

filed in ct - 6.6.12

## SECOND AMENDED STATEMENT OF CLAIM

### COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
Registry	Sydney
Case number	2009 / 329777

### TITLE OF PROCEEDINGS

First plaintiff	<b>Geraldine Dorothy Giles</b>
Second plaintiff	<b>Vivian Catherine Drady</b>
First defendant	<b>Commonwealth of Australia</b>
Number of defendants	3

### FILED FOR

Filed for	Geraldine Giles and Vivian Drady, the Plaintiffs
Legal representative	Kenneth John Fowlie, - Slater & Gordon Lawyers Level 11, 51 Druitt Street, SYDNEY NSW 2000 DX 1163 SYDNEY, Tel: (02) 8267 0677 Fax: (02) 8267 0650
Legal representative reference	KJF:RS304583
Contact name and telephone	Roop Sandhu (02) 8267 0612

### TYPE OF CLAIM

Torts – Negligence - Personal Injury

### RELIEF CLAIMED

1. Damages.
2. Equitable compensation.
3. Interest at the full rate including pursuant to section 100 of the *Civil Procedure Act 2005 (NSW)*.
4. Insofar as may be necessary, an order that the limitation period to be extended pursuant to section 60G of the *Limitation Act 1969*.
5. Costs including interest on costs.

**Representative Proceeding**

1. This proceeding was commenced by the Plaintiffs as a representative proceeding pursuant to Rule 7.4 of the *Uniform Civil Procedure Rules 2005* (NSW) and is continued by the Plaintiffs pursuant to Part 10 of the *Civil Procedure Act 2005* (NSW) on their own behalf and on behalf of the group members (who include the Plaintiffs) described in paragraph 2 below.

**The Group Members**

2. The "Represented Persons" to whom this proceeding relates:
  - (a) are persons who, as children, were residents of the Fairbridge Farm School at Molong in the state of New South Wales ("Fairbridge Farm School") between 1937 and 1974;
  - (b) are persons who were physically assaulted and/or sexually assaulted whilst resident at Fairbridge Farm School;
  - (c) are persons who have suffered injury and disability as a consequence of the physical and/or sexual assaults; and
  - (d) include the persons who are named in a list which has been provided to the solicitors for the Defendants and will be available to the Court on request, but which is not annexed for reasons of confidentiality.

**The Defendants**

3. The First Defendant is sued pursuant to sections 56 and 64 of the *Judiciary Act 1903* (Cth).
4. The Second Defendant is sued pursuant to section 5 of the *Crown Proceedings Act 1988* (NSW).
5. The Third Defendant:

- (a) is incorporated pursuant to the laws of Australia;
- (b) is able to be sued in the state of New South Wales.

### **The Plaintiffs**

6. The First Plaintiff:

- (a) was born on 22 June 1947;
- (b) arrived in Australia as an "immigrant child" (as defined in section 4 of the *Immigration (Guardianship of Children) Act 1946 (Cth)*) in or about 1954;
- (c) was resident at Fairbridge Farm School between about 1954 and 1964.

7. The Second Plaintiff:

- (a) was born on 8 May 1955;
- (b) arrived in Australia as an "immigrant child" (as defined in section 4 of the *Immigration (Guardianship of Children) Act 1946 (Cth)*) in or about 1959;
- (c) was resident at Fairbridge Farm School between about 1959 and 1971.

### **Duties Owed**

8. As to the Defendants:

- (a) the First Defendant:
  - (i) is and was at all material times the successor in law to the Minister of State for the Interior who, pursuant to regulation 3(1) of the *National Security (Overseas Children) Regulations 1940 (Cth)* until each turned 21 years of age or left Australia permanently, was the legal guardian of each of the Represented Persons who arrived as "overseas children" within the meaning of regulation 2 of those Regulations from the time of their arrival in Australia and during their residence at Fairbridge Farm School and accordingly had the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have;

- (ii) is and was at all material times the successor in law to the Minister for Immigration who, pursuant to section 6 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* until each turned 21 years of age or left Australia permanently, was the legal guardian of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of section 4 of that Act from the time of their arrival in Australia and during their residence at Fairbridge Farm School; and by section 6 thereof had as guardian the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have;
  - (iii) had the power pursuant to section 7 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* to remove a child to whom it was legal guardian from the custody of his or her custodian, including the Third Defendant;
  - (iv) had a duty and obligation pursuant to clause 6 of the *Assisted Passage Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland signed at London on 28 May 1962* to arrange for the appropriate authorities in Australia to make adequate administrative arrangements for the reception, placement and aftercare of all migrants upon arrival and to secure the cooperation of approved voluntary organisations in this connection;
- (b) the Second Defendant:
- (i) is and was at all material times the successor in law to the Director of Child Welfare for the State of New South Wales, in whom, pursuant to regulation 3(2) of the *National Security (Overseas Children) Regulations 1940 (Cth)*, legal guardianship became vested in respect of each of the Represented Persons who arrived as "overseas children" within the meaning of regulation 2 of those Regulations;
  - (ii) is and was at all material times the legal guardian of each of the Represented Persons who arrived as "overseas children" within the meaning of regulation 2 of the *National Security (Overseas Children)*

*Regulations 1940 (Cth)* during the period of their residence at Fairbridge Farm School; and by regulation 3(2) thereof had as guardian, the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have and also had the rights and powers exercisable in relation to a child committed to the custody or care of any person or authority or in relation to a ward or child of the State or any department or authority thereof;

- (iii) had the power pursuant to regulation 4 of the *National Security (Overseas Children) Regulations 1940 (Cth)* to make all such arrangements and do all such things as thought necessary or expedient for receiving the child into the State, for placing a child with a custodian and for the welfare and care of the child in the State;
- (iv) had the power pursuant to regulation 6 of the *National Security (Overseas Children) Regulations 1940 (Cth)* to approve an application from an applicant such as the Third Defendant to be a custodian and pursuant to regulation 7 to place children with that applicant, but such approval could only be given, pursuant to regulation 5, after satisfying itself that the applicant was a suitable person;
- (v) was at all material times the successor in law to the Director of Child Welfare for the State of New South Wales, to whom, pursuant to section 5 (1) of the *Immigration (Guardianship of Children) Act 1946 (Cth)*, the Minister for Immigration had delegated the legal guardianship of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of section 4 of that Act during the period of their residence at Fairbridge Farm School;
- (vi) was at all material times the delegated legal guardian of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of section 4 of that Act during the period of their residence at Fairbridge Farm School; and by section 6 had as guardian, the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have;

