

Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies

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The Victorian Ombudsman respectfully acknowledges the Traditional Owners of the lands throughout Victoria and pays respect to them, their culture and their Elders past, present and future.

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973* (Vic), I present to Parliament my *Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies*.



Deborah Glass OBE

Ombudsman

25 June 2018



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Foreword

Robert Kingsley Whitehead was convicted of 24 counts of child sexual offences in 2015, dying in prison later that year. Whitehead – who had been convicted of offences against children in 1959 – was involved for decades with the railways, including Puffing Billy, where he gained access to countless innocent volunteers. We do not know, and will never know, how many he abused.

Whitehead's conviction and death left many questions unanswered. A core question of his victims was: how did he get away with his offending for so long? This investigation seeks to answer those questions. It is the result of the tenacity of some survivors, whose complaints to Ministers and government agencies ultimately led the Department of Economic Development, Jobs, Transport and Resources to refer the matter to me in 2017. I commend the courage and persistence of the survivors.

The investigation ranged over more than five decades, from records in dusty archives in Belgrave and Emerald to the Public Records Office, police evidence and criminal trial briefs, as well as witness interviews. Inevitably, there are gaps in the evidence. The passage of time is damaging to investigations, although some gaps raised further questions. Eighteen people contacted my office in response to a media statement in July 2017, and I thank everyone who assisted the investigation, many of whom told us deeply personal and distressing stories. One went as far back as 1947. Another told us he just wanted the truth to come out. These stories were essential to the investigation, often filling another gap in the broken public narrative.

The story that unfolds from this narrative is deeply shocking. Whitehead was a life-long offender whose abuse was facilitated by the wilful blindness, indifference or ineptitude of a succession of organisations.

One of them was Puffing Billy – a Victorian icon – the steam train featured in so many Victorian childhoods, usually remembered with nostalgic delight. But for a group of boys abused by trusted adult volunteers, the Railway shaped their lives in a very different way.

Whitehead's involvement with Puffing Billy goes back to at least 1961, the year after he was released from Pentridge Prison. He had been re-employed by the Victorian Railways, for whom his conviction was not a barrier, and quickly became one of Puffing Billy's most active – and valued – volunteers. Although Puffing Billy's management denied any knowledge of his past conviction there is ample evidence that rumour abounded. One former Board member had even warned his own son to keep away from him.

Yet despite the persistent rumour, and a police investigation in 1985, Whitehead remained an active volunteer until 1991. He had access to children in many of his roles, including supervising overnight working parties, and he had leases on railway property where some of his offending occurred. In the 1980s Whitehead and another offender were even responsible for Puffing Billy's lax volunteer screening procedures.

While this investigation focused on Whitehead, he was not the only active sexual offender exploiting and abusing young Railway volunteers. Some of those offenders are the subject of current police investigations.

When Whitehead resigned in 1985 – not coincidentally when he was the subject of a police investigation into child sexual abuse – Puffing Billy's Board expressed its effusive thanks. Months after his resignation, he returned to Puffing Billy as its archivist – with unencumbered access to its records, including any records of complaints, even drafting a policy that complaints were not to be stored in the archives.

One record that survived Whitehead's archival activity was a letter from a 17-year-old abuse survivor, banned from volunteering and desperate to return. He was told no; his perpetrators remained. The victims' voices emerging from the historic material paint a heartbreaking picture.

Records of boys telling senior management directly about the sexual abuse they suffered, but management not reporting these allegations to police. A mother trying to warn an organisation about offending committed against her son, whose integrity was called into question because the organisation said it had no evidence of her contact. Their stories are finally validated.

I recognise it is difficult – and often unfair – to act on rumour and innuendo. Yet double standards prevailed for decades. Minor thefts were reported to police with great vigour, yet allegations of child sexual abuse were never reported. A Board member warned his son, but not other boys. Puffing Billy’s management told us they could not act to remove Whitehead on rumour in 1985, yet it seems were able to do so in 1991.

Time and time again, on hearing allegations, volunteer organisations acted to protect their own reputations at the expense of victims. Whitehead was allowed to remain; the broader volunteer group was not informed of allegations; victims were not encouraged to come forward; his ability to have contact with and groom children remained unchanged – and when leaving under ambiguous circumstances, he was given a rousing farewell with his legacy praised.

During the investigation we were urged by some witnesses not to look at this matter ‘through the lens of today’. The abuse of children was a serious criminal offence at all times examined by the investigation. Indeed, Victorian laws addressing child sexual abuse were in effect during the 1950s. The vast incomprehensible impact that such abuse has on its victims has not changed. The actions or inaction of people in positions of authority, who should have known better, is inexcusable.

For decades, young victims with valid complaints about sexual abuse were forced to seek justice for themselves, while steps were taken to protect the reputation of the alleged offenders and the railway.

The Puffing Billy Board’s failures are monumental. The inaction from 1985 to 1991 deserves particular opprobrium. In 1985 members of the Board knew that Whitehead was under police investigation for child sexual offences yet he was not removed until 1991. They failed to act on complaints or even record contacts, in one notable case punishing the victim. One former board member even suggested to us that it was the children who may have been predatory.

So what should be done now?

The survivors of the abuse of Whitehead and other Puffing Billy offenders may never receive justice; nothing can compensate for the trauma and loss of innocence experienced by victims and survivors. But whatever redress they choose to pursue, they deserve nothing less than the verification of facts, public disclosure of truth and public apologies.

I welcome the government’s acceptance of my recommendations, in particular the public apologies that may help to provide both vindication and closure.

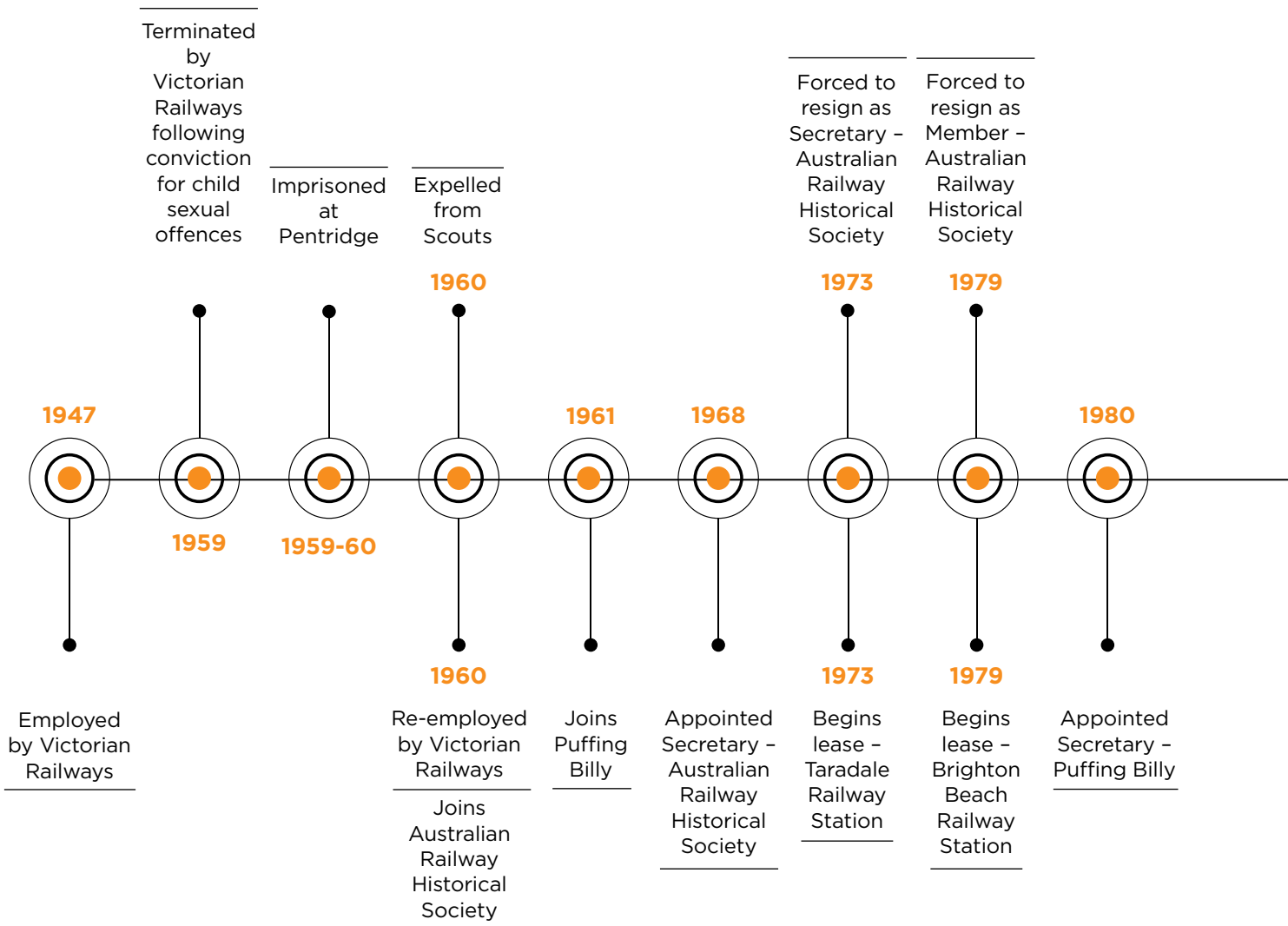
While this investigation principally concerns Puffing Billy, it raises many issues recently considered by the Royal Commission into Institutional Responses to Child Sexual Abuse. That report not only laid bare the scale of the national tragedy of children abused in institutional settings, it also made recommendations for governments and institutions to better protect children and to respond to the needs of survivors. I am pleased the Victorian Government has begun implementing the recommendations to deliver redress to survivors, although more needs to be done to see full implementation. They must provide support and succour to those affected by this indelible stain on so many childhood memories.

Deborah Glass

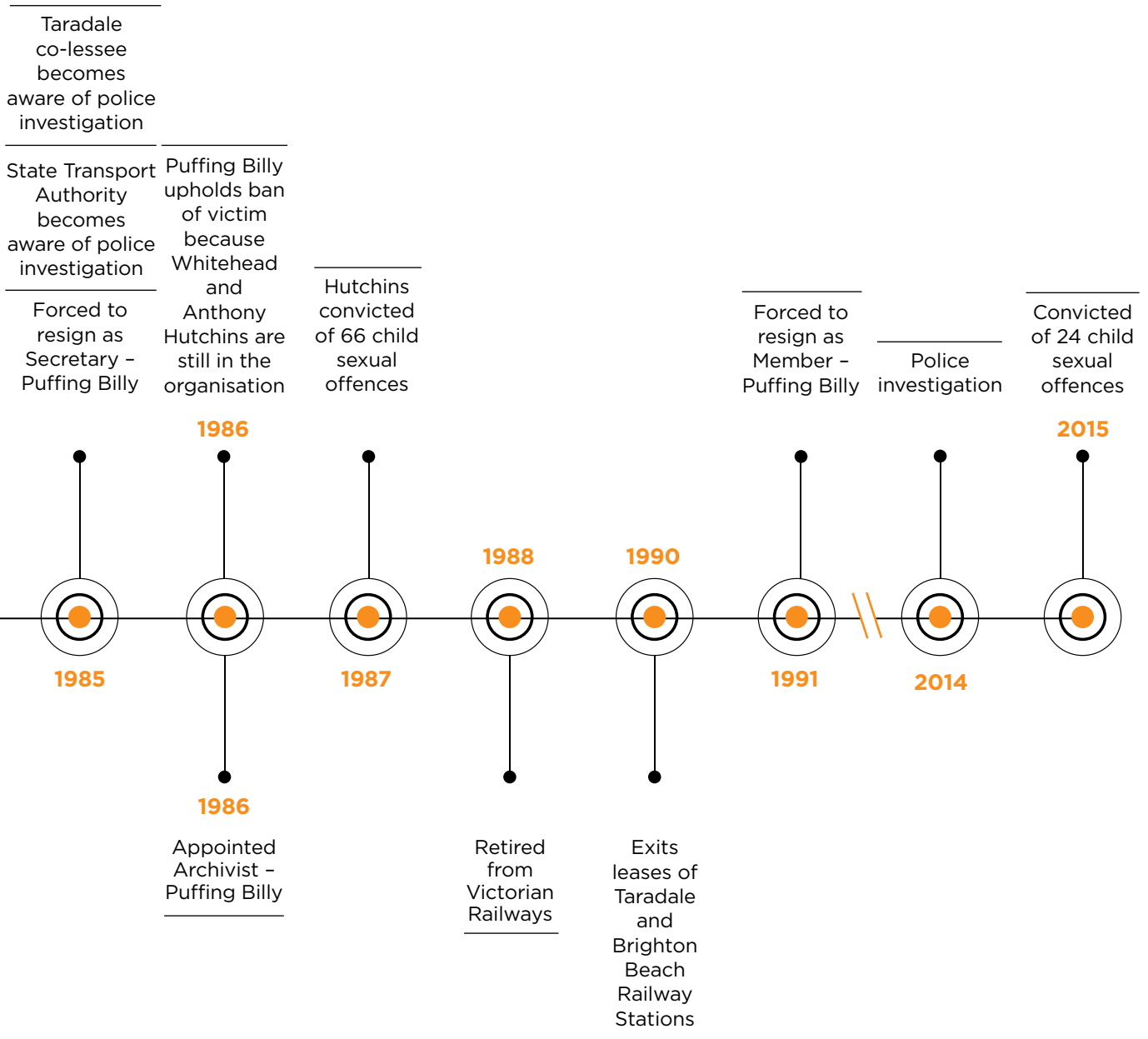
Ombudsman

Figure 1 - Timeline of key events involving Robert Whitehead

- 1947-49** Allegedly commits child sexual offences
- 1957** Allegedly commits child sexual offences
- 1957-59** Commits sexual offences involving two children while a Scout Master and abducts one child (convicted in 1959)
- 1963** Allegedly commits child sexual offences
- 1966-84** Commits sexual offences against six children (convicted in 2015)
- 1970s** Puffing Billy Vice-President Philip A'Vard receives call alleging Whitehead attempted to sexually abuse a child
- 1974-81** Puffing Billy Executive Members discuss Whitehead's 'untoward behaviour'
- 1976-79** Puffing Billy Vice-President Philip A'Vard warns his son to stay away from Whitehead
- 1980 and 1982** Allegedly commits child sexual offences



1985 Whitehead and fellow volunteer Anthony Hutchins are confronted by Puffing Billy President Lon Wymond and Board Member John Robinson about child sexual abuse allegations. The President and Board Member make statements to Victoria Police as part of its investigations into Whitehead and Hutchins.



