re-substantiations, parent exposed to transgenerational poverty and neglect; <25 years old, substance abuse, mental health, family violence, etc;

(j) Adopting an actuarial model of risk assessment, for example the Structured Decision Making for child protection with respect to assessing the risks surrounding children in care, so that a uniform approach is adopted in assessing risk and minimising opportunities for bias;

(k) Trauma informed schools – Educators need to be exposed to the impacts of trauma and have ways of responding that repair relationships and provide an approach that keeps young people safe and gives connection. I am aware that Jordan River school in Gagebrook are very trauma informed and the system is not punitive to young people;

(l) New IT systems and case management systems which appropriately capture data regarding children in care. Data should be transparent and available to the general public. The ROGS data does not show how the system is working or failing and often relies on its inability to provide the data that would show case the realities of systems. The ROGS data shows though how our system here has atrocious response times, often leaving children at risk. There was some great work done by Louise Newbury and her team in relation to tracking young people's trajectory in care, however she had a very small team to do so. The team are passionate and determined;

(m) Investment in people and practice reform and follow through investment in culture and professional development.

(n) Permanency planning for children who cannot return home – There are many examples where I see the legal arena used inappropriately. The over parent focus and 'getting consent' from the parent to the CAP orders drives skewed approaches. An example would be that a parent as a condition of the order demands visits weekly, to get the order the Child Protection lawyers will 'agree to anything' – even when it is not in a child's best interest resulting in foster carers having to 'pick up the pieces' and comfort children who do not want to see their parents. This means a child learns that they cannot rely on adults to 'keep them safe'. This is particularly dangerous when the parent or care giver has sexually abused the child and they are forced to see them week in week out;

(o) Educate children and young people in schools about consent, abuse, manipulation, grooming and coercive control;

(p) Improving clinical governance: Clinical governance is an integrated set of leadership behaviours, policies, procedures, responsibilities, relationships, planning, monitoring, and improvement mechanisms that are implemented to support safe, quality clinical care and good clinical outcomes for each service user. The model is well understood by medical models and has benefits for statutory child safety;

(q) Child Safe Standards should be embedded in legislation, and require organisations that provide services or facilities for children to embed an organisational culture of child safety, including through effective leadership arrangements. It requires organisational leaders to embed a culture of child safety into everyday thinking and practices. Organisations should be required to develop a child safe policy which outlines their commitment to protecting children from abuse and develop a Code of Conduct that specifies the standards and behavioural expectations;

(r) Provide support and training to staff and volunteers;

(s) Choose only suitable people, through robust assessment, especially in terms of kinship carers, where often children are placed at greater risk. I believe a carer register is only a part of what is required, the deregistration of carers should be stringent and there should be less risk tolerance to allegations of abuse in care;

(t) Respond effectively to allegations of abuse, identify risks and analyse responses; with a focus on 'what did we learn?'; and

(u) Empower children and young people's participation in decision making, listen to them and encourage and empower them to have a voice.

103. In implementing the above improvements, children and young people should be at the centre of the process, so we make sure we are designing a system that works in way that puts their interests first, to ensure the best outcomes for the children and young people the system is meant to protect.

I make this solemn declaration under the *Oaths Act 2001* (Tas).

Declared at HOBART, TAS (place)

on 16 June 2022 (date)

[redacted]

(signature of deponent)

Before me

[redacted]

(signature of witness)

[redacted]

(Full name of Justice, Commissioner for Declarations or Authorised Person)

[redacted] AUSTRALIAN LEGAL PRACTITIONER

(Capacity of Commissioner for Declarations, eg. legal practitioner)