- (vii) had the power pursuant to section 7 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* to remove a child to whom it was legal guardian from the custody of his or her custodian, including the Third Defendant;
  - (viii) was the relevant licensing body for Fairbridge Farm School pursuant to section 29 of the *Child Welfare Act 1923 (NSW)* with the power to impose conditions (section 29), enter and inspect the premises (section 30) and cancel the licence (section 31);
  - (ix) was the relevant licensing body for Fairbridge Farm School pursuant to section 28 of the *Child Welfare Act 1939 (NSW)* with the power to impose conditions (section 28), enter and inspect the premises (section 30) and give directions and apply for the licence to be cancelled (section 31);
  - (x) granted a licence to Fairbridge Farm School under section 28 of the *Child Welfare Act 1939 (NSW)*, subject to conditions that included, by virtue of regulation 41 of the *Child Welfare Regulation 1940 (NSW)* a condition:

*"Each child shall be cared for to the satisfaction of the Minister."*
  - (xi) had the power pursuant to section 135 of the *Child Welfare Act 1939 (NSW)* to take any child or young person, in respect of whom there was reason to believe that an offence has been committed, to a shelter and there detain him or her;
- (c) the Third Defendant:
- (i) was, pursuant to indentures between the First and/or Second Defendant on the one hand and the Third Defendant on the other and regulation 7 of the *National Security (Overseas Children) Regulations 1940 (Cth)*, the legal custodian of those of the Represented Persons who arrived as "overseas children" within the meaning of regulation 2 thereof during the period of their residence at Fairbridge Farm School; and by regulation 9 thereof was under a duty to provide for the welfare and care therefor and to comply with the duties and obligations imposed upon a person to whose care a

child is committed and upon a person who becomes a guardian or foster parent;

- (ii) was, pursuant to indentures between the First and/or Second Defendant on the one hand and the Third Defendant on the other and section 7 of the *Immigration (Guardianship of Children) Act 1946 (Cth)*, the legal custodian of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of section 4 of that Act during the period of their residence at Fairbridge Farm School; and by regulation 6 of the *Immigration (Guardianship of Children) Regulations 1946 (Cth)* under a duty to provide for the welfare and care therefor and to comply with the duties and obligations imposed upon a person to whose care a child is committed and upon a person who becomes a guardian or foster parent;
- (iii) was granted a licence by the Second Defendant under section 28 of the *Child Welfare Act 1939 (NSW)*, pursuant to which it was obliged to comply with conditions that included, by virtue of regulation 41 of the *Child Welfare Regulation 1940 (NSW)* a condition:

*"Each child shall be cared for to the satisfaction of the Minister."*

9. At all material times:

- (a) the Plaintiffs and the Represented Persons were vulnerable because of:
  - (i) the prevalence of a number of paedophiles and violent and abusive persons who were engaged in various positions of employment and activity at Fairbridge Farm School in a largely unsupervised and uncontrolled environment and in which a number of instances of abuse regularly occurred ("the abusive environment");
  - (ii) their age;
  - (iii) the absence of any parental and/or supportive family environment;
  - (iv) the fact that they could not reasonably be expected adequately to safeguard themselves from harm;
  - (v) their inability to report assaults or abuse in safety;

- (vi) their awareness, and it being the fact, that anyone who complained of abuse was subject to severe and violent retribution;
  - (vii) the absence of any or any proper system of monitoring and/or control of the conditions at Fairbridge Farm School;
- (b) it was known or reasonably foreseeable to the Defendants that the abusive environment at Fairbridge Farm School would result in injury, loss and damage to the Plaintiffs and the Represented Persons;
  - (c) each of the Defendants had the powers and duties set out in paragraph 8 and it was foreseeable that a failure properly or at all to exercise those powers and comply with those duties would result in injury to the Plaintiffs and Represented Persons;
  - (d) the Defendants and each of them were in loco parentis to, and had control in relation to the care, supervision, welfare and education of, each of the Plaintiffs and Represented Persons.
10. Further, at all material times the Defendants and each of them knew or ought to have known that the placement of any of the Plaintiffs or Represented Persons as a resident at the Fairbridge Farm School would cause any such person so placed to be exposed to:
- (a) the behaviour of persons who; and/or
  - (b) an environment which; and/or
  - (c) systemic misconduct which;
  - (d) the abusive environment which
- rendered it foreseeable, or alternatively, materially increased the risk, that they would suffer physical and/or sexual abuse and consequent injury and disability.
11. In the circumstances the First Defendant owed each of the Plaintiffs and Represented Persons:
- (a) a non-delegable duty to ensure that reasonable care was taken that they would not suffer foreseeable injury or disability;



- (b) a duty to be discharged by its officers, servants and agents, including for these purposes the Second Defendant, its officers, servants and/or agents, to whom it had delegated guardianship and hence responsibility for the care, supervision and welfare of the Plaintiffs and Represented Persons, and the Third Defendant, its officers, servants and/or agents, to whom, with its knowledge and consent, the Second Defendant had delegated custody and hence responsibility for the care, supervision and welfare of the Plaintiffs and Represented Persons, to take reasonable care that they would not suffer foreseeable injury or disability;
  - (c) a duty to take reasonable care for the care, supervision and welfare of the Plaintiffs and Represented Persons:
    - (i) to act in their best interests;
    - (ii) to consider, disclose, protect and enforce their legal rights;
    - (iii) to avoid placing itself in a position of conflict of interest where their welfare was concerned;
  - (d) pursuant to clause 6 of the *Assisted Passage Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland signed at London on 28 May 1962* a duty to arrange for the appropriate authorities in Australia to make adequate administrative arrangements for the reception, placement and aftercare of all migrants upon arrival and to secure the cooperation of approved voluntary organisations in this connection.
12. In the circumstances the Second Defendant owed each of the Plaintiffs and Represented Persons:
- (a) a non-delegable duty to ensure that reasonable care was taken that they would not suffer foreseeable injury or disability;
  - (b) a duty to be discharged by its officers, servants and agents, including for these purposes the Third Defendant, its officers, servants and/or agents to whom it had delegated custody and hence responsibility for the care, supervision and welfare of the Plaintiffs and Represented Persons, to take reasonable care that they would not suffer foreseeable injury or disability;