Executive summary

How the investigation started

1. On 14 July 2016, Wayne Clarke sent a letter to the Minister for Public Transport seeking an investigation into a range of concerns regarding convicted child sexual offenders Robert Whitehead and Anthony Hutchins, and their involvement with the Puffing Billy Railway.
2. Whitehead had been convicted of 24 child sexual offences in July 2015. He committed these crimes, which included sexual penetration, indecent assault and false imprisonment, against six boys. Whitehead met each of these boys through his involvement with historical rail groups.
3. Fourteen of Whitehead's offences were committed against Mr Clarke in 1975 and 1976 after he met and began grooming Mr Clarke at an historical rail event.
4. Whitehead had previously been convicted of two child sexual offences and one child abduction offence, against three separate children, in 1959.
5. Whitehead died in jail in September 2015 while serving his sentence for these crimes. At the time of his death he had just been charged with further child sexual offences concerning a seventh person.
6. Hutchins was convicted in 1987 of 66 child sexual offences, committed against five boys.
7. Mr Clarke's complaint to the Minister was that he believed Puffing Billy and the Victorian Division of the Australian Railway Historical Society (ARHS) had failed to remove Whitehead from their organisations despite being aware of his offending.
8. Mr Clarke's concerns also extended to the historical actions of Victorian Railways (VR), which he stated had re-employed Whitehead in full knowledge of his having been convicted and imprisoned for child sexual offences in 1959, and later approved him to lease two State-owned railway properties.
9. Before contacting the Minister for Public Transport, Mr Clarke contacted other government organisations seeking information about Whitehead and knowledge of his offending. These included Victorian Rail Track (VicTrack), the Public Transport Ombudsman and Victoria Police. He also contacted Puffing Billy.
10. On 29 July 2016, Mr Clarke's letter to the Minister for Public Transport was referred to the Minister for Tourism and Major Events, who is responsible for administering the *Emerald Tourist Railway Act 1977* (Vic) under which Puffing Billy operates. The Minister is supported by the Department of Economic Development, Jobs, Transport and Resources.
11. Subsequently, the department started its own investigation into Mr Clarke's concerns. However, to thoroughly investigate them, the department identified that coercive powers would be required to compel key agencies and witnesses to give evidence on what were extremely sensitive and historical matters. The department subsequently met with staff of my office to discuss Mr Clarke's concerns and to propose a formal referral of the matter.
12. On 12 July 2017, I announced an investigation into a range of concerns regarding Robert Whitehead. The decision to investigate was prompted by three main factors.

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13. First, while Mr Clarke's story is deeply personal, investigating his concerns was in the public interest. The Royal Commission into Institutional Responses to Child Sexual Abuse has highlighted the devastating impact of child sexual abuse, as well as the immense courage shown by survivors who come forward. The verification of facts, public disclosure of truth and public apologies are critical elements of achieving some degree of closure for survivors.
 14. Second, Puffing Billy has been the subject of increased media attention since Whitehead was charged by Victoria Police in 2014, yet the full circumstances surrounding his involvement and departure remain unknown, as do aspects of his employment and involvement with other rail groups. The media surmised that he was protected by powerful members within the rail fraternity, but evidence of this has not been established.
 15. Third, despite the challenges involved in identifying evidence dating back as far as the 1940s, preliminary work undertaken by the department showed that a quantity of potential evidence from this period still existed.
 16. By the time the matter was referred to my office, the department had gathered extensive historical documentation regarding Whitehead and his involvement with several of the agencies at the heart of the investigation. These records numbered in the thousands.
 17. We then obtained records from the 2014 Victoria Police criminal investigation into Whitehead, as well as records from the Office of Public Prosecutions Victoria and the County Court of Victoria regarding Whitehead and Hutchins.
 18. Crucially, in relation to many matters put to some of those we interviewed, we obtained extensive historical records from the Public Record Office Victoria, and Puffing Billy's offices at Belgrave, as well as its Emerald archives.
 19. Over 10 days in July 2017, seven Ombudsman investigators attended the archives, poring over tens of thousands of historical records, including minutes of meetings, policies and correspondence.
 20. While this inspection was underway, I published a media release calling for evidence from members of the public with knowledge of the matters being investigated. During the investigation, 18 people contacted my office to provide information.
 21. Evidence was also obtained from a considerable number of other agencies to obtain records concerning Whitehead or his involvement with historical railway groups.
 22. Finally, we conducted 16 interviews with witnesses and subjects with knowledge of matters considered integral to the investigation.

The investigation

16. By the time the matter was referred to my office, the department had gathered extensive historical documentation regarding Whitehead and his involvement with several of the agencies at the heart of the investigation. These records numbered in the thousands.
17. We then obtained records from the 2014 Victoria Police criminal investigation into Whitehead, as well as records from the Office of Public Prosecutions Victoria and the County Court of Victoria regarding Whitehead and Hutchins.

Victorian Railways

Employment

23. Anecdotally, VR had more than 20,000 members of staff. With statutory responsibility for Victoria's entire rail system and associated infrastructure, the size of the organisation is unsurprising. It is entirely understandable that when VR first employed Whitehead in 1947, he was no more than another member of staff. However, the investigation found that it took less than three years for him to develop the reputation that would follow him to every rail group he subsequently joined.

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24. Before 1950, Whitehead was accused of sexually abusing a child. Undeterred, and with the allegation not followed up, Whitehead rose to become a Train Controller at Bendigo by 1957. Within two years, he was convicted of three offences against children, and in 1959 his employment was terminated by VR and he was imprisoned. Having served a paltry six-month sentence, it took only 10 days for him to re-join VR.
 25. The official policy on re-employing known offenders was never identified, but by piecing together historical records the investigation found that VR took a sympathetic view towards re-employing offenders. While Whitehead's father did advocate on his behalf, and the VR Secretary was asked by a Minister to look favourably on any application for re-employment from Whitehead, historical records also showed that this was not uncommon in that era.
 26. However, VR chose not to monitor Whitehead once he re-entered the workforce – action that could have prevented tragic consequences for his victims.
 27. Whitehead remained employed by VR until he was given a rousing farewell in 1988 – three years after the Personnel Division was informed that he was the subject of a police investigation involving children, and was likely to be charged.

Leasing

28. Having been reintegrated into the workforce Whitehead was approved for a residential lease of Taradale Railway Station in 1973, along with three of his colleagues from VR. His second lease, at Brighton Beach Railway Station, was approved in 1979.
29. His co-lessees, despite steadfastly maintaining they knew nothing of Whitehead's previous conviction or of rumours about his predatory behaviours, were staunchly of the view that many others at VR would have been aware of these concerns. Historical records, however, showed no evidence that VR's Estate Office – those responsible for approving residential leases – were aware of any information that would have given them any reason to reconsider Whitehead's applications.
30. Whitehead's co-lessees, while not apparently aware of his offending at the time, had either made statements to police as part of the 1985 investigation into Whitehead, or been involved in many of the same railway groups and discussed concerns about Whitehead's 'untoward behaviour' as early as the 1970s. These factors led the investigation to conclude that these men were aware of at least rumours involving Whitehead while they shared a property.

Puffing Billy

31. The investigation found Whitehead joined Puffing Billy as early as 1961 – only a year after he was released from prison. Despite not having significant active involvement until the 1970s, he established himself as a valuable administrator and a reputable leader. When he did increase his level of involvement at Puffing Billy, it was only because he had been forced to leave another volunteer organisation, the Australian Railway Historical Society, under a cloud of child sexual abuse allegations.
32. After examining the thousands of records in Puffing Billy's archives, the investigation identified that several senior members at Puffing Billy knew more about Whitehead's offending than they had ever divulged.

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33. During the 1970s, senior members at Puffing Billy discussed his 'untoward behaviour' and the Vice-President warned his own son to stay away from Whitehead. During the 1980s, Whitehead was confronted by Board members about child sexual abuse allegations and was investigated by police; and throughout his involvement at Puffing Billy Whitehead was the subject of similar allegations made by children and their parents. Whitehead's involvement at the Railway continued unabated, drafting policies dictating that the lax screening procedures for volunteers did not need improvement, supervising young workers at the Puffing Billy museum, and running overnight work parties with young children. His access was unfettered.
 34. The Vice-President had also fielded a phone call from a concerned parent who levelled allegations against Whitehead. Whitehead's identity was confirmed by another adult member at Puffing Billy, Anthony Hutchins, who years later was himself convicted of child sexual offences.
 35. It was not until 1985 that Hutchins and Whitehead were both separately confronted by senior members of Puffing Billy about allegations made by several young members. While Hutchins admitted to his offending and resigned, Whitehead resigned as Secretary in the midst of a police investigation into the allegations. However, Puffing Billy permitted him to remain involved.
 36. While Whitehead was confronted by senior Puffing Billy members twice in six years, his access to children was never restricted. The investigation was told that Whitehead was forced to resign in 1991 after rumours of child sexual offending surfaced, but no explanation was given as to why he had not been removed despite having substantially more evidence against him in 1985.
 37. This was not the first time Puffing Billy had dealt with allegations concerning its adult members' sexual abuse of children, having exiled two men during the 1960s, and confronted Hutchins in 1985. However, unlike the alleged offenders before him, senior members at Puffing Billy overlooked the weight of evidence against Whitehead - in one case upholding a ban against a child volunteer who complained about him - and allowed him to remain involved.
 38. Despite this child penning a letter about his ban from Puffing Billy after a 'problem' with Hutchins and Whitehead; his mother telephoning the Railway periodically to warn them about Whitehead's offending; and persistent rumours about Whitehead's conduct, Puffing Billy took no action.
 39. The investigation also scrutinised the structure and composition of the Emerald Tourist Railway Board. Between 1977-2002, all three levels of Puffing Billy management were controlled by the Society Executive Committee. For 14 years this group of volunteers made decisions on Whitehead's involvement without appropriate scrutiny, and a similar arrangement continues today. Despite the Board being a public authority, the investigation found little evidence that the mechanisms for the Board to report to the Victorian Government on critical matters has ever been fully realised.
 40. The key failings of senior members at Puffing Billy can, in part, be traced back to a series of inherent conflicts, exemplified no more clearly than by Puffing Billy's CEO, John Robinson. Despite having had direct involvement with Whitehead's removal in 1991 and the confrontation in 1985, John Robinson controlled Puffing Billy's responses to the Royal Commission, State and Commonwealth Governments, the media and victims of Whitehead's abuse.

Other volunteering

41. The Australian Railway Historical Society (Victorian Division) was established in 1945 to cater for all people with an interest in Victoria's railway history. The heritage rail sector was highly connected, and the investigation found that Whitehead's pattern of behaviour at Puffing Billy reflected a very similar turn of events during his involvement at the ARHS – a rail group which shared many of the same members.
42. Whitehead first joined the ARHS in 1960 – the same year he was released from prison – and was elected to the ARHS Council in 1964 before becoming Secretary in 1968. Even before he became Secretary, however, he had sexually abused a child at the ARHS.
43. Whitehead rose to a position of power and influence, but young members of the ARHS were aware of rumours of his predatory behaviour, and some victims experienced it first-hand. Despite evidence from members of the public demonstrating the efforts to raise concerns with the ARHS hierarchy, it was not until 1973 that Whitehead was forced to resign from his position of Secretary following allegations of child sexual abuse.
44. Even after this time, however, Whitehead remained actively involved with the ARHS, including as its Archivist, and his offending continued. When Whitehead finally left the ARHS and became more actively involved in Puffing Billy during the late 1970s, many ARHS members were left wondering why he was welcomed into Puffing Billy. Despite claims to the contrary, the investigation found that Whitehead's reputation preceded him and each rail group he joined saw his contributions as a volunteer as being more important than protecting their young members from the risk he posed.

Recommendations

45. While this investigation is specifically concerned with the actions or inaction of a small number of current or historical Victorian Government agencies associated with the railways, it raises many issues that have already been the subject of consideration by the Royal Commission into Institutional Responses to Child Sexual Abuse, which reported in December 2017 following a five-year inquiry.
46. The report not only laid bare the scale of the national tragedy of children abused in institutional settings – more than likely for generations – and the failings of both institutions and governments to respond to that abuse, it made a series of recommendations for governments and institutions to better protect children and to respond to the needs of survivors. These include preventative measures, in particular Child Safe Standards which should be adopted by all institutions involving children, as well as a National Redress Scheme to help people who experienced child sexual abuse.
47. The Victorian Government has already committed to joining the scheme, which among other things includes psychological counselling, a personal response and monetary payment to individuals who have suffered child sexual abuse.
48. I welcome the steps the government has already taken to deal with this stain on our national conscience, which should also benefit the survivors of abuse by Robert Whitehead and other perpetrators associated with Puffing Billy. However, more needs to be done to see full implementation of the Royal Commission's recommendations.
49. Among other things, I have recommended the Minister apologise publicly to Wayne Clarke and other victims of Robert Whitehead, and take further measures to ensure that several key principles from the Royal Commission, such as the Child Safe Standards, are implemented as a matter of priority.

Scope and methodology

Terms of Reference

50. On 16 May 2017, I wrote to the Minister for Public Transport, the Hon Jacinta Allan MP; the Minister for Tourism and Major Events, the Hon John Eren MP; the Secretary of the department, Richard Bolt; and the Chief Executive Officer of VicTrack, Campbell Rose, notifying each of my intention to conduct an own motion investigation into Wayne Clarke's concerns.
51. The investigation was announced on 12 July 2017. The Terms of Reference were to investigate Robert Whitehead's:
 - re-employment with VR and its successor organisations after being imprisoned for child sexual offences from 1959–60
 - leasing of State-owned property from VR and its successor organisations
 - appointment as Secretary of the Puffing Billy Preservation Society and involvement with the Emerald Tourist Railway Board
 - volunteer positions with the above, and related entities.
52. The investigation also examined how each of these entities handled complaints or allegations about Whitehead.