- (c) a duty to take reasonable care for the care, supervision and welfare of the Plaintiffs and Represented Persons:
    - (i) to act in their best interests;
    - (ii) to consider, disclose, protect and enforce their legal rights;
    - (iii) to avoid placing itself in a position of conflict of interest where their welfare was concerned;
13. In the circumstances the Third Defendant owed each of the Plaintiffs and Represented Persons:
- (a) a non-delegable duty to ensure that reasonable care was taken that they would not suffer foreseeable injury or disability;
  - (b) a duty to be discharged by its officers, servants and agents to take reasonable care that they would not suffer foreseeable injury or disability;
  - (c) a duty to take reasonable care for the care, supervision and welfare of the Plaintiffs and Represented Persons:
    - (i) to act in their best interests;
    - (ii) to consider, disclose, protect and enforce their legal rights;
    - (iii) to avoid placing itself in a position of conflict of interest where their welfare was concerned;
- ~~14. In the circumstances each of the Defendants owed each of the Plaintiffs and Represented Persons a fiduciary duty.~~

**Content of the Duties**

15. In the circumstances, the said duties pleaded in paragraphs 11 to 14 above required the Defendants and each of them, and their respective officers, servants and/or agents:

**Non-Delegable Duty**

- (a) not to place the Plaintiffs and Represented Persons as residents at Fairbridge Farm School;
- (b) not to expose the Plaintiffs to the abusive environment;

- (c) not to expose the Plaintiffs and Represented Persons to the risk of physical and sexual abuse which it knew or ought to have known existed for children resident at Fairbridge Farm School;
- (d) to remove the Plaintiffs and Represented Persons from Fairbridge Farm School as soon as practicable after becoming aware of the risk that they might be exposed to physical and/or sexual abuse;
- (e) to take all reasonable steps to determine if any of the Plaintiffs and Represented Persons might be at risk of injury or disability from the abusive environment and/or from physical abuse or sexual abuse or physical and sexual abuse during the period of their residence at Fairbridge Farm School;
- (f) to take all reasonable steps to prevent or avoid any of the Plaintiffs or Represented Persons suffering physical abuse or sexual abuse or physical and sexual abuse during the period of their residence at Fairbridge Farm School;
- (g) to act on any information or complaint or suspicion of the occurrence of physical or sexual abuse at Fairbridge Farm School, by requiring all such information, complaints or suspicions be brought to its attention promptly and by conducting a proper, independent and thorough investigation to determine the validity of any such information or complaint or suspicion brought to its attention;
- (h) to refer any information or complaint or suspicion of the occurrence of physical or sexual abuse at Fairbridge Farm School of which it became aware, or ought to have become aware, to the police for investigation and, if appropriate, prosecution;
- (i) to take steps to remove as quickly as practicable from Fairbridge Farm School all persons reasonably suspected of perpetrating physical and/or sexual abuse;
- (j) regularly, thoroughly and properly to inspect the Fairbridge Farm School and in so doing, provide an opportunity for the Plaintiffs and the Represented Persons, and members of staff at Fairbridge Farm School confidentially to complain or express concerns about physical or sexual abuse or suspicion of physical or sexual abuse of children at Fairbridge Farm School;

- (k) to ensure that the Plaintiffs and Represented Persons were provided with regular and appropriate emotional support;
- (l) in respect of the First Defendant, to observe and comply with clause 6 of the *Assisted Passage Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland* signed at London on 28 May 1962, which obligation required the First Defendant to take reasonable steps to provide a safe environment for the Plaintiffs and Represented Persons;
- (m) to keep abreast or to inform itself adequately of medical, scientific and/or educational literature as to the effect of:
  - (a) institutional care of children;
  - (b) institutional abuse of children;
  - (c) care of children separated from parents;
  - (d) the behaviour of abused children;
- (n) to review, monitor and question the activities of each other Defendant to ensure that the requirements in (a) to (m) hereof were being fulfilled to the fullest extent reasonably possible.

#### **Vicarious Liability**

- (o) The Plaintiffs and Represented Persons repeat paragraphs (a) to (n) above as also constituting requirements for the fulfilment of the duty of care owed by the officers, servants and/or agents of the First Defendant (including for these purposes the Second and Third Defendants and their officers, servants and/or agents), breach of which would render the First Defendant vicariously liable to such of the Plaintiffs and Represented Persons who suffered injury or disability from physical and/or sexual abuse consequential on such breach;
- (p) Further and in the alternative, the Plaintiffs and Represented Persons repeat paragraphs (a) to (n) above as also constituting requirements for the fulfilment of the duty of care owed by the officers, servants and/or agents of the Second Defendant (including for these purposes, the Third Defendants and its officers, servants and/or agents), breach of which would render the Second Defendant vicariously liable to such of the Plaintiffs and Represented Persons who suffered injury or disability from physical and/or sexual abuse consequential on such breach;

- (q) Further, and in the alternative, the Plaintiffs and Represented Persons repeat paragraphs (a) to (n) above as also constituting requirements for the fulfilment of the duty of care owed by the officers, servants and/or agents of the Third Defendant, and further the Third Defendant is liable for the acts of physical and sexual abuse effected by its officers, servants and/or agents at Fairbridge Farm School in the course of, or connected with their employment (which at Fairbridge Farm School encompassed all such acts and omissions).

#### **Fiduciary-Duty**

- ~~(r) The Plaintiffs and Represented Persons repeat paragraphs (a) to (n) above as also constituting requirements for the fulfilment by each Defendant of the fiduciary duty owed;~~
- ~~(s) Further, and in the alternative, the fiduciary duty owed by each Defendant required it to avoid any conflict of interest in pursuing the best interests and welfare of the Plaintiffs and Represented Persons.~~

#### **Breaches of Duties**

16. In breach of the duties to the Plaintiffs and Represented Persons pleaded in paragraph 11 to 15 above:

#### **Non-Delegable Duty**

- (a) The First Defendant;
- (i) placed or caused or permitted the Plaintiffs and Represented Persons to be placed as residents at Fairbridge Farm School;
  - (ii) unreasonably exposed the Plaintiffs and Represented Persons to the risk of physical and sexual abuse which it knew or ought to have known existed for children resident at Fairbridge Farm School;
  - (iii) failed to remove the Plaintiffs and Represented Persons from Fairbridge Farm School as soon as practicable after becoming aware of the risk that they might be exposed to physical and/or sexual abuse or at all;
  - (iv) failed to take all reasonable steps to determine if any of the Plaintiffs and Represented Persons might be at risk of injury or disability from

physical and/or sexual abuse during the period of their residence at Fairbridge Farm School;

- (v) failed to take all reasonable steps to prevent or avoid any of the Plaintiffs or Represented Persons suffering physical and/or sexual abuse during the period of their residence at Fairbridge Farm School;
- (vi) failed to act on information, complaints or suspicions of the occurrence of physical and/or sexual abuse at Fairbridge Farm School by failing to require all such information, complaints or suspicions be brought to its attention promptly and failing to conduct a proper, independent and thorough investigation to determine the validity of any such information, complaint or suspicion brought to its attention;
- (vii) failed to institute and/or maintain a system in which residents could safely complain of abuse without fear of inappropriate retribution;
- (viii) failed to institute and/or maintain a system in which complaints of abuse at Fairbridge Farm School over time could be and were cross-checked against previous complaints;
- (ix) failed to refer information or complaints or suspicions of the occurrence of physical and/or sexual abuse at Fairbridge Farm School, which might have occurred or of which it became aware, to the police for investigation and, if appropriate, prosecution;
- (x) failed to take steps to remove or require the removal as quickly as practicable from Fairbridge Farm School of all persons reasonably suspected of perpetrating physical and/or sexual abuse;
- (xi) failed regularly, thoroughly and properly to inspect the Fairbridge Farm School and failed to provide an opportunity for the Plaintiffs and Represented Persons and members of staff at Fairbridge Farm School confidentially to complain about physical and/or sexual abuse or suspicion of physical and/or sexual abuse of children at Fairbridge Farm School;
- (xii) failed to ensure that the Plaintiffs and Represented Persons were raised in an environment whose standards conformed to those

prescribed in the extent and/or contemporaneous scientific, medical and educational literature relating to children in institutional care;

- (xiii) failed to observe and comply with regulation 3(1) of the *Immigration National Security (Overseas Children) Regulations 1940 (Cth)* in respect of those of the Represented Persons who arrived as "overseas children" within the meaning of regulation 2 thereof in that it failed to exercise properly or at all the duties, obligations and liabilities of a natural guardian;
- (xiv) failed to observe and comply with section 6 of the *Immigration (Guardianship of Children) Act 1946* in respect of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of section 4 of that Act in that it failed to exercise properly or at all the duties, obligations and liabilities of a natural guardian;
- (xv) failed to observe and comply with clause 6 of the *Assisted Passage Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland signed at London on 28 May 1962* in that it failed to arrange for the appropriate authorities in Australia to make adequate administrative arrangements for the reception, placement and aftercare of all migrants upon arrival and to secure the cooperation of approved voluntary organisations in this connection;
- (xvii) failed to keep abreast or to inform itself adequately or at all of medical, scientific and/or educational literature as to the effect of:
  - (a) institutional care of children;
  - (b) institutional abuse of children;
  - (c) care of children separated from parents;
  - (d) the behaviour of abused children;
- (xviii) failed regularly or properly to review, monitor and question the activities of each other Defendant to ensure that the requirements in 15 (a) to (m) hereof were being fulfilled to the fullest extent reasonably possible.

- (b) The Second Defendant;

- (i) placed or caused or permitted the Plaintiffs and Represented Persons to be placed as residents at Fairbridge Farm School;
- (ii) unreasonably exposed the Plaintiffs and Represented Persons to the risk of physical and sexual abuse which it knew or ought to have known existed for children resident at Fairbridge Farm School;
- (iii) failed to remove the Plaintiffs and Represented Persons from Fairbridge Farm School as soon as practicable after becoming aware of the risk that they might be exposed to physical and/or sexual abuse or at all;
- (iv) failed to take all reasonable steps to determine if any of the Plaintiffs and Represented Persons might be at risk of injury or disability from physical and/or sexual abuse during the period of their residence at Fairbridge Farm School;
- (v) failed to take all reasonable steps to prevent or avoid any of the Plaintiffs or Represented Persons suffering physical and/or sexual abuse during the period of their residence at Fairbridge Farm School;
- (vi) failed to act on information, complaints or suspicions of the occurrence, of physical and/or sexual abuse at Fairbridge Farm School, by failing to require all such information, complaints or suspicions be brought to its attention promptly and failing to conduct a proper, independent and thorough investigation to determine the validity of any such information, complaint or suspicion brought to its attention;
- (vii) failed to institute and/or maintain a system in which residents could safely complain of abuse without fear of inappropriate retribution;
- (viii) failed to institute and/or maintain a system in which complaints of abuse at Fairbridge Farm School over time could be and were cross-checked against previous complaints;
- (ix) failed to refer information or complaints or suspicions of the occurrence, of physical and/or sexual abuse at Fairbridge Farm School, which might have occurred or of which it became aware, to the police for investigation and, if appropriate, prosecution;



- (x) failed to take steps to remove or require the removal as quickly as practicable from Fairbridge Farm School all persons reasonably suspected of perpetrating physical and/or sexual abuse;
- (xi) failed regularly, thoroughly and properly to inspect the Fairbridge Farm School and failed to provide an opportunity for the Plaintiffs and the Represented Persons, and members of staff at Fairbridge Farm School, confidentially to complain about physical and/or sexual abuse or suspicion of physical and/or sexual abuse at Fairbridge Farm School;
- (xii) failed to ensure that the Plaintiffs and Represented Persons were raised in an environment whose standards conformed to those prescribed in the extent and/or contemporaneous scientific, medical and educational literature relating to children in institutional care;
- (xiii) failed to observe and comply with regulation 3(2) of the *National Security (Overseas Children) Regulations 1940 (Cth)* in respect of those of the Represented Persons who arrived as "overseas children" within the meaning of regulation 2 thereof in that it failed to exercise properly or at all the duties, obligations and liabilities of a natural guardian
- (xiv) failed to observe and comply with section 6 of the *Immigration (Guardianship of Children) Act 1946* in respect of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of section 4 of that Act in that it failed to exercise properly or at all the duties, obligations and liabilities of a natural guardian;
- (xv) failed to keep abreast or to inform itself adequately or at all of medical, scientific and/or educational literature as to the effect of:
  - (a) institutional care of children;
  - (b) institutional abuse of children;
  - (c) care of children separated from parents;
  - (d) the behaviour of abused children;
- (xvi) failed regularly or properly to review, monitor and question the activities of each other Defendant to ensure that the requirements in 15 (a) to (m) hereof were being fulfilled to the fullest extent reasonably possible.