The decision to investigate

53. The decision to investigate was prompted by three main factors.
54. First, while Mr Clarke's story is deeply personal, investigating his concerns is in the public interest. The Royal Commission into Institutional Responses to Child Sexual Abuse has highlighted the devastating impact of child sexual abuse, as well as the immense courage shown by survivors who come forward. The Royal Commission's *Redress and Civil Litigation Report* discusses the 'van Boven principles', which address victims' rights and the potential remedies that should be considered in such cases. One of the five forms of reparation identified by the principles is 'satisfaction' – the verification of facts, public disclosure of truth, and public apologies.¹ This is particularly relevant to this case.
55. Second, Puffing Billy has been the subject of increased media attention since Whitehead was charged by Victoria Police in 2014, yet the full circumstances surrounding his involvement and departure remain unknown, as do aspects of his employment and involvement with other rail groups. The media has surmised that he was protected by powerful members within the rail fraternity.
56. Third, despite the challenges involved in identifying evidence dating back as far as the 1940s, and the fact that several key individuals had died, preliminary work undertaken by the department showed that a significant amount of potential evidence from this period still existed. Several key witnesses who were in senior positions during the time of Whitehead's offending remained contactable, with some still in positions with the relevant bodies.

¹ Commonwealth, Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and Civil Litigation Report* (2015) 128.

Coordination with the department

57. On referring the matter, the department provided a range of historical records and other relevant information it had gathered and developed during its carriage of the matter.
58. Their efforts in this regard were invaluable, and the investigation thanks Mr Bolt for the assistance provided by his office, including by resourcing the investigation with a key staff member.

Jurisdiction

59. The investigation was undertaken pursuant to section 16D of the *Ombudsman Act 1973* (Vic), which provides that the Ombudsman may deal with a referred matter if the matter could be made the subject of an 'own motion' investigation.
60. Under section 16A of the Ombudsman Act, the Ombudsman may conduct an own motion investigation into any administrative action taken by or in an authority.
61. The department is an 'authority' as defined in section 2 of the Ombudsman Act, and is therefore subject to my jurisdiction. While the matters subject to this investigation do not directly concern the actions of the department in its current iteration, each of its predecessor agencies – including VR, the State Transport Authority and the Public Transport Corporation – have been subject to the Ombudsman's jurisdiction since the inception of the Ombudsman Act.

62. VicTrack was established under the *Rail Corporations Act 1996* (Vic) and was continued under the *Transport Integration Act 2010* (Vic). Section 118 of that Act identifies VicTrack as a public entity. VicTrack is the modern-day manager of State-owned Railway property, and holds the same responsibility now as VR held when it approved Whitehead's leases.
63. The Emerald Tourist Railway Board (the Board) was established under the Emerald Tourist Railway Act. The Board is responsible for the preservation, development, promotion, operation and maintenance of Puffing Billy, including its operation as a major tourist attraction. As a body established under an Act for a public purpose, the Board is a 'public statutory authority' as defined in section 2 of the Ombudsman Act.

Phases of the investigation

Evidence gathering

64. By the time the matter was referred to my office, the department had gathered a significant amount of historical documentation regarding Whitehead and his involvement with several of the agencies at the heart of the investigation. These records numbered in the thousands.
65. After prioritising the exchange of these documents, the investigation contacted Victoria Police to ascertain the extent of its 2014 criminal investigation into Whitehead and whether records held by police could establish knowledge of his offending at the time.

Exhibit A – Puffing Billy Storage Facility – photo and media room



Exhibit B – Puffing Billy Storage Facility – compactus



66. Regular contact with police continued during the investigation, and proved crucial in obtaining:

- criminal trial briefs
- information reports and personal notes
- historical witness statements
- database checks and background information regarding key individuals.

67. Even before the initial meeting with Victoria Police, it was apparent that while most of the relevant historical records would be available and securely held at the Public Record Office Victoria, perhaps the most critical records – those that may have been contaminated as they were not held in government archives – would be in Puffing Billy’s possession. Some records may have been destroyed.

68. Accordingly, on 5 July 2017 I exercised my powers of inspection and investigators conducted an unannounced site inspection of Puffing Billy’s offices at Belgrave, as well as its Emerald archives, shown at Exhibits A and B above. During this inspection, John Robinson, Chief Executive Officer of Puffing Billy, was served two summonses: one for his official email account and the other for separate electronic records held on his desktop computer. All electronic records were required, and obtained, on the spot.

69. Five investigators were part of this first inspection, but the sheer volume of archived records was insurmountable. The investigation quickly returned to the archives for an extended period to ensure the integrity of the records contained within.

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70. Over 10 days from 10 July to 21 July 2017, seven investigators attended the archives to examine thousands of historical records. Collectively, more than 250 hours were devoted to these archives and more than 2,500 copies were made of relevant records. These records, each of which was individually reviewed, proved pivotal in several key interviews, and included:
- minutes of Puffing Billy Preservation Society Executive Committee, and Emerald Tourist Railway Board and Committee of Management meetings
 - correspondence, complaints and incident reports
 - policies, procedures and publications
 - information that had been provided to the Royal Commission.
71. On 12 July 2017, while this inspection was in motion, I published a media release calling for evidence from members of the public with knowledge of the matters being investigated. During the investigation, 18 people contacted my office to provide information.
72. The investigation considered each contact. Some of these individuals remained anonymous, others were contacted by the investigation to clarify their evidence, and a select few were formally interviewed. Each of these people had their own stories to tell, and many are referred to in this report.
73. As soon as the site inspection of the Puffing Billy archives had concluded, the wheels were set in motion for the investigation to examine the wealth of historical accounts held by the Public Record Office. An initial request for both open and closed records resulted in more than 1,000 boxes of documents being retrieved. However, with the assistance of skilled archivists and researchers at the Public Record Office, the investigation targeted the most pertinent records, which included:
- correspondence to and from VR and its successor entities
 - minutes of VR Board, Commissioners and other management meetings
 - payroll, retirement, disciplinary and other employment files
 - policies and procedures regarding re-employment and leasing.
74. The investigation scrutinised the most pertinent documents over five separate inspections, which totalled more than 100 hours. This could not have been achieved without the support of dedicated staff from the Public Record Office, and the investigation thanks them for their assistance.
75. As interviews with peripheral witnesses were being conducted, information continued coming in from Victoria Police. This led the investigation to seek the account of the prosecutions against Whitehead in 1959 and 2015 and against Hutchins in 1987. Criminal trial briefs, sentencing remarks and other relevant information for each case were subsequently obtained from the Office of Public Prosecutions Victoria and the County Court of Victoria.

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76. Media reports had already identified Whitehead's involvement with the Australian Railway Historical Society (ARHS), and witness evidence tended to suggest that his departure was acrimonious. The ARHS is not within my jurisdiction and the investigation issued a summons to produce records of Whitehead's involvement with the ARHS and the circumstances of his departure. This was complied with fully.
 77. The investigation approached many agencies at various stages to obtain records concerning Whitehead or his involvement with historical railway groups. These included VicTrack, the Department of Justice and Regulation, the Department of Education and Training, and four local councils.
 78. The Terms of Reference for the investigation included an examination of Whitehead's involvement with railway entities other than Puffing Billy and VR. Informed in large part by concerns raised by Mr Clarke, the investigation explored Whitehead's involvement with the Victorian School Railway Clubs Association (VSRCA) during the 1960s, and his volunteering with several local councils after his departure from Puffing Billy.
 79. However, the investigation found no direct evidence of Whitehead's involvement with the VSRCA, and did not identify that he had any contact with members of the public in his roles with the relevant councils or that these councils should have been aware of his prior offending.
 80. The report does not make any conclusions on these two matters.

Interviews

81. Given the potential for only limited documentary evidence to be uncovered, verbal evidence from potential witnesses and subjects was crucial to the investigation. For this reason, each interview conducted by the investigation was compulsory.²
82. Initial analysis of materials identified 10 witnesses who had contemporaneous knowledge or involvement with Whitehead at Puffing Billy, VR or the ARHS, or knowledge of matters that were considered integral to the investigation. As more witness and documentary evidence was gathered, an additional six witnesses were identified. In total, the investigation conducted 16 interviews.
83. The investigation sought the cooperation of each interviewee to attend without the need to exercise coercive powers, and this was achieved without delay.
84. All witnesses were given the opportunity to attend with a support person or legal representative. Only Mr Robinson, Puffing Billy CEO, appeared with a legal representative.

² Section 2 of the *Ombudsman Act 1973* defines 'compulsory appearance' as the appearance of a person before an Ombudsman officer otherwise than in accordance with a witness summons, in which the person is examined under section 18 of the *Evidence (Miscellaneous Provisions) Act 1958*.

Adverse comments

85. This report contains adverse comments, or material that could be perceived to be adverse, about the following individuals and entities:
- Philip A'Vard
 - Robert Emmerson
 - Kevin Findlay
 - John Hearsch
 - Anthony Hutchins
 - John Robinson
 - Robert Wilson
 - Welfare Officer X
 - the Australian Railway Historical Society (Victorian Division)
 - the Emerald Tourist Railway Board.
86. In accordance with section 25A(2) and 17(4) of the Ombudsman Act, each of the above-named individuals and entities was provided with a reasonable opportunity to respond to the adverse material in a draft report.
87. Responses to the Ombudsman's draft report were received from:
- Philip A'Vard on 8 May 2018
 - John Hearsch on 9 May 2018
 - John Robinson on 10 May 2018
 - Welfare Officer X on 10 May 2018
 - the Australian Railway Historical Society on 11 May 2018
 - the Emerald Tourist Railway Board on 12 June 2018.
88. I have fairly set out their responses in this report.
89. In accordance with section 25A(3) of the Ombudsman Act, any other persons who are or may be identifiable in this report are not the subject of adverse comment or opinion. They are named or identified as I am satisfied that it is necessary or desirable to do so in the public interest, and that identifying those persons will not cause unreasonable damage to their reputation, safety or wellbeing.
90. I am reporting my opinion and the reasons to the Minister for Public Transport, the Minister for Tourism and Major Events, and the Secretary of the Department of Economic Development, Jobs, Transport and Resources in accordance with section 23(1) of the Ombudsman Act.
91. The investigation is guided by the civil standard of proof, the 'balance of probabilities', in making its factual findings, taking into consideration the nature and seriousness of the conduct in question; the quality of the evidence; and the gravity of the consequences for the persons involved in the matters under investigation.
92. With their consent, this report identifies two victims of Whitehead's sexual abuse: Wayne Clarke and William Elms. Mr Clarke and Mr Elms were part of a larger group, each member of which was a party to the 2015 legal proceedings against Whitehead which ultimately secured his conviction.
93. This report also details the experiences of several other victims who are not identified, and their accounts may resonate with many others whose own individual experiences remain untold. The fact that these additional stories are not told and that these individuals are not identified does not diminish their experiences or detract from the power of their stories.

Puffing Billy

History

94. Puffing Billy is a preserved steam railway that operates between Belgrave and Gembrook in Victoria's Dandenong Ranges. Originally built by the Victorian Government in the early 1900s, the line was operated by Victorian Railways (VR) and hauled passengers and freight for 50 years.
95. The line was closed in 1954 after financial losses and a damaging landslide. However, in 1955, a volunteer group called the Puffing Billy Preservation Society (the Society) was formed with the aim of preserving, restoring and operating the line. The Society progressively restored the track, operating Puffing Billy to Emerald by 1965 and to Lakeside Station by 1975.
96. In 1977 a dedicated statutory board, the Emerald Tourist Railway Board (the Board), was established. Ownership of Puffing Billy was transferred from VR to the Board, while the Society continued to provide the volunteer labour required to operate the railway. This arrangement continues today.
97. Puffing Billy has since grown to become one of Victoria's most popular tourist attractions. The Railway carried almost half a million passengers in the 2016–17 financial year, turning over more than \$15 million and employing almost 100 members of staff.

Governance framework

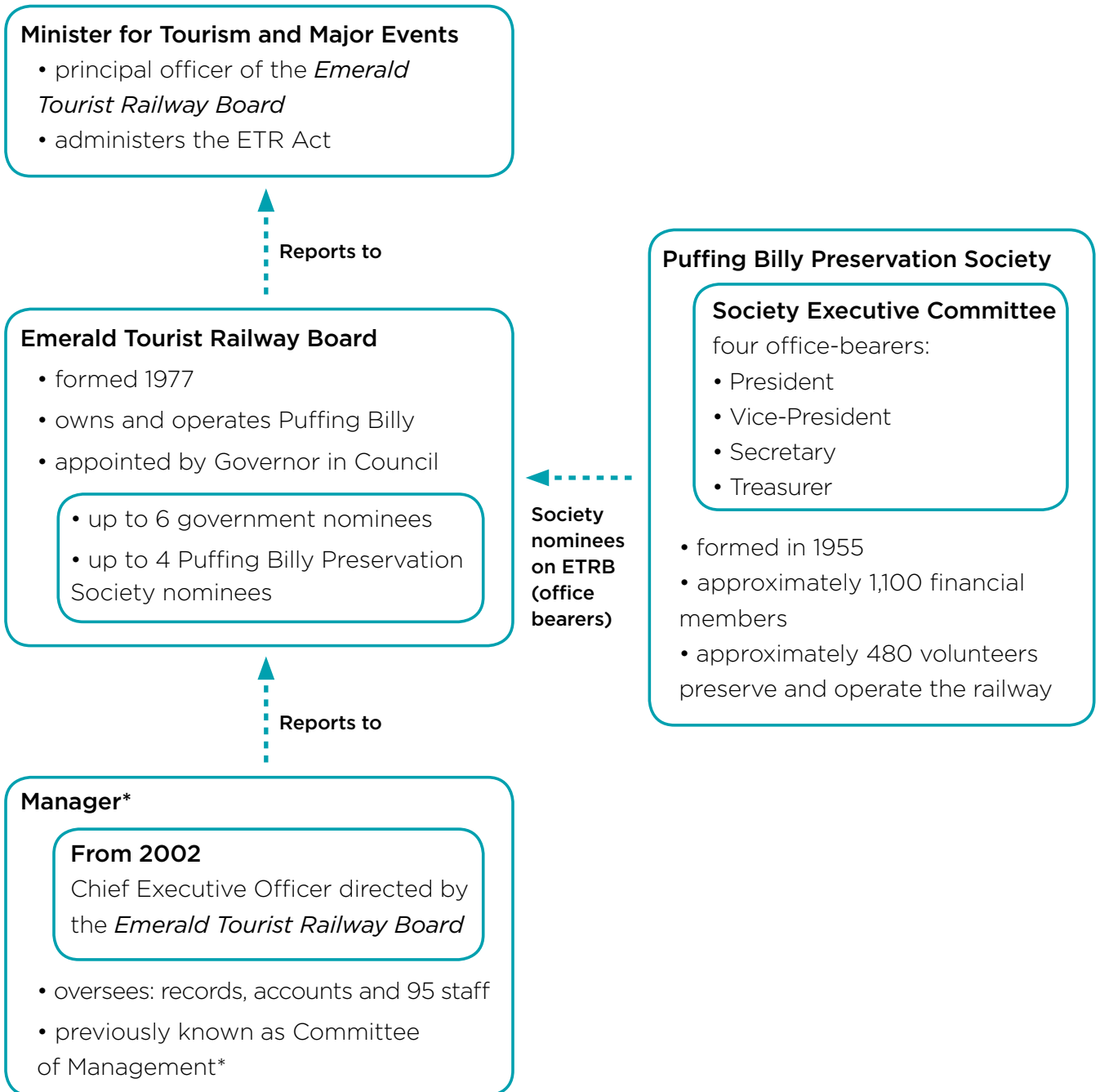
98. Since the Board was established, Puffing Billy's management structure has comprised three bodies: the Society, the Board, and a Manager.³