(xvii) Failed adequately or at all to exercise its powers under sections 29, 30 and 31 of the *Child Welfare Act 1923 (NSW)* and/or the *Child Welfare Act 1939 (NSW)* to impose conditions on the licence granted to the Third Defendant in respect of Fairbridge Farm School or to enter and inspect Fairbridge Farm School or to cancel the said licence.

(c) The Third Defendant;

- (i) placed or caused or permitted the Plaintiffs and Represented Persons to be placed as residents at Fairbridge Farm School;
- (ii) unreasonably exposed the Plaintiffs and Represented Persons to the risk of physical and sexual abuse which it knew or ought to have known existed for children resident at Fairbridge Farm School;
- (iii) failed to remove the Plaintiffs and Represented Persons from Fairbridge Farm School as soon as practicable after becoming aware of the risk that they might be exposed to physical and/or sexual abuse or at all;
- (iv) failed to take all reasonable steps to determine if any of the Plaintiffs and Represented Persons might be at risk of injury or disability from physical and/or sexual abuse during the period of their residence at Fairbridge Farm School;
- (v) failed to take all reasonable steps to prevent or avoid any of the Plaintiffs or Represented Persons suffering physical and/or sexual abuse during the period of their residence at Fairbridge Farm School;
- (vi) failed to act on information, complaints or suspicions of the occurrence, of physical and/or sexual abuse at Fairbridge Farm School, by failing to require all such information, complaints or suspicions be brought to its attention promptly and failing to conduct a proper, independent and thorough investigation to determine the validity of any such information, complaint or suspicion brought to its attention;

- (vii) failed to institute and/or maintain a system in which residents could safely complain of abuse without fear of inappropriate retribution;
- (viii) failed to institute and/or maintain a system in which complaints of abuse at Fairbridge Farm School over time could be and were cross-checked against previous complaints;
- (ix) failed to refer information or complaints or suspicions of the occurrence, of physical and/or sexual abuse at Fairbridge Farm School, which might have occurred or of which it became aware, to the police for investigation and, if appropriate, prosecution;
- (x) failed to take steps to remove or require the removal as quickly as practicable from Fairbridge Farm School all persons reasonably suspected of perpetrating physical and/or sexual abuse;
- (xi) failed regularly, thoroughly and properly to inspect the Fairbridge Farm School and failed to provide an opportunity for the Plaintiffs and the Represented Persons, and members of staff at Fairbridge Farm School, confidentially to complain about physical and/or sexual abuse or suspicion of physical and/or sexual abuse of children at Fairbridge Farm School;
- (xii) failed to ensure that the Plaintiffs and Represented Persons were raised in an environment whose standards conformed to those prescribed in the extent and/or contemporaneous scientific, medical and educational literature relating to children in institutional care;
- (xiii) failed to observe and comply with regulation 9 of the *National Security (Overseas Children) Regulations 1940 (Cth)* in that in respect of those of the Represented Persons who arrived as "overseas children" within the meaning of regulation 2 thereof it failed to provide for their welfare and care and to comply with the duties and obligations imposed upon a person to whose care a child is committed and upon a person who becomes the guardian or foster parent;
- (xiv) failed to observe and comply with regulation 6 of the *Immigration (Guardianship of Children) Regulations 1946 (Cth)* in that in respect of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of section 4 of *Immigration (Guardianship of Children) Act 1946* it failed to provide for their welfare and care and to comply with the duties and

obligations imposed upon a person to whose care a child is committed and upon a person who becomes the guardian or foster parent;

- (xv) failed to keep abreast or to inform itself adequately or at all of medical, scientific and/or educational literature as to the effect of:
  - (a) institutional care of children;
  - (b) institutional abuse of children;
  - (c) care of children separated from parents;
  - (d) the behaviour of abused children;
- (xvi) failed regularly or properly to review, monitor and question the activities of each other Defendant to ensure that the requirements in 15 (a) to (m) hereof were being fulfilled to the fullest extent reasonably possible.

#### **Vicarious Liability**

- (d) The First Defendant;

Further or in the alternative, the Plaintiffs and Represented Persons repeat paragraphs 16(a) (i) to (xvii) above as also constituting breaches of the duty of care owed by the officers, servants and/or agents of the First Defendant (including for these purposes the Second and Third Defendants and their officers, servants and/or agents), breach of which renders the First Defendant vicariously liable to such of the Plaintiffs and represented persons who suffered injury or disability from physical and/or sexual abuse consequential on such breach.

- (e) The Second Defendant;

Further or in the alternative, the Plaintiffs and Represented Persons repeat paragraphs 15(b) (i) to (xvii) above as also constituting breaches of the duty of care owed by the officers, servants and/or agents of the Second Defendant (including for these purposes, the Third Defendants and its officers, servants and/or agents), breach of which renders the Second Defendant vicariously liable to such of the Plaintiffs and Represented Persons who suffered injury or disability from physical and/or sexual abuse consequential on such breach.

- (f) The Third Defendant;
- (i) Further or in the alternative, the Plaintiffs and Represented Persons repeat paragraphs 16(c) (i) to (xvi) above as also constituting breaches of the duty of care owed by the officers, servants and/or agents of the Third Defendant; and
  - (ii) Further or in the alternative, the Third Defendant is liable to the Plaintiffs and Represented Persons for the acts of physical and/or sexual abuse inflicted upon each of them effected by its officers, servants and/or agents at Fairbridge Farm School in the course of, or connected with their employment (which at Fairbridge Farm School encompassed all such acts and omissions), hereinafter pleaded.