Puffing Billy Preservation Society

99. The Society was formed in 1955. In 1965, it incorporated as a company limited by guarantee under the *Companies Act 1961* (Cth), which is a public company structure used by some not-for-profit organisations. Such company structures are now registered under the *Corporations Act 2001* (Cth), which is administered by the Australian Securities and Investments Commission.
100. When it was established, the Society was required to have a memorandum and articles of association. These documents, now known as a constitution, set out the rules governing the operation of the organisation, including restrictions on membership.
101. The Society has an Executive Committee that consists of four office-bearers (President, Vice-President, Secretary and Treasurer) and eight Committee members (up from six when it was first established). Annual elections are held to appoint office-bearers and Committee members.
102. The Society does not own Puffing Billy's infrastructure or assets, which were transferred from VR to the Board in 1977. Rather, the Society has historically provided the volunteer labour necessary to restore and operate the railway.
103. The Board's reliance on Society volunteers continues to this day, with Puffing Billy's 2017 Annual Report stating that more than 1,100 financial members and 480 volunteers help to operate the railway.

³ This report refers directly to 'the Society' or 'the Board' where it is necessary to distinguish between the two entities. For more general references where this distinction is not required, this report uses 'Puffing Billy' and 'the Railway' interchangeably.

Figure 2 – Puffing Billy’s governance structures



* from 1977-2001 the Manager was a Committee of Management drawn from Preservation Society Executives or members.

Emerald Tourist Railway Board

104. The Board commenced operation on 1 October 1977 following its establishment under the *Emerald Tourist Railway Act 1977* (Vic) (the ETR Act).
105. Under section 3(1) of the ETR Act, the Board is responsible for the preservation, development, promotion, operation and maintenance of Puffing Billy. The ETR Act also allows the Board to carry out related activities that are consistent with the operation of Puffing Billy as a major tourist attraction.
106. The ETR Act is administered by the Minister for Tourism, to whom the Board is answerable. All members of the Board serve in a voluntary capacity.
107. The Board must comprise between five and 10 members, each of whom is appointed by the Governor in Council. Of these:
- four are nominated by the Society
 - one is nominated by the Minister for Transport
 - one must be experienced in tourism promotion and management
 - one must be experienced in banking or finance
 - two must be people that the Governor in Council believes are specially qualified to achieve the aims of the Board.
108. The Victorian Government has never nominated its maximum six representatives to the Board, while the Society has always nominated its maximum four.
109. The Board comprised three government and four Society representatives from 1977. A fourth government nominee was appointed in 2008. This afforded the Society effective control of the Board between 1977–2008, with Puffing Billy describing itself in its June 1991 quarterly publication as ‘a quasi-autonomous Government organisation ... largely made up of Society nominees’.
110. The investigation identified that the Society took care to maintain its majority control of the Board. In June 1982, Philip A’Vard, Vice-President of the Society and Board member at the time, wrote in Puffing Billy’s quarterly publication that:
- It is significant to note that to date, the Government has chosen to appoint only three of their six [Board members], believing that the skills and competence they require are available in the [Society] nominees. Obviously, if the Society does not perform as it should, the Government can, at the stroke of a pen, appoint a full Board as prescribed in the Act. The consequences of such a move are worth considering.
- Surely this indicates the greatest role that we have ever had to play! Our most important task is to make sure that our Society is strong and responsible enough to retain its 4:3 balance on [the Board].
111. Board members nominated by the State Government were often Society members and volunteers who were involved with Puffing Billy before their Board appointments. The Society also suggested people to be nominated as government representatives on the Board.

112. As John Robinson, Puffing Billy CEO, explained at interview with the investigation on 22 January 2018:

... the Board stayed a Board of seven, I think, until around 2008, from memory, when an eighth member was nominated. And that person, interestingly enough, was a Preservation Society member and had been the first CEO of the business, and he was appointed by the Government ... at the request of the Preservation Society.

113. The Board currently comprises 10 members, six of whom are Society Executive Committee members.

114. In addition, the current Chair of the Board is a Society nominee and, in accordance with section 15(2) of the ETR Act, has a second vote on any matter if required. As such, the Society retains practical control of the Board.

The investigation identified that the Society took care to maintain its majority control of the Board.

115. Mr Robinson denied at interview that the Society's heavy representation on the Board was a risk to the Board's independence, describing it only as a 'theoretical influence'.

116. In response to the Ombudsman's draft report, Mr Robinson's legal representative stated:

As a Board member, Mr Robinson, like a member of any Board, was required to bring an independent and impartial mind to the tasks and decisions at hand. There is no evidence to support the implicit assertion that any conflict of interest arose or that he was improperly influenced by the position he held with the Society.

Manager

117. Section 21(1) of the ETR Act requires the Board to appoint a person to manage the business of the Board (the Manager). The Manager is an officer of the Board, subject to its direction and control, and must:

- attend Board meetings
- give effect to decisions and policies determined by the Board
- maintain proper records and accounts, and be responsible for staff
- promote the objects of the Board.

118. A CEO was appointed as Manager in 2002. Before this, a voluntary Committee of Management was appointed Manager of the Board. Until 1983, the Society Executive Committee was appointed, in whole, as the Committee of Management.

119. After a restructure in 1983, Puffing Billy Divisional Managers were appointed to the Committee of Management in place of the Society Executive Committee. However, the practical effect of this was minor, as most Divisional Managers were also members of the Society Executive Committee. Mr Robinson confirmed this at interview.

120. Under these arrangements, the Society Executive Committee had effective control of the Committee of Management between 1977-2002, in addition to holding a majority on the Board during the same period. Under the ETR Act, all Committee of Management members during this period were officers of the Board and, accordingly, were public officers.

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121. At interview, Mr Robinson stated that the Railway did not appoint a CEO until 2002 because ‘the organisation just could not afford it’. However, the investigation identified a Board Sub-Committee Report dated 25 January 1996, indicating that the appointment of a CEO was generally resisted:

[The Committee] was concerned at the concept of a ‘General Manager’ or ‘Chief Executive Officer’ as such an appointment would clash immediately with the role of the Management Committee and have serious impact upon the delicate relationship between the Board, the Puffing Billy Preservation Society, its groups and volunteers. It is believed that the Management Committee is an important factor and should be retained at all costs.

122. Mr Robinson first joined the Railway in 1964. He was a Board member continuously between 1977–99, and was a member of the Society Executive Committee and Committee of Management between 1973–99. He served as President of the Society and Chair of the Board between 1989–99.
123. After an absence from the Railway, Mr Robinson returned to its management team in 2006. He again joined the Society Executive Committee and the Board before being appointed CEO in January 2013. He also remains Treasurer of the Society Executive Committee.
124. The investigation noted that between 1977–99 Mr Robinson was simultaneously a member of all three levels of management at Puffing Billy. A similar representative pattern was identified with respect to other key individuals, including former Secretary and Vice-President, Philip A’Vard, and former President, Lon Wymond, who is now deceased.

Robert Whitehead’s involvement with Puffing Billy

125. The investigation established a detailed chronology of Whitehead’s involvement with Puffing Billy in a variety of roles, including a number where he held great responsibility and had contact with children.
126. This section of the report sets out each key period of Whitehead’s involvement at Puffing Billy and details other key individuals and their knowledge of rumours and allegations about Whitehead’s offending against children.

Early years (1961–79)

127. Whitehead’s membership card showed he first became a financial member of the Society in 1961. He was released from Pentridge prison in 1960.
128. The investigation did not locate any membership cards dated before 1961, even for individuals known to be Society members before this date. This suggests the card system was implemented in 1961, and it remains open that Whitehead was a member before this date.
129. Under the Society’s articles of association, membership was open to ‘any interested person’ but could be terminated in certain circumstances, including if a person was convicted of an indictable offence. However, the investigation did not identify any evidence that a person applying for membership was required to declare any convictions as part of the application process.
130. At interview with the investigation on 8 January 2018, Philip A’Vard stated there was no vetting or other background checks conducted on adults who had contact with children at Puffing Billy during the 1960s.

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131. However, records from the Railway's archives showed that reputation and rumours were, in some cases, factored into the decision making process for new members. For example, a prospective Society member had their application for membership marked 'undesirable' as they were understood to have been 'of very poor appearance' and 'dismissed from work owing to unsatisfactory service'.
132. The threshold for removal from the Railway at the time was seemingly quite low, and the Society kept a list of 'unauthorised volunteers' who had been banned by the Executive Committee, including one individual about whom the Committee had heard 'unsatisfactory comments'.
133. Despite this, Whitehead became a member at an early stage in Puffing Billy's history.
134. The Society's newsletter and minutes indicate that Whitehead's involvement significantly increased from 1976. However, the investigation found evidence that he actively volunteered from at least 1963, just three years after his release from prison.
135. Whitehead's increasing involvement at Puffing Billy in the mid-to-late 1970s coincided with the end of his involvement with the Australian Railway Historical Society (ARHS), from which he had an acrimonious departure following allegations of child sexual abuse.
136. Whitehead first notably appeared in Puffing Billy records when John Hearsch, a long-time ARHS member, Society Executive Committee member between 1976-78 and Board member between 1977-80 and 2000-07, suggested him as Society Archivist during a meeting on 26 September 1975:
- Mr Hearsch suggested that Mr Bob Whitehead who is presently Archivist for the ARHS might be interested in handling our archives in Trust and more or less act as an agent for the Society.
137. In response to the Ombudsman's draft report, Mr Hearsch stated:
- Given my passion for Puffing Billy, there would have been absolutely no way that I would have made such a proposal had I harboured any doubts about Mr Whitehead's integrity or his capacity to undertake that role.
138. The investigation did not identify that Whitehead was appointed to the position, but between 1976-79 he performed a wide range of administrative and on-track roles at the Railway, including:
- conducting on-track fire patrols
 - driving trolleys
 - organising tours and working bees
 - coordinating the distribution of Puffing Billy timetables
 - working as a guard, signaller and supervisor
 - completing the Puffing Billy safe working course, which qualified him to perform a wide range of track and operational train roles
 - creating a prospective volunteers kit.
139. In September 1977, Whitehead assisted Philip A'Vard, then an Executive Committee member and former Society Secretary, to organise a celebration to mark the commencement of the new Board. In October of the same year, the newly established Board authorised the issue of 'S-1' keys to Whitehead. These keys were generally reserved for 'responsible Society volunteers' and those who held significant roles with the Railway.
140. In 1978, Whitehead volunteered to be the Society's 'activities organiser' but, unusually, the Executive Committee declined his offer. The investigation did not uncover why his offer was declined.

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141. Whitehead was instrumental in processing an influx of 100 new Puffing Billy volunteers following television coverage of the Railway's volunteer shortage in January 1979. In November of that year, he was appointed Chair of the Moondarra Committee, which provided advice on the use and management of a property purchased by the Society Executive Committee. The Moondarra Committee ultimately recommended that the property be used for overnight stays, meetings, social gatherings and archives storage.
142. Whitehead wrote to the Society Executive Committee about various issues on 13 November 1979, including the Moondarra Committee, and his ideas were generally well received:
- Many thanks for your two letters that were tabled on the Executive Table last Friday evening ... Considerable appreciation was offered for your ideas: I suspect it may well have crystallised many ideas in the mind of the Executive ...
- I am asked to suggest that you may like to contact [the Branch Manager, Services] ... and discuss how this would be best effected.
143. The investigation was unable to finalise its examination of Whitehead's involvement during this initial period, as Puffing Billy was unable to provide any Society Executive Committee minutes for the period 8 June 1979 to 15 January 1981.
144. When the investigation requested these records from Puffing Billy, Mr Robinson described their absence as being 'in no way suspicious'. However, the investigation noted that the absent records span a time during which other evidence shows that:
- the ARHS wrote to Puffing Billy about Whitehead's acrimonious forced resignation from that organisation
 - restrictions were placed on Hutchins that, among other things, precluded him from supervising overnight stays with the School's Section (an issue examined later in this report).
145. In response to the Ombudsman's draft report, Mr Robinson's legal representative stated:
- ... those records could simply not be located. This is not surprising given Mr Robinson's evidence during the investigation that the Society's archive was established progressively over many years largely by donations of information from various individuals. Further, many of the archived meeting minutes have been provided by previous Committee members when they have left the Committee. The missing documents in the archives are not limited to Society meeting minutes.
146. Whitehead's volunteering efforts during this time represented a considerable time commitment to the Railway and established him as an extremely valuable volunteer with Puffing Billy.
147. At interview on 13 December 2017, John Hearsch described Whitehead as a 'born organiser' who took on an array of roles that did not appeal to other volunteers:
- Volunteers wanted to be hands-on, and administrative-type roles didn't appeal to many people. So, if Bob had volunteered to take it on, he probably would have been gladly accepted.
148. Whitehead's willingness to take on undesirable administrative tasks was corroborated by Philip A'Vard at interview:
- He sort of morphed into the organisation. He had a role in [VR]. He was or had been Secretary of the ARHS and he slowly came into my daily week by offering to take on certain administrative roles that I couldn't find anyone else to do ... When somebody turns up who's prepared to do the things that nobody else will help you with, you are glad to have them.

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149. Mr A'Vard was a long-term volunteer at Puffing Billy and key member of senior management between 1956–99. He was a Society Secretary, Society Executive Committee and Committee of Management member, Vice-President of the Society and Board member.
150. Despite Whitehead's apparently significant value to Puffing Billy, the investigation obtained evidence that he had a short temper and could be difficult to work with. As John Hearsch observed from his interactions with Whitehead at VR, where they had both worked:

He had a reputation of being very difficult to get on with. The train crews and that hated him because he used to bark at them ... Looking back, he was quite unsuited for that sort of role because he wasn't the sort of person that you could negotiate with very easily. He tended to lord it over people. He'd get extremely angry if somebody contradicted him or told him he was wrong.

Knowledge of offending

151. The investigation interviewed several witnesses, including Philip A'Vard and John Robinson, who held office at Puffing Billy during Whitehead's increased involvement with the Railway. Both witnesses denied they were aware of Whitehead's 1959 conviction for child sexual offences, or of allegations or rumours of similar offending during the 1960s and 1970s.
152. However, other witnesses who were involved at Puffing Billy during the same period stated there were at least suspicions among the rail fraternity and young members of the Railway that Whitehead was a child sexual offender.
153. One such witness was Police Officer A, a former Victoria Police officer who has been involved with Puffing Billy for more than 50 years. Police Officer A was interviewed after he responded to the investigation's call for information.
154. Police Officer A stated at interview on 4 July 2017 that he was warned about Whitehead when he was in school during the mid-to-late 1960s:
- There were three names we knew in those days of people to avoid at all costs ... and thirdly, Bob Whitehead. The first time I came across Bob Whitehead was in 1968 up at Puffing Billy, but his reputation preceded him ... I'd heard about him going to school, and we knew, we even knew then that he'd done time in jail for this sort of thing in '59 or '60.
155. Board Member A, who is a current Board member and has been involved with Puffing Billy since 1965, also provided evidence that he was warned in 1969 or 1970 by a now-deceased station master to stay away from Whitehead. Board Member A recalled from his childhood:
- The local station master at Malvern ... who is someone that I befriended, warned me that Mr Whitehead was not a very nice person. I wouldn't say he used the term 'paedophile' or any of the slang related to that. It was more like, 'just keep away from him, he's not a nice person', and, you know, back in those days, that was sufficient [to take notice of].
156. Board Member A did not discuss this warning with anyone else at that time, but stated that it was his belief 'a number of people were aware of [Whitehead's] true nature' and children were warned to keep away from him.

The first time I came across Bob Whitehead was in 1968 up at Puffing Billy, but his reputation preceded him ... I'd heard about him going to school, and we knew, we even knew then that he'd done time in jail for this sort of thing in '59 or '60

Police Officer A

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157. Evidence provided by Victoria Police also recorded that John Hearsch told police in 2014 that Whitehead's 'untoward behaviour' was raised during a Society Executive Committee meeting in the 1960s or 1970s. Mr Hearsch was contacted by police in 2014 as part of the investigation into Whitehead that resulted in Whitehead's 2015 conviction.
158. Mr Hearsch was Minute Secretary for the Society Executive Committee from May 1964 until late-1965, but then was not involved again until November 1974 when he became an Executive Committee member serving until September 1981. He was also the Society's nominee on the Board from October 1977 until September 1980.
159. Regarding his account to police in 2014, Mr Hearsch stated at interview:
- ... that's about as much as I remember. What I don't know is what that untoward behaviour was. I remember there was [Society Executive] Committee discussion at one stage and there was talk about getting rid of him, and I think they did subsequently.
- ... I don't remember it being discussed explicitly, you know, what he was doing. It might have been but I don't remember. But I do remember that there was a period there where they did kick him out.
- ...
- I can't remember whether I was on the Committee [at the time] or if I was the Minute Secretary, it was one of the two. I was there, and I do remember them having a discussion about that.
160. In response to the Ombudsman's draft report, Mr Hearsch stated:
- ... I took on the role of Minute Secretary to the Society's Executive Committee ... This was the source of my comments ... about my recollection of the matter of Mr Whitehead's 'untoward behaviour'.
161. Mr Hearsch's response places the discussion about Whitehead in 1964 or 1965. However, the investigation found little evidence of Whitehead's involvement at Puffing Billy prior to 1976, despite his having been a member since at least 1961. It is identified later in this report that Whitehead was heavily involved at the ARHS until he was removed as ARHS Secretary in 1973 due to allegations of child sexual abuse.
162. The investigation did not identify any evidence that Whitehead had been removed from Puffing Billy prior to 1991, nor that his removal had ever been discussed.
163. Mr Hearsch also stated at interview that after Whitehead's offending became public knowledge in around 2015, he had been told by a former VR employee who fired steam trains at Puffing Billy in the 1970s that, upon approaching the Puffing Billy crew room, the fireman was advised not to enter because Whitehead was in the room with young boys.
164. The investigation interviewed a former Puffing Billy Youth Group member, Lachlan A'Vard, on 22 November 2017. Lachlan A'Vard is a former Society Executive Committee member and former Board member, and the son of Philip A'Vard.
165. Lachlan A'Vard recalled that he would frequently visit the Railway with his father before he became an official member of the Youth Group in 1979, and that before joining the group:
- I was warned off Whitehead by my father ... I'd be guessing I was about 10, so primary school time, and I remember it fairly vividly.
- [In December] I was playing with a bunch of kids, and I can't remember whether I was playing with them and Bob or whether I was with [Whitehead] alone, but I remember my father came and grabbed me and took him away and he said, 'Don't stay with Bob'. And I said, 'Why?' And he said, 'Because he likes little boys' in a dark voice.

166. Lachlan A'Vard said this conversation with his father occurred between 1976 and 1979.

167. Philip A'Vard could not recall warning his son about Whitehead, but stated that he trusted his son's account:

No, I can't remember doing it, but seeing as you said it came from Lachie ... as a father, you would, wouldn't you ... I can't remember doing it, but I would have. So, I'll happily say yes, I must have as a responsible parent ...

168. According to Philip A'Vard, he first became aware of allegations concerning Whitehead offending against children when he was contacted by the parent of a Youth Group volunteer:

I was at my home ... and I had a phone call from a man warning me and the Railway about a man called 'White' who he claimed had enticed his son to go on a trip with him ... and the son had realised what was likely to happen and escaped, rang Dad, went home. So, the man was warning us about this character called 'White' and ... he said he had something to do with the track at Puffing Billy.

169. On receiving the call, Mr A'Vard said he called Anthony Hutchins in an effort to ascertain the identity of 'Mr White':

I couldn't think of a bloke called 'White' on the track. So, I rang Hutchins and I told him of the telephone call that I'd received and said, 'Do you know if there's anybody called White', and I can remember specifically to this day what - exactly what Hutchins said. He said, 'Yeah, Bob Whitehead'. So straight away I thought, 'Oh my God', you know, this - this doesn't sound good at all ... So, I very rapidly rang [Lon] Wymond and told him of this ... I remember saying [to Mr Wymond], 'I think we have a problem'.

170. Philip A'Vard could not definitively recall the date of his telephone call with the concerned parent, but said it was 'long before' suspicions arose about Hutchins' offending against children in 1985.

171. Philip A'Vard did not believe the call occurred as early as the 1970s, when he warned his son about Whitehead. However, he conceded he must have received the call about that time or he would not have had cause to warn his son:

Investigator: It's just not entirely clear. You said you would have warned [your son] as a responsible parent.

Mr A'Vard: Most probably, yes.

Investigator: But if you, at that point, had no call [from the parent] to warn him, why would you?

Mr A'Vard: Well, that's quite true. Yeah, well, that's a fair enough comment. I'd have to have been aware ... but I cannot recall the [date] the parents rang me.

I was warned off Whitehead by my father ... I was about 10 ... I remember it fairly vividly ... my father came and grabbed me and took him away and he said, 'Don't stay with Bob'. And I said, 'Why?' And he said, 'Because he likes little boys' in a dark voice.

Lachlan A'Vard

172. When asked if there were rumours about Whitehead's offending against children before he received the telephone call, Philip A'Vard stated there 'would have been some behind-the-hand scuttlebutt floating around among the lower-level' volunteers, but denied having personal knowledge until the telephone call from the parent and his subsequent discussion with Hutchins.

173. However, based on the chronology that Philip A'Vard himself helped to establish, this was before Whitehead became Secretary of the Society in 1980.

174. In response to the Ombudsman's draft report, John Robinson's legal representative stated:

Rumour and suspicion about a possible fact is not the same thing as knowledge of an actual fact. Nor is knowledge of the existence of rumour or suspicion the same thing as knowledge of any actual fact to which such rumour or suspicion might relate. Among other indicia, rumours and suspicion – which by definition are unreliable sources of information – can be, and typically are, vague, inchoate or apparently unlikely. They might, in some but not all instances, be such that the appropriate response would be to ensure that some checking be done, or enquiries made. That is precisely what the evidence discloses Mr Robinson did by approaching Mr Whitehead in 1991. Further, knowledge or rumour at a 'low level' of an organisation, cannot be attributed to those who manage the organisation. Whether an individual actually knew something – for example a particular fact, or even the existence of a mere rumour – at a relevant point in time, requires precise identification of what exactly that fact or rumour is said to have been.

175. However, these were not simply vague rumours about Whitehead among the lowest levels at the Railway. They were consistent and became specific reports of child sexual offending, sometimes from parents and often made by the young victims themselves to the most senior members of the Railway. Despite John Robinson's characterisation that such rumours can be 'apparently unlikely', Whitehead was convicted for these offences, and Mr Robinson's criticism of rumour in this regard contradicts the very basis for his confrontation with Whitehead in 1991. This course of events is examined further on in this report.

Becoming Secretary (1980–85)

176. Whitehead continued his active involvement with Puffing Billy during the early-to-mid 1980s. He engaged in regular on-track work, performing the roles of guard, signaller, supervisor, trolley driver and fire patrol operator.

177. He also had a range of administrative roles with the Railway. He was a member of the Silver Jubilee Open Day Committee and Chair of the Moondarra Committee (responsible for managing the Moondarra property), and he continued distributing Puffing Billy timetables.

178. Following Hutchins' sudden resignation from the Track Group in June 1980 (examined later in this report), Whitehead also took on the role of Track Group Roster Officer.

179. On 11 November 1980, Whitehead was elected unopposed as Secretary of the Society. In this capacity, he became a member of the Society Executive Committee, which also conferred on him membership of the Board's Committee of Management.

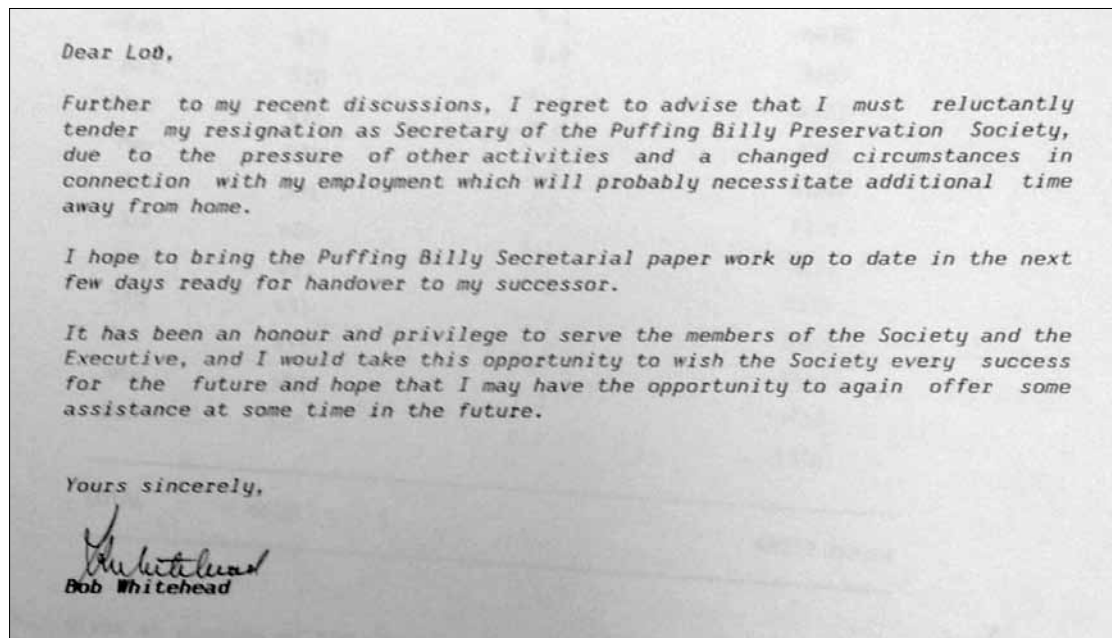
180. He was re-elected as Secretary at the next four elections, and remained a member of the Committee of Management during this period.

181. Despite his appointment to high-level Railway management, Whitehead continued his active participation on the track. He stated to police in 2015 that during this period he would typically be involved in Society meetings two or three nights per week and volunteer at Puffing Billy on weekends.

182. Whitehead had access to children in many of his roles at Puffing Billy. As Roster Officer, he would roster himself as Works Supervisor, including supervising overnight work parties and youth volunteers carrying out track work. He also regularly rostered himself as a fire patrol operator, a position that ensured he was accompanied by a fire patrol assistant, sometimes sourced from the Youth Group.