#### **Fiduciary-Duty**

- ~~(g) The-First-Defendant-by-its-officers,-servants-and/or-agents-was-guilty-of-the-acts-and-omissions-particularised-at-16(a)-(i)-to-(xvii)-above:~~
- ~~(h) The-Second-Defendant-by-its-officers,-servants-and/or-agents-was-guilty-of-the-acts-and-omissions-particularised-at-16(b)-(i)-to-(xvii)-above:~~
- ~~(i) The-Third-Defendant:~~
- ~~(i) by-its-officers,-servants-and/or-agents-was-guilty-of-the-acts-and-omissions-particularised-at-16(c)-(i)-to-(xvi)-above;~~
  - ~~(ii) faced-with-a-conflict-of-interest-which-emerged-from;~~
    - ~~(a) the-desire-and/or-aim-to-advance-the-reputation,-development-and-financial-interests-of-The-Third-Defendant-on-one-hand;~~  
~~and~~
    - ~~(b) the-proper-discharge-of-its-obligations-to-children-reporting-abuse-by-servants-or-agents-of-the-Third-Defendant~~

~~the Third Defendant wrongfully and/or inappropriately acted to prefer and advance the interests described in (a) above to the detriment of the Plaintiffs and Represented Persons.~~

17. As a consequence of the breaches of the duties particularised in paragraph 16, alternatively some of them or any of them, by the Defendants and each of them, each of the Plaintiffs and Represented Persons during their residence at Fairbridge Farm School was subjected to physical abuse and/or sexual abuse.

### **Joint and Several Liability**

18. In carrying out a joint enterprise for the welfare and care of the Plaintiffs and Represented Persons, and in respectively delegating and accepting guardianship and custody of the Plaintiffs and Represented Persons, the Defendants are jointly liable for the consequences of the breach of duty by each other Defendant, and are severally liable for their own breaches and the breaches by their officers, servants and/or agents as hereinbefore pleaded.

### **Injuries and Disabilities**

19. As a consequence of the breaches of duty by the Defendants and each of them as hereinbefore pleaded, which resulted in each of the Plaintiffs and Represented Persons being subjected to physical and/or sexual abuse each of the Plaintiffs and Represented Persons has suffered:

- (a) physical injury; and/or
- (b) psychiatric injury; and/or
- (c) latent psychiatric injury;

and as a consequence of such injury or injuries has suffered disability, loss and damage.

### **Particulars of Injuries and Disabilities Suffered by Each Plaintiff;**

Pain, suffering and loss of amenity including distress, upset and psychological symptoms, which are continuing. Further details will be provided in due course.

**Particulars of Loss and Damage Suffered by Each Plaintiff**

Miscellaneous medical and other expenses incurred to date and which are continuing. Further details will be provided in due course.

**Substantial Common Interest and Issues**

20. The claims of each of the Plaintiffs and Represented Persons are against the same entities.
  
21. The claims of the Plaintiffs and Represented Persons are in respect of, or arise from the same, similar or related circumstances, namely the sexual and/or physical abuse of each of them, during their residence as immigrant children at Fairbridge Farm School.
  
22. The claims of the Plaintiffs and Represented Persons give rise to substantial common issues of law and fact which are identified in annexures A and B to this Statement of Claim.

**AND** the Plaintiffs and Represented Persons claim the relief set out above.



I certify under section 347 of the *Legal Profession Act* 2004 that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the plaintiffs that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

Steven Lewis  
Solicitor on record

Date of signature

6 June 2012



## NOTICE TO DEFENDANT

You will be in default if you do not file a defence within 28 days of being served with this statement of claim. The court may enter judgment against you without any further notice to you. The judgment may be for the relief claimed in the statement of claim and for the plaintiffs costs of bringing these proceedings. The court may provide third parties with details of any default judgment entered against you.

## HOW TO RESPOND

**Please read this statement of claim very carefully. If you have any trouble understanding it or require assistance on how to respond to the claim you should get legal advice as soon as possible.**

You can respond in one of the following ways:

- 1 If you intend to dispute the claim**, by filing a defence and/or making a cross-claim.
- 2 If money is claimed, and you believe you owe the money claimed**, by:
  - Paying the plaintiff all of the money and interest claimed. If you file a notice of payment under UCPR 6.17 further proceedings against you will be stayed unless the court otherwise orders.
  - Filing an acknowledgement of the claim.
  - Applying to the court for further time to pay the claim.
- 3 If money is claimed, and you believe you owe part of the money claimed**, by:
  - Paying the plaintiff that part of the money that is claimed.
  - Filing a defence in relation to the part that you do not believe is owed.

You can get further information about what you need to do to respond to the claim from:

- The court registry.
- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).

Court forms are available on the UCPR website at [www.lawlink.nsw.gov.au/ucpr](http://www.lawlink.nsw.gov.au/ucpr) or at any NSW court registry.

## REGISTRY ADDRESS

Street address	Supreme Court of New South Wales Law Courts Building, Queens Square 184 Phillip Street, Sydney NSW 2000 Australia
Postal address	Supreme Court of New South Wales GPO Box 3 Sydney NSW 2001 Australia DX: 829 SYDNEY
Telephone	(02)9230 8111

**PARTY DETAILS****PARTIES TO THE PROCEEDINGS****Plaintiffs**

Geraldine Whinn  
First Plaintiff

Vivian Catherin Drady  
Second Plaintiff

**Defendants**

Commonwealth of Australia  
First Defendant

State of New South Wales  
Second Defendant

The Fairbridge Foundation ACN 000 038 353  
Third Defendant

**FURTHER DETAILS****First plaintiff**

Name Geraldine Dorothy Giles  
Address c/- Goulburn Post Office  
GOULBURN NSW 2580

**Second plaintiff**

Name Vivian Catherine Drady  
Address c/- Cudal Post Office  
CUDAL NSW 2864

**Legal representative for plaintiffs**

Name Kenneth John Fowlie  
Practising certificate number 23138  
Firm Slater & Gordon  
Contact solicitor Roop Sandhu  
Address ~~Level 11, 51-Druitt~~ Level 5, 44 Market Street  
Sydney NSW 2001  
DX address 1163 Sydney  
Telephone (02)8267 0612  
Fax (02) 8267 0650  
Email rsandhu@slatergordon.com.au

**DEFENDANT****First defendant**

Name Commonwealth of Australia  
Address Attorney-General's Department  
Central Office  
3-5 National Circuit  
BARTON ACT 2600