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183. In June 1981, Whitehead drafted a new procedure for the admission of Society volunteers, which dictated that a Volunteer Enrolment Officer was required to check application forms against the list of 'undesirable volunteers' kept by the Society – a list Whitehead himself helped maintain.
184. In September 1981, Whitehead authored a new policy on rostering volunteers, which noted that Roster Officers had unfettered access to volunteers' personal information and encouraged Roster Officers to make regular contact with volunteers:
- The Roster Officer is the contact point between the Society and most volunteers ... The Roster Officer should become personally acquainted with each volunteer on his roster.
- Roster Officers should 'set the pace' by making positive contact with each volunteer regularly ...
- ... a POSITIVE [emphasis in original] and perhaps almost aggressive approach is required.
185. In March 1982, Whitehead and Hutchins led a series of working bees to recover track from disused rail lines for use at Puffing Billy. The working bees involved camping overnight and were attended by young volunteers.
186. The same two men also formed part of a three-person committee in August 1984 which reviewed Puffing Billy's existing procedures concerning Society membership and produced a report outlining proposed changes.
187. Despite the report noting the lax volunteer screening procedures at the time, it went on to conclude that additional checks on prospective volunteers were unnecessary, citing that:
- there had been little trouble with the behaviour of members to date
 - any additional checks would be time consuming
- requiring reference checks may deter applicants
 - the cost of membership would likely deter 'undesirable' applicants.
188. The report also noted that Society members were bound by the articles of association, and that there were legal grounds for disciplinary action 'against anyone acting in a manner which is contrary to the Society rules, or not in the best interests of the Society'.
189. Whitehead and Hutchins were both active child sexual offenders at the time they produced this report. It was not until June 1990 that the Society Executive Committee revisited its volunteer recruitment policies, noting the system had 'too many flaws'. However, the investigation was unable to identify any changes that were made to the system at that time.
190. In November 1984, Whitehead was appointed Manager of the Puffing Billy Museum after performing the role of Acting Manager for a year. Youth members regularly volunteered at the museum.
191. Whitehead and Hutchins also led the Mansfield Rail Recovery Project in 1985. The project involved weekend work parties to dismantle unused rail for use at Puffing Billy. The parties were attended by young volunteers who were encouraged in the Society's August 1985 monthly newsletter to stay overnight:
- In spite of Winter, work parties are still being held every weekend from now till the end of August, including the first week of the School Holidays. Volunteers are urgently required as a caravan is available for overnight accommodation. Would anyone who can help please contact Tony Hutchins or Bob Whitehead.
192. Puffing Billy was aware of child sexual abuse allegations involving both Whitehead and Hutchins at that time.

Exhibit C - Whitehead's letter of resignation from Puffing Billy, 1985



Resignation

193. In September 1985, Whitehead suddenly resigned from his official roles with the Society and from all active participation in the Railway. His resignation occurred one month after Hutchins admitted to child sexual offending against Puffing Billy youth volunteers, and also resigned.
194. Only eight days before his resignation, Whitehead had been confronted by the Society President and Board Chair, Lon Wymond, and Society Treasurer and Board member, John Robinson, about allegations he had sexually abused two children associated with Puffing Billy. Whitehead denied the allegations.
195. Two separate resignation letters, each addressed to Mr Wymond and dated 24 September 1985, were located in the Puffing Billy archives. One was contained in a folder marked 'ETRB STAFF SENSITIVE!' together with Hutchins' resignation letter from the same year.

196. Whitehead's letter, addressed to Mr Wymond in his capacity as Society President, is shown at Exhibit C above. It reads:

Dear Lon,

Further to my recent discussions, I regret to advise that I must reluctantly tender my resignation as Secretary of the Puffing Billy Preservation Society, due to the pressure of other activities and a changed circumstances [sic] in connection with my employment which will probably necessitate additional time away from home.

I hope to bring the Puffing Billy Secretarial paper work up to date in the next few days ready for handover to my successor.

It has been an honour and privilege to serve the members of the Society and the Executive, and I would take this opportunity to wish the Society every success for the future and hope that I may have the opportunity to again offer some assistance at some time in the future.

Yours sincerely

Bob Whitehead

197. Whitehead's letter was tabled at the Society Executive Committee meeting on 30 September 1985, where it was accepted and agreed that Mr Wymond would respond. In a letter dated 1 October 1985, Mr Wymond told Whitehead that his resignation was accepted with regret and thanked him 'for a job well done'. Mr Wymond left it open for Whitehead to return to Puffing Billy, stating 'I trust we may see you playing an active role in the future'.

198. In his other resignation letter, addressed to Mr Wymond as Chair of the Board, Whitehead relinquished his position as Manager of the Puffing Billy Museum and stated that he intended to 'cease active participation in the affairs of the Puffing Billy Railway'. The reasons provided were similar to those included in his other resignation letter.

199. The second letter was tabled at a Committee of Management meeting held on the same night as the Society Executive Committee meeting that considered his first resignation letter. The Committee of Management also accepted the resignation. Mr Wymond wrote a second letter to Whitehead, dated 1 October 1985, again expressing his regret at the resignation and thanking Whitehead for his services.

... Theft allegations, no matter how minor, were considered abhorrent, dealt with frankly and swiftly referred to police; however, allegations of child sexual offending were dealt with 'in-house' and kept confidential.

200. The same nine individuals, including Lon Wymond and Philip A'Vard, comprised both the Society Executive Committee and the Committee of Management on the night Whitehead's resignations were discussed. John Robinson was absent from both meetings, but evidence shows that he was acutely aware of the resignations at the time and the reasons behind them.

201. Board minutes from this time do not mention Whitehead's resignation, despite his letter being addressed to Mr Wymond in his capacity as Board Chair. Whitehead's resignation was instead handled at Committee of Management level at a meeting wholly comprised of Society Executive Committee members. This contrasted with the handling of Hutchins' resignation, which was considered by the Board one month earlier.

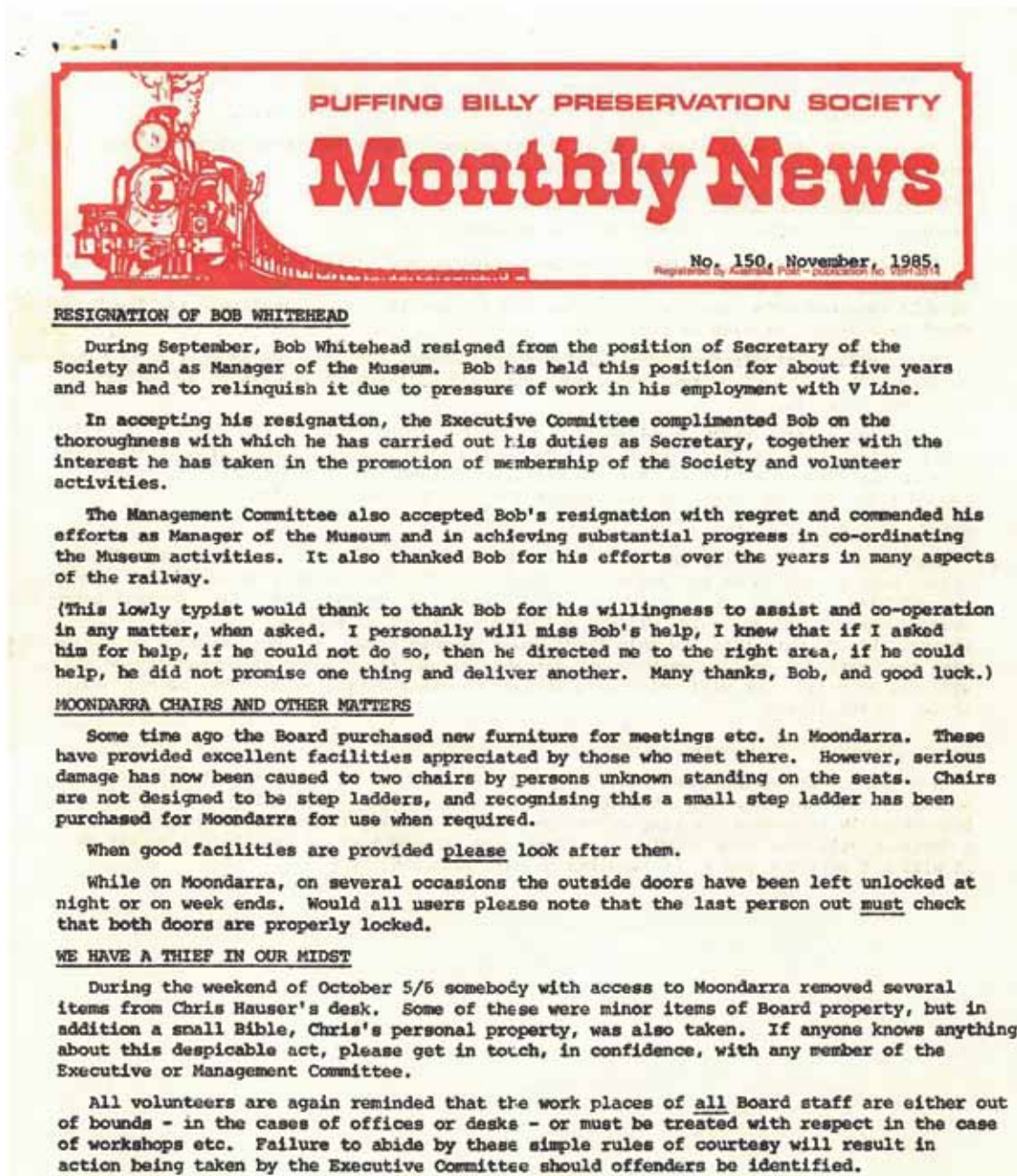
202. Four of the seven Board members at the time were Society Executive Committee members, including Mr Wymond, Mr A'Vard and Mr Robinson. Each of these three men was aware of Whitehead's resignation, but did not raise the matter for discussion at a Board meeting.

203. The investigation could not locate any evidence that the remaining three Board members, including the Minister for Transport's representative, were otherwise informed why Whitehead had resigned.

204. The public account of Whitehead's resignation as Secretary in the Railway's November 1985 monthly newsletter made no reference to the fact that it occurred after he was confronted about child sexual offending. An excerpt from that monthly newsletter is shown at Exhibit D on the next page.

205. Just as Mr Wymond had done in his letters to Whitehead, the article went on to thank him for his efforts at Puffing Billy. In contrast, an article in the same Puffing Billy publication described the suspected theft of 'minor items' as a 'despicable act'. This was a common theme observed by the investigation: theft allegations, no matter how minor, were considered abhorrent, dealt with frankly and swiftly referred to police; however, allegations of child sexual offending were dealt with 'in-house' and kept confidential.

Exhibit D - Excerpt from Puffing Billy monthly publication, 1985



206. The Mansfield Rail Recovery Project, which Whitehead and Hutchins had been leading, was put on hold the following month despite being only 60 per cent complete. The Society's monthly news publication attributed the pause in work to bad weather and to 'catch up on a few urgent jobs on our own railway'.

207. Several months after Whitehead and Hutchins resigned, the same publication advised that overnight accommodation for volunteers, including at a house known as 'Moyhu', would no longer be provided. No explanation was given, but the investigation identified from Victoria Police records that child sexual offending had occurred at that location.

Knowledge of 1985 police investigation

208. Records provided to the investigation from Victoria Police showed that Whitehead was the subject of a police investigation in 1985 regarding the child sexual abuse of Puffing Billy volunteers. A brief of evidence was prepared at the time, but it was not authorised for prosecution.
209. This investigation attempted to obtain a copy of the brief or any associated documents to establish how the police investigation was initiated, whether anyone from VR or Puffing Billy participated, and whether Whitehead's 1959 conviction was known at the time. The investigation also sought to contact the lead police investigator.
210. However, Victoria Police advised records associated with its investigation are no longer available and that its lead investigator has retired. Subsequent efforts to contact him were unsuccessful.
211. The police investigation was also referred to in an Employee Assistance Services file from Whitehead's employer at the time, the State Transport Authority. This file is examined in the Victorian Railways section of this report.
212. Despite the absence of the 1985 brief concerning Whitehead, the investigation established that several people at Puffing Billy and VR were aware of the police investigation into Whitehead.
213. One such individual was Robert John Wilson, a VR employee who co-leased a property at Taradale Railway Station with Whitehead, John Hearsch and another VR employee.
214. Mr Wilson told the investigation at interview on 29 November 2017 that during the 1980s he was contacted by a police detective who was investigating Whitehead, and at the detective's request he made a formal statement. Mr Wilson did not retain a copy of his statement.
215. In 1986, Mr Wilson was appointed to the Board as the Minister for Transport's nominee; a role he held until 2000. Before his Board appointment, Mr Wilson had been involved with Puffing Billy periodically since 1961.
216. Police Officer A, who was a Victoria Police officer in 1985 and involved at Puffing Billy, stated at interview that he believed the police investigation into Whitehead was started by two young Puffing Billy members who approached him in 1985 and disclosed they had been abused by Hutchins and Whitehead:
- When I was in the police force, two young fellas at Puffing Billy came ... this young fella comes over and starts relaying this story to me ... And the first young fella that spoke to me spoke about Tony Hutchins ... And then the second one spoke to me about Hutchins and also, he mentioned Bob Whitehead ... When they'd finished their stories to me, I felt sick ...
- They asked for my advice ... What I said to them was, 'look, there's several things you can do ... I can take you down to the police station at Ferntree Gully, get the CIB right now', they said 'no'. I said 'well, you can report it to the Railway', and one of the kids, I can't remember which one, said 'no, I've done that, that didn't do any good' ... I said, 'if I was in your position, I'd go straight home, tell your Mum and Dad you've spoken to me, and tell them the advice I've given you, and be guided by them' ... One of them, I don't know who, took it further straight away, from the very next day.
217. Following his conversation with the two boys, Police Officer A said he was contacted by a member of a police taskforce who advised him that police were investigating both Hutchins and Whitehead.
218. After reportedly seeing undercover officers at Puffing Billy 'within the next few months', Police Officer A said he received another telephone call from a police officer in forensics, who said there was not enough evidence to charge Whitehead due to restrictions on the use of uncorroborated evidence from a minor.

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219. The 1985 police investigation into Whitehead was raised with Mr Robinson on 30 March 2017 during a meeting with the Secretary of the Department of Economic Development, Jobs, Transport and Resources, Richard Bolt.
220. During that meeting, Mr Bolt observed that the police investigation into Whitehead occurred around the time Whitehead stepped down as Secretary of the Society, and contended the resignation would have been suspicious.
221. Notes from that meeting indicate John Robinson said, 'there were no suspicions about Whitehead' in 1985 and that he may have resigned because of 'a problem of management style'.
222. At interview, Mr Robinson told the investigation he had only recently become suspicious about the timing of Whitehead's 1985 resignation:
- More recently - very, very recently, when I was contemplating it - I thought, 'well isn't the timing interesting', because that was about exactly the time that Hutchins was removed and charged over child sexual offences ... I wonder whether [Whitehead] thought at the time that it was getting a bit hot in the kitchen and he better get out as well. Maybe he even thought he was under investigation himself as well at that time ...
223. Mr Robinson denied that he was aware of the 1985 police investigation into Whitehead at the time, stating that he only became aware of rumours about his child sexual offending in 1991. He said these rumours prompted him to confront Whitehead with Philip A'Vard, and demand Whitehead's immediate resignation from Puffing Billy.
224. Mr Robinson said no specific allegation was made against Whitehead at that time, but he recalled reacting with 'absolute horror' upon hearing the rumours:
- At some point in 1991 ... we got to hear a whisper that all wasn't necessarily well with Mr Whitehead and perhaps he was involved in activities that we wouldn't have appreciated ... Now I cannot remember how this came to our attention. I cannot remember who actually told me about it. I do remember that it was not a specific allegation about a specific incident and a specific place. It was very general in nature. But when I heard about it, and this was the first time that I personally had ever heard anything negative in relation to this bloke, I quite frankly reacted with complete horror ... I determined immediately that I was just going to get rid of him from the organisation. Simple as that ... My reaction was absolute horror. And the reason it's so clear in my memory is that it was horror. I initially couldn't believe it, because I'd never ever connected him with anything like that.
225. Mr Robinson said it was 'not impossible' that there were people at Puffing Billy who were aware of 'concerns' about Whitehead before 1991, but 'if there were, they weren't raised at official level'. He also told the investigation that the Board had 'not had one complaint in writing from one person ever about the alleged sexual abuse of children'.
226. The investigation obtained the prosecution file for Hutchins, which contained sworn police statements from John Robinson and Lon Wymond that were made in October 1985. Those statements indicated that Mr Robinson and Mr Wymond confronted Hutchins about allegations of child sexual abuse made against him by two young Puffing Billy volunteers. Hutchins confessed to the offending during the confrontation.

227. Mr Wymond's statement, dated 21 October 1985, also referred to Whitehead:

WHITEHEAD had supervision of the youths at times when they were allocated to the track gangs and the Museum.

...

In relation to Bob WHITEHEAD certain similar allegations [of child sexual offending] were made by two of the boys. These allegations were put to WHITEHEAD but were stringently denied. WHITEHEAD resigned from his position as Secretary on 24 September 1985.

228. Despite John Robinson's statement at interview that he had no awareness of rumours or allegations about Whitehead before 1991, his statement to police, dated 24 October 1985, said he confronted Whitehead on 15 September 1985 about allegations of child sexual offending. Mr Robinson's statement said Whitehead 'strongly denied these allegations but did resign from the Society within one week of that meeting'. The confrontation occurred in the office of Mr Robinson's private business.

229. By September 1985, Mr Wymond, who was Chair of the Board and President of the Society, and Mr Robinson, who was a Board member and Treasurer of the Society, were fully aware of specific allegations that Whitehead had sexually abused two Puffing Billy youth volunteers.

230. Mr Robinson was shown a copy of his sworn 1985 police statement at interview and asked to explain the discrepancy between his statement to police and his statement to the investigation that he had no knowledge of Whitehead's offending until 1991:

Okay, well, I certainly purported to make that statement at the time, I presume it's accurate. And in relation to it, I can honestly say that I have no recollection of that information in relation to Whitehead ... none whatsoever.

I have no genuine recollection of that at all ... I know this purports to alter some of the evidence I've already given, but the evidence I've already given is absolutely as I have believed it to be. And clearly, I made that statement presumably at the request of police at the time.

231. Mr Robinson's evidence that he reacted with 'absolute horror' when he reportedly learned of rumours about Whitehead's offending in 1991 was explored in an exchange at interview:

Investigator: ... you said those events [leading to Whitehead's resignation in 1991] stood out to you at that time and are so clear in your memory because you were horrified when you heard those allegations.

Mr Robinson: Yes, I was.

Investigator: So why did that not stand out in 1985, why do you not recall making that statement? ...

Mr Robinson: I can't explain that other than to say that I have genuinely forgotten, genuinely. Because I am not a dishonest person. And I'm absolutely, to be honest, shocked to read that now that it appears that [was] 24 October 1985 ... I have absolutely no recollection of that meeting with those boys or anything else ...

I have to say right now that I am absolutely shocked to see that because at all times in this investigation I have answered you both totally honestly. And now you're presenting me with this and I can't realistically argue it, and I'm not trying to. But I can honestly say that I do recall, as I have already given evidence, I definitely recall the meeting at my office with Hutchins. But I do not have any recollection of such a meeting at the same location with Whitehead. But it appears that it happened and I'm not - I can't dispute that because I swore it.

232. Mr Robinson told the investigation that at Puffing Billy he had learned:

... whenever you hear a story about something, you never believe it unless you get it the same way from six people.

233. The investigation asked Mr Robinson to reconcile that statement with the immediate action he took against Whitehead upon hearing a very general rumour in 1991, to which he replied:

I think the primary reason I probably reacted as rapidly as I did is that six years previous we'd had the experience with Hutchins ... I just had a feeling, 'no way, not again, this person's got to go'.

234. Despite having spoken with police about child sexual abuse allegations concerning Whitehead in 1985, Mr Robinson denied that this in any way influenced his decision to confront Whitehead only six years later.

235. Philip A'Vard stated at interview that Whitehead's 1985 resignation as Society Secretary was quite sudden, but he could not recall the reasons Whitehead had given for doing so.

236. Mr A'Vard acknowledged that he was aware of child sexual abuse allegations about Whitehead before Whitehead's resignation, having already fielded a telephone call from a concerned parent 'long before' Hutchins himself was revealed as a child sexual offender in 1985.

237. Mr A'Vard said he believed Lon Wymond informed him of the police investigation into Whitehead, but Mr A'Vard was not contacted by police as part of that investigation. Mr A'Vard did, however, speak with Whitehead about the police investigation some months after the 1985 resignation:

I fronted Whitehead at some stage, I can't remember, this was months and months after the police involvement and I said to him, 'What the hell happened? I thought you were in trouble with the cops'. And his comment was, 'Oh, they came around to see me and they took a few things like bibs of this and bobs of that', he said, 'I've never seen them since'. And at that stage he asked me, could he ... possibly have access to the sign on books each day that we had on the Railway so he could prove he was on the Railway rather than doing anything that might have been [alleged]. And I said, 'Well, they're not restricted documents'.

238. Mr A'Vard stated that he and other members of Puffing Billy took no other action at the time regarding Whitehead because of the presumption of innocence. However, his son, Lachlan, told the investigation that when Hutchins was convicted in 1987, his father said to him, 'we always thought it was Whitehead'.

239. John Robinson and Philip A'Vard both told the investigation they were not aware of Whitehead's 1959 conviction for child sexual offending until many years after he was removed from Puffing Billy. However, the investigation obtained evidence that other senior people at Puffing Billy were aware of the conviction around the time of Whitehead's 1985 resignation.

240. Robert Emmerson, who took on the role of Society Secretary in November 1985 (immediately after Whitehead's resignation), stated at interview on 20 December 2017:

I first became aware of it [when I became Secretary], from what I can recall. Obviously other people knew about it, but I wasn't privy to that information up until that time ... I don't think it was discussed openly at a Committee Meeting, I have a feeling it was afterwards or before or at some other juncture ... I think we minuted the fact Bob resigned, but I don't think there were any reasons given.

Later years (1986–91)

241. Despite Whitehead's resignation as Secretary in September 1985 after allegations of child sexual abuse were made against him, the investigation obtained evidence that showed he returned to active involvement with Puffing Billy just 10 months later.

242. His return was facilitated by his appointment as Archives Officer for both the Society and the Board in July 1986. The prospect of this appointment was discussed at a Committee of Management meeting. Six days later Lon Wymond announced to the Board that Whitehead had agreed to accept the position.

243. Lon Wymond and John Robinson were at both meetings, while Philip A'Vard was an apology. The Board, with only three others in attendance besides Mr Wymond and Mr Robinson, formally appointed Whitehead as Archives Officer.

244. Following his appointment, Whitehead resumed a wide range of other on-track and administrative roles at the Railway. He remained actively involved for a further six years until he again resigned in August 1991.

245. His continued involvement between 1986–91 was permitted despite:

- Board and Society Executive Committee members knowing that child sexual abuse allegations had been made against him
- an ongoing police investigation into him, the outcome of which was not known to Puffing Billy
- Whitehead's previous convictions for child sexual offences in 1959 being known to some senior members of Puffing Billy.

246. The investigation identified no evidence that Whitehead's volunteering with Puffing Billy was restricted in any way after he recommenced his involvement in July 1986.

247. In his capacity as Archives Officer for the Board, Whitehead continued to be an officer of the Board and therefore an officer of a public entity. The role gave Whitehead unencumbered access to Puffing Billy's archival material, which he stored at his home.

248. An archival policy drafted by Whitehead and adopted in September 1984 was in force during Whitehead's time as Archives Officer. The policy expressly stated that complaints were not to be stored in Puffing Billy's archives. The policy left it open for 'appropriate members of the Executive' to personally store complaints only if their retention was 'considered desirable'.

249. Published rosters show Whitehead recommenced his on-track involvement in November 1986. Between this time and August 1991, he continued many of the same roles he had performed in the past, such as trolley driver, track patroller, guard and signaller. He had contact with youth volunteers in each of these roles.

By September 1985, Lon Wymond ... Chair of the Board and President of the Society, and John Robinson ... a Board member and Treasurer of the Society, were fully aware of specific allegations that Whitehead had sexually abused two Puffing Billy youth volunteers.

250. Witnesses also told the investigation that Whitehead attended track-work parties, which were akin to working bees, including those associated with the Gembrook Rail Restoration Project, which Whitehead regularly attended alongside Youth Group members.

251. Administratively, Whitehead:

- delivered safe working training to Railway employees and volunteers in his capacity as a Board-appointed Safe Working Instructor
- carried out Roster Officer activities in his role as the 'Great Train Race Manpower Co-ordinator' in 1989
- organised the restoration of a buffer stop in Crowes and associated working bees
- was noted by the Committee of Management as a person capable of providing advice on complex operations.

The Elms letter

252. At interview with the investigation on 5 December 2017, William Elms recalled that he had joined Puffing Billy in 1982 or 1983, when he was about 13 or 14 years old. He worked most weekends cleaning engines, volunteering with track gangs and occasionally acting as a guard on the train.

Exhibit E - Letter from William Elms to Puffing Billy Secretary, 1986

TO THE SECRETARY OF PUFFING BILLY
Dear Sir I am a VOLUNTARLY WORK
AT Puffing Billy and in 1984 I WAS
asked TO leave Puffing Billy
So I did and it was only FOR
1 year as I was told I RETURNED
in 85 and after I RETURN we
had a PROBLEM WITH TONY HUTCHINS
and Bob WHITEHEAD and I HAVE
NOT RETURNED SINCE NOVEMBER
1985 I am WRITING TO find out
if I am allowed BACK
TO Puffing Billy

Yours sincerely
W.D. ELMS

William David Elms
P.S. can you WRITE TO me
and let me know A.S.A.P.

253. William Elms was sexually abused separately by both Hutchins, between 1983 and 1985, and Whitehead, in 1983, having met both men through Puffing Billy. His abuse was serious, systematic and repeatedly inflicted over a prolonged period. Both men were convicted of multiple offences against him: Hutchins in 1987 and Whitehead in 2015.

254. During its inspection of Puffing Billy's archives, the investigation identified a letter from William Elms to the Secretary of the Society. The letter was undated but it was discussed at a Society Executive Committee meeting on 7 April 1986, which was after Whitehead's resignation in September 1985, but before he recommenced his active involvement in July 1986.

255. William Elms was a member of the Puffing Billy Youth Group in the early 1980s. He was 17 years old when he wrote the letter, shown at Exhibit E above, which reads:

To the Secretary of Puffing Billy

Dear Sir

I am a voluntary work[er] at Puffing Billy and in 1984 I was asked to leave Puffing Billy so I did and it was only for 1 year as I was told. I returned in 85 and after I return [sic] we had a problem with Tony Hutchins and Bob Whitehead and I have not returned since November 1985. I am writing to find out if I am allowed back to Puffing Billy.

Yours sincerely,

W. D. Elms

William David Elms

P.S. Can you write to me and let me know A.S.A.P.

-
256. William Elms stated at interview that Hutchins was the one who initially told him in 1984 he was banned from volunteering at Puffing Billy. Hutchins told him that he 'couldn't go back' to Puffing Billy and to 'let things cool off'. Hutchins did not tell him why, but Mr Elms was of the view that Hutchins wanted to separate his victims so they 'couldn't cause problems' for him.
257. After being told he could not return to Puffing Billy in 1984, Mr Elms reportedly became depressed and his father subsequently found him sniffing petrol in the family's back yard. He was hospitalised, where he stated to doctors that he had been sexually abused by Hutchins and Whitehead, and the police were then notified.
258. Mr Elms was part of the 1985 police investigations into both men and he made formal police statements about their abuse in October 1985. This investigation was not able to obtain his statement regarding Whitehead from that time.
259. At interview with the investigation, Mr Elms stated his mother, Alice Elms, telephoned Puffing Billy in 1985 to warn them about Whitehead around the time that Mr Elms had made his statements to police.
260. Mr Elms recalled being told by police that Whitehead was not charged due to a lack of corroborating evidence. He stated that while Hutchins would sometimes offend against two children at the same time, Whitehead always singled a child out, and that adult volunteers at Puffing Billy 'had the power. If you said anything, you were just banished by the organisation'.
261. Even before the investigation conducted the interview with Mr Elms, his mother had contacted the investigation and corroborated her son's account. She stated she had regularly called Puffing Billy from about the mid 1980s to warn them about Whitehead and to complain about his continued involvement with the Railway.
262. While Mrs Elms could not recall who she had spoken with at Puffing Billy, she had a clear recollection that during one conversation she was advised 'under the circumstances, it would be better if [her son] didn't come near us'. Mrs Elms stated during a telephone conversation with the investigation that she had also been told by Puffing Billy that 'nothing has been proven [regarding Whitehead]'.
-
- While Mrs Elms could not recall who she had spoken with at Puffing Billy, she had a clear recollection that during one conversation she was advised 'under the circumstances, it would be better if [her son] didn't come near us'.*
-
263. Receipt of Mr Elms' letter was recorded in the Society Executive Committee meeting minutes on 7 April 1986. John Robinson, who was aware of allegations of child sexual abuse against both Whitehead and Hutchins by this time, was present at the meeting, as were five other members of the Society Executive Committee. Lon Wymond and Philip A'Vard were not in attendance.
264. The minutes noted Mr Elms' request and that the Society Secretary, Robert Emmerson, was to discuss the matter with the head of the Youth Group.