**Second defendant**

Name State of New South Wales  
Address Crown Solicitor's Office NSW  
60-70 Elizabeth Street  
Sydney NSW 2000

**Third defendant**

Name The Fairbridge Foundation ACN 000 038 353  
Address Suite 809, 155 King Street  
Sydney NSW 2000

## Annexure A

### Common Questions of Law

1. Was the First Defendant the legal guardian of each of the Plaintiffs and Represented Persons who arrived in Australia as "overseas children" within the meaning of regulation 3(1) of the *National Security (Overseas Children) Regulations 1940 (Cth)* or who arrived in Australia as "immigrant children" within the meaning of s 4 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* during the period of their residence at Fairbridge Farm School, and is so did the First Defendant owe a duty to those children during that period, and if so what was the content of that duty?
2. Did the First Defendant have a duty pursuant to clause 6 of the Assisted Passage Agreement between the Government of the Commonwealth of Australian and the Government of the UK to make adequate administrative arrangements for the reception, placement and after-care of all of the Represented Persons who were migrants from the United Kingdom or Northern Ireland and if so what was the content of that duty and to whom was it owed?
3. Did the power granted to the First Defendant by s 7 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* to remove a child of whom it was legal guardian from the custody of his or her custodian, together with other circumstances, import a duty to do so in circumstances where the First Defendant knew or ought to have known that the health, welfare or safety of the child was at risk?
4. Was the Second Defendant the legal guardian of each of the Represented Persons who arrived in Australia as "overseas children" within the meaning of regulation 2 of the *National Security (Overseas Children) Regulations 1940 (Cth)* or who arrived in Australia as "immigrant children" within the meaning the of s 4 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* during the period of their residence at Fairbridge Farm School, and if so did the Second Defendant owe a duty to those children during that period, and if so what was the content of that duty?
5. Was legal guardianship of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of s 4 of the

*Immigration (Guardianship of Children) Act 1946 (Cth)* vested in the Second Defendant pursuant to s 5(1) of the said Act during the period of their residence at Fairbridge Farm School, and if so did the Second Defendant owe a duty to those children during that period, and if so what was the content of that duty?

6. Did the power granted to the Second Defendant by clause 4 of the *National Security (Overseas Children) Regulations 1940 (Cth)* to make all such arrangements and do all such things as thought necessary or expedient for receiving the Plaintiffs and the Represented Persons into the State and for placing those Persons with a custodian and for the welfare and care of such Persons with the State, together with other relevant circumstances, impose a duty on the Second Defendant to those children while they were residents of Fairbridge Farm School and if so what was the content of that duty?
7. Did the Second Defendant's exercise of the power under clause 6 of the *National Security (Overseas Children) Regulations 1940 (Cth)* to approve an application by the Third Defendant to be a custodian and, pursuant to clause 7, to place children, including the Plaintiffs and Represented Persons, with the Third Defendant, after satisfying itself that the Third Defendant was a suitable person, together with other relevant circumstances, impose a duty on the Second Defendant to such children and if so, what was the content of that duty?
8. Did the power vested in the Second Defendant by s 7 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* to remove a child in respect of whom it was legal guardian from the custody of a custodian such as the Third Defendant, together with other relevant circumstances, impose a duty on the Second Defendant to the said child during the period when each was a resident of Fairbridge Farm School and if so what was the content of that duty?
9. Did the exercise of power by the Second Defendant as the licensing body for the Fairbridge Farm School pursuant to ss 28 and/or 29 of the *Child Welfare Act 1923 (NSW)*, together with other relevant circumstances, impose a duty on the Second Defendant to residents or future residents of the licensed school and if so what was the content of that duty?
10. Did the power vested in the Second Defendant pursuant to s 135 of the *Child Welfare Act 1939 (NSW)*, to take a child or young person, in respect of whom there was reason to believe an offence had been committed, to a shelter and there detain him or her, together with other relevant circumstances, impose a duty on the

Second Defendant to such child or young person and if so what was the content of that duty?

11. As legal custodian of those of the Represented Persons who arrived in Australia as "overseas children" within the meaning of clause 7 of the *National Security (Overseas Children) Regulations 1940 (Cth)* and of each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of s 4 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* was the Third Defendant under a duty to the Plaintiffs and the Represented Persons and if so what was the content of that duty?
12. Did the grant of a license by the Second Defendant to the Third Defendant under s 28 of the *Child Welfare Act 1939 (NSW)* in respect of the Fairbridge Farm School impose a duty upon the Third Defendant to the residents or future residents of the said school and if so what was the content of that duty?
13. Did the First Defendant owe each of the Plaintiffs and Represented Persons a non-delegable duty during the period of their residence at the Fairbridge Farm School and if so what was the content of that duty?
14. Did the Second Defendant owe each of the Plaintiffs and Represented Persons a non-delegable duty during the period of their residence at the Fairbridge Farm School and if so what was the content of that duty?
15. Did the Third Defendant owe each of the Plaintiffs and Represented Persons a non-delegable duty during the period of their residence at the Fairbridge Farm School and if so what was the content of that duty?
16. Is the First Defendant vicariously liable for the acts and omissions of the Second and Third Defendants, by their officers, servants and/or agents, which caused harm to the Plaintiffs and Represented Persons during their residence at Fairbridge Farm School?
17. Is the Second Defendant vicariously liable for the acts and omissions of the Third Defendant, its officers, servants and/or agents which caused harm to the Plaintiffs and Represented Persons during their residence at Fairbridge Farm School?
18. Is the Third Defendant vicariously liable for the acts and omissions of its officers, servants and/or agents which caused harm to the Plaintiffs and Represented Persons during their residence at Fairbridge Farm School?

~~19.~~—Did the First Defendant owe a fiduciary duty to the Plaintiffs and Represented Persons prior to and during their period of residence at Fairbridge Farm School?

~~20.~~—Did the Second Defendant owe a fiduciary duty to the Plaintiffs and Represented Persons prior to and during their period of residence at Fairbridge Farm School?

~~21.~~—Did the Third Defendant owe a fiduciary duty to the Plaintiffs and Represented Persons prior to and during their period of residence at Fairbridge Farm School?

~~22.~~—What was the content of any fiduciary duty owed by any of the Defendants to the Plaintiffs and Represented Persons during the period of their residence at Fairbridge Farm School?

## Annexure B

### Common Questions of Fact

1. During the period from 1937 until 1974 did the First Defendant adopt a system, and if so what was that system, for discharging its obligations, as legal guardian of the Plaintiffs and Represented Persons, to take reasonable care for their health, safety and welfare during their period of residence at Fairbridge Farm School?
2. During the period from 1940 until 1974 was any, and if so what, system adopted by the First Defendant to ensure that it discharged its obligations as legal guardian to such of the Represented Persons who arrived in Australia as "overseas children" within the meaning of clause 2 of the *National Security (Overseas Children) Regulations 1940(Cth)* and to each of the Plaintiffs and those of the Represented Persons who arrived as "immigrant children" within the meaning of s 4 of the *Immigration (Guardianship of Children) Act 1946 (Cth)*?
3. During the period from 1940 until 1974 what, if any, system was adopted by the First Defendant to ensure that its power pursuant to s 7 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* to remove a child to whom it was legal guardian from the custody of his or her custodian was properly and appropriately exercised in a timely manner in respect of persons such as the Plaintiffs and Represented Persons whose custody had been entrusted to the Third Defendant?
4. During the period from 1962 until 1971 what, if any, system was adopted by the First Defendant to ensure that adequate administrative arrangements were made for the reception, placement and after-care of all migrants, pursuant to clause 6 of the Assisted Passage Agreement between the Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland signed in London on 28 May 1962?
5. During the period from 1937 to 1974 what, if any, system was adopted by the Second Defendant to ensure that the applications by the Third Defendant for custody of the Plaintiffs and the Represented Persons were adequately and properly investigated and what, if any, system or requirement was adopted and enforced during the said period whereby the Second Defendant satisfied itself that



the Third Defendant was a suitable person to have custody of the Plaintiffs and the Represented Persons?

6. During the period from 1940 until 1974 what, if any, system was adopted by the Second Defendant for receiving children into the State and for placing such children with a custodian and for ensuring the welfare and care of children in the State, pursuant to the powers conferred on the Second Defendant by clause 4 of the *National Security (Overseas Children) Regulations 1940 (Cth)*?
7. During the period from 1937 until 1974 what, if any, system was adopted by the Second Defendant to ensure that it adequately discharged its obligations under the *Child Welfare Act 1923 (NSW)* when it granted a license to Fairbridge Farm School under s 28 of the *Child Welfare Act 1939 (NSW)* and in particular to ensure that each child was cared for to the satisfaction of the Minister pursuant to regulation 41 of the *Child Welfare Regulation 1940 (NSW)*?
8. During the period from 1946 until 1974 what, if any, system was adopted by the Second Defendant to ensure the proper, adequate and timely exercise of its powers pursuant to s 7 of the *Immigration (Guardianship of Children) Act 1946 (Cth)* to remove a child to whom it was legal guardian from the custody of the Third Defendant?
9. During the period from 1939 until 1974 what, if any, system was adopted by the Second Defendant to ensure that its powers under s 135 of the *Child Welfare Act 1939 (NSW)* to take any child or young person in respect of whom there was reason to believe an offence had been committed to a shelter and detain him or her there, were being properly and appropriately exercised in a timely manner in respect of the Plaintiffs and Represented Persons?
10. During the period from 1939 until 1974, in respect of the license granted by the Second Defendant to the Third Defendant under s 28 of the *Child Welfare Act 1939 (NSW)* what system was adopted by the Second Defendant to ensure that all conditions imposed by the license in respect of the health, welfare and safety of the residents of the Fairbridge Farm School including the Plaintiffs and Represented Persons?
11. During the period from 1940 until 1974 what, if any, system was adopted by the Third Defendant as legal custodian of the Plaintiffs and Represented Persons to ensure that reasonable precautions were taken for their health, welfare and safety?
12. During the period from 1937 until 1974:

- (a) What system was adopted by the First and Second Defendants for inspecting the Fairbridge Farm School?
- (b) How often were such inspections carried out by
  - (i) the First Defendant and
  - (ii) the Second Defendant?
- (c) What, if any, system was adopted by the First and Second Defendant for ensuring that the Plaintiffs and Represented Persons were properly and adequately cared for by the Third Defendant at the Fairbridge Farm School and who was it enforced?
- (d) What, if any, system was adopted by the First and Second Defendants for ensuring that any complaints made by the Plaintiffs and Represented Persons, or anyone else, concerning the health, safety and welfare of the Plaintiffs and Represented Persons, were properly investigated and acted upon and how was it enforced?
- (e) What, if any, system was instituted by the Third Defendant to ensure that the Plaintiffs and the Represented Persons might safely complain of abuse without fear of inappropriate retribution and how was it enforced?
- (f) What, if any, system was adopted by the Third Defendant for selecting, scrutinising and supervising staff employed at the Fairbridge Farm School and who was it enforced?
- (g) What, if any, system was adopted by the Third Defendant to ensure that the Plaintiffs and Represented Persons as residents of the Fairbridge Farm School were not put at unnecessary risk of physical or sexual abuse and how was it enforced?
- (h) What, if any, system was adopted by the Third Defendant to ensure regular inspections of the Fairbridge Farm School to monitor the behaviour and performance of its employees and the health, safety and welfare of the children there and how was it enforced?
- (i) What, if any, system was adopted by the Third Defendant for disciplining and/or terminating the employment of persons found to have behaved inappropriately or to have perpetrated physical or sexual abuse of residents, including the Plaintiffs and Represented Persons at the Fairbridge Farm School and how was it enforced?

- (j) What, if any, system was adopted by the Third Defendant to promote the health, safety and welfare of the Plaintiffs and Represented Persons at the Fairbridge Farm School and how was it enforced?
- (k) What, if any, system was adopted by the Third Defendant to keep abreast of all medical, scientific and educational literature concerning the proper care of children in institutions and the signs and symptoms manifested by children who were being abused in institutions and how was it enforced?
- (l) What, if any, system was adopted by the Third Defendant to cross-check complaints of abuse at Fairbridge Farm School against previous complaints of abuse there and how was it enforced?
- (m) What, if any, system was adopted by the Third Defendant to ensure that the NSW Police were notified in a timely way of any instances of unlawful physical and sexual abuse at Fairbridge Farm School and how was it enforced?