Exhibit F - Letter to William Elms from Puffing Billy Secretary, 1986

Dear William,

Thank you for your letter.

I have given your request to return to active volunteer participation, much consideration and I think, that in view of the fact that the problem to which you refer in your letter, has not been resolved, it would be a good idea if you didn't return to active participation at present. If you could contact me again in six months I will only be too pleased to consider your application then.

Yours Sincerely,

R. EMERSON,
HON. SECRETARY.

265. Mr Emmerson was aware by that time of allegations of child sexual abuse concerning Whitehead and Hutchins. Robert Hugh Wilson, the now-deceased leader of the Youth Group, was aware of allegations concerning at least Hutchins, having also made a statement to police about his offending in October 1985, around the same time as Mr Robinson and Mr Wymond.
266. The investigation located Mr Emmerson's response to Mr Elms, dated 11 April 1986, in which Mr Emmerson told Mr Elms that he could not return to Puffing Billy. This letter is shown at Exhibit F above.
267. Mr Elms told the investigation that he did not re-contact Puffing Billy and never returned to volunteer.
268. Despite the Society Executive Committee's knowledge of child sexual abuse allegations against both Whitehead and Hutchins, the investigation found no evidence the committee escalated the matter to the Committee of Management or the Board.
269. At interview, Mr Robinson explained that 'the Board has not one complaint in writing from one person ever about the alleged sexual abuse at the time'. This reflected a previous comment he had made to the media that 'there has never ever been an allegation in relation to a specific individual made to the Railway'.
270. Despite the investigation being unable to locate any written complaints about child sexual abuse beyond Mr Elms' highly suggestive plea about his 'problem' with two child sexual offenders, it again noted Whitehead's key role in developing the Railway's archives policy, which dictated that complaints were not to be held in Puffing Billy's archives.

271. The investigation identified separate evidence that contradicted Mr Robinson's media statement. At the time of William Elms' letter:

- two boys, whose identities were known to Society Executive Committee and Board members, had made direct and specific verbal complaints that they were sexually abused by Whitehead
- two other boys, whose identities were known to Society Executive Committee and Board members, had made direct and specific verbal complaints that they were sexually abused by Hutchins
- a parent had called Philip A'Vard, a long-term senior member of Puffing Billy and later Board member, specifically to complain about Whitehead's conduct against his son.

272. Despite being present at the Society Executive Committee meeting during which Mr Elms' letter was discussed, John Robinson stated that he had no recollection of the letter or the underlying issue:

Mr Robinson: I've never seen that [Mr Elm's letter] before.

Investigator: You've never seen it. Has it ever been discussed? Are you aware of it?

Mr Robinson: Well I don't, I don't believe I've ever seen it. I honestly don't believe I've ever seen it.

Investigator: In the letter, he refers to a 'problem' with Tony Hutchins and Bob Whitehead. What is the 'problem' he refers to there?

Mr Robinson: Oh, I can't - I don't know. In the light of our current knowledge, we can only assume, can't we? But I can't speculate on what he meant at the time. He now claims, and I don't disbelieve him, now we move forward to 2018, that he was a victim of one or [an]other of them.

273. At interview, Philip A'Vard also stated that he could not recall Mr Elms or his letter, but he stated his opinion on its contents:

Investigator: [Mr Elms] was removed from contact with the Railway and asked to stay away from the railway. So, I'm asking you to reflect on that action.

Mr A'Vard: I think we need to know more about why the child was asked to leave.

Investigator: Okay, what if we can take you back to the actual exhibit itself. What do you think the problem was that Bill [Elms] was referring to?

Mr A'Vard: I, well, it could - it could literally be that they've had a - had a - an argument and someone said, 'Well, bugger off'.

Investigator: Okay. Well let's consider in the context of the people that are mentioned in that letter, Tony Hutchins and Bob Whitehead.

Mr A'Vard: Yes.

Investigator: So, considering the context of those two convicted child sex offenders, with that knowledge, with the understanding and the knowledge that that person was clearly affected by those two people, what is your informed view of what the problem is?

Mr A'Vard: You're asking me to surmise. You know, you can - it looks on the surface of what we know today that there was a - a problem - a sexual problem.

274. However, Philip A'Vard offered what he thought to be an alternative possibility of what may have informed the decision to remove Mr Elms:

Mr A'Vard: Why did the child leave in the - be asked to leave in the first place? It opens up a - a possibility ... now I don't know whether I mentioned to you and don't think I'm trying to rationalise or get out of this, but I'm putting another possibility on the table and that is that of the predatory child.

And you are - you are aware of the fact there are predatory children? If not, I can give you examples of this in the theatre. And it's perhaps a long shot but I'm trying to provide the benefit of the doubt over the evidence you've provided me.

...

Investigator: So, you're suggesting the child was causing the problem?

Mr A'Vard: Ah, no - he - well, I'm just giving you a scenario - yes, the child could be causing the problem. I'll give you some examples that'd make your hair stand on end.

275. Mr A'Vard said he could not recall any circumstance where a Youth Group member was asked to leave or was expelled from the Society. He stated that while the Youth Group leadership may have done so, he was not aware of this and doubted it would have ever occurred.

276. Evidence from a Society Executive Committee meeting on 4 March 1985 showed that the Committee viewed the Youth Group leadership, which included Hutchins, as 'an autonomous body' that should be able to resolve issues concerning the suitability of its young members without escalation to the Committee. Hutchins was sexually abusing Youth Group members at the time.

277. Mr Robinson said he was aware of Mrs Elms' public statements that she repeatedly called Puffing Billy to warn them that Whitehead was a paedophile, but said that the Railway had no evidence of any calls from her:

It was his mother ... who is reputed to have rung the Railway many times during the '80s and claimed that she told whoever answered the phone - I think it was Whitehead, I can't remember whether she mentioned Hutchins as well - but I think it's claimed she warned the organisation that Whitehead was a paedophile and should be removed.

We've heard that before and I have said to Bill [Elms] myself in a phone call to him, I am not saying that his mum didn't ring us but what I have said to him, I'm pretty sure in that telephone conversation, was that we have no record of it and we don't have any record of it and we didn't have any record of it and it's one of the things, to be honest - this was claimed way later that she had been ringing the Railway on a few occasions in the 80s ...

... that particular accusation she's made - while I don't disbelieve it, it has always concerned me significantly because we did have people in the administration of the business at the time that were reputable people and it always occurred to me when I first heard these claims that, had they occurred those people would have reported it to the Management Committee for discussion. Now, to my knowledge, that didn't ever happen and we don't appear to have any records that I am aware of which indicate that she did.

278. However, documents obtained from Victoria Police show Mrs Elms told police before 1991 that she had called the 'manager of Puffing Billy and told them that Whitehead was a paedophile'. This is also consistent with Mrs Elms' account to the investigation that she had been contacting the Railway about Whitehead since the mid 1980s.

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279. While the investigation identified a very limited number of records showing some telephone calls to the Railway from members of the public were documented, this was not a routine practice and nor was it supported by a policy which dictated this should have occurred. The absence of any record of Mrs Elms' telephone calls is more a reflection of Puffing Billy's failure to appropriately document her contact than an indication they did not occur.
280. Contemporary evidence of Mrs Elms' ongoing contact with the Railway was also located in a 2017 draft document providing advice to Board members about Wayne Clarke's complaint, which was the catalyst for this investigation. A handwritten note on the advice read, 'Document Ray's phone call with anonymous woman who spoke to him whilst he was CEO'.
281. John Robinson confirmed that he was the author of the note and said Ray Leivers, a current Board member and former Puffing Billy CEO, recently informed him that he received a call from an anonymous woman while he was CEO, between 2002 and 2006.
282. Mr Robinson understood the caller 'alleged that she had rung the Railway in the '80s and allegedly said that Whitehead was a paedophile and should be removed'. Mr Robinson speculated that the caller may have been Mrs Elms, but said she did not identify herself.
283. Despite Mr Robinson's note, the telephone call was not mentioned in the final advice circulated to the Board.
284. Mr Robinson told the investigation the call did not prompt him to talk to other long-serving Puffing Billy volunteers to ascertain whether they had ever taken any verbal complaints about Whitehead:
- Mr Robinson:** ... the people that would have been present on the Railway in the mid 80s, who would have potentially taken that phone call, if she did ring - I didn't check this religiously, but I was of the view that they had long left the organisation ...
- Investigator:** Why would you restrict those investigations to current staff? Why would you not contact former staff members to see if they had knowledge?
- Mr Robinson:** Well, by then - we're talking about 2017 now and, by then, the issue of Whitehead had been well dealt with by police, well dealt with by the courts, he's been convicted, to jail, and he had, in fact, died, so, I didn't, at that point, see that, in the absence of people coming to us, which wasn't happening, I didn't particularly see that there was anything further I should necessarily have done in relation to it.
285. The investigation heard evidence from several witnesses, including Mrs Elms, that a report about Hutchins had aired on *Hinch*, a current affairs television show hosted by Derryn Hinch. The investigation obtained a copy of the segment, which aired on 23 March 1989, the day Hutchins was released from prison.
286. The *Hinch* report largely concerned Hutchins' job with the Department of Defence, which was reportedly kept open for him while he was in prison. The report detailed sentencing remarks made by Justice Hogg, who presided over Hutchins' case, that Hutchins 'used his position as a youth leader at Victoria's historic Puffing Billy steam train to lure young boys into his web', and that he 'took boys away - returning late at night and overnight, in tents and sleeping bags ...'

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287. Whitehead was not mentioned in the report, but Hutchins' offending followed the same pattern of offending as Whitehead.
288. Mr Robinson told the investigation he was not aware of the *Hinch* report. Philip A'Vard said he had not seen the report but was aware of it.
289. The investigation also identified that around this time, Society Executive Committee members raised queries about various roles Whitehead held at Puffing Billy between 1986 and 1991.
290. The minutes of the first Society Executive Committee meeting after the *Hinch* report aired, held on 17 April 1989, record the Committee agreeing that Mr A'Vard would have a 'quiet word' with Whitehead. The minutes do not indicate what prompted this action.
291. Mr Robinson was present at this meeting but said at interview he had no recollection of the matter, and suggested the investigation request this information from Philip A'Vard.
292. However, Philip A'Vard also said he could not recall the discussion he had with Whitehead, and that Whitehead's continued involvement after his 1985 resignation as Secretary 'wasn't talked about but I don't think it was suppressed'.
293. In October 1989, about six months after the *Hinch* report aired, Whitehead's role concerning volunteer rosters for Puffing Billy's Great Train Race was queried by an unnamed member of the Society Executive Committee. The relevant minutes do not indicate why the query was raised.
294. The date of Whitehead's appointment as Archives Officer was also queried at a Society Executive Committee meeting in April 1990. Again, the minutes do not indicate why the query was raised.
295. Four months later, in August 1990, Whitehead wrote to senior Puffing Billy officers requesting that all Puffing Billy archival material be urgently removed from his home. In the letter, Whitehead does not indicate why he sought its urgent removal.
296. The investigation identified that frequent discussions occurred at official meetings and decisions were made by Puffing Billy without a full explanation or account of what the matter concerned or why the decision was made.
297. At interview, Mr Robinson was asked why Whitehead was allowed to continue volunteering at the Railway for a further six years despite the organisation's knowledge of allegations concerning child sexual abuse and a police investigation. He sought to distance himself from any position of responsibility, stating:
- I can't answer that question. I was not Board Chairman at the time, that was still when Wymond was managing the organisation. So, it wouldn't have been my direct duty to do it ... Why Wymond on the one hand as Chair of the Board at that time didn't take action ... I don't know.
298. Mr Robinson continued to dilute his responsibility, saying that despite being on the Society Executive Committee, the Committee of Management and a Board member, he was 'simply a member of management' and 'I wasn't flying the plane or steering the ship'.

299. In response to the Ombudsman's draft report, Mr Robinson stated via his legal representative that:

[The report alleges] that Mr Robinson attempted to 'dilute his responsibility' ... [and that] Mr Robinson 'sought to distance himself from any position of responsibility'. That is an unfair reflection of the evidence. It was quite appropriate for Mr Robinson to identify, as he did, his role within the larger organisation at the relevant time.

300. When asked why it would have been Mr Wymond's sole decision as to whether Whitehead continued at the Railway, Mr Robinson conceded that it should have been a Board decision and confirmed that he was on the Board at the time. However, he again provided no explanation as to why no action was taken against Whitehead at that time, and why he did not raise the issue as a Board member.

301. The investigation provided Mr Robinson with details about the roles Whitehead performed at Puffing Billy after the allegations were made in 1985:

Investigator: You've heard these allegations [in 1985] and yet he appears to be permitted to be involved in every aspect of Society activity that would involve him also encountering children.

Mr Robinson: Yeah, well, look, I - I just honestly can't explain it. It's - it's just beyond my belief.

302. Mr Robinson said he would be 'staggered' if those members of the Railway involved in rostering Whitehead on duty had done nothing to restrict his involvement, but he could not identify any specific restrictions that were put in place to protect children at the time.

303. However, Philip A'Vard told the investigation that Puffing Billy management thought taking Whitehead out of key positions and placing him with adults would allow him to be monitored. It was, in Mr A'Vard's view, 'purely an informal situation'.

304. Mr Robinson stated at his interview:

... the Committee and/or the Board, as it would have been at that point, had responsibilities to ensure that - I mean, we had a duty of care. Now that duty of care, I believe that we - I've always believed that we carried it out, we carried it out appropriately.

305. When the investigation put to Mr Robinson that he and others were aware of Whitehead's offending against children, or allegations of his offending against children, and failed to take appropriate action to prevent him from offending further, Mr Robinson replied:

Well, it would appear so from the evidence is all I can say, because it is not - it's not my memory of events, but from the evidence, it would appear that what you have put to me is correct.

You've heard these allegations in 1985 and yet he appears to be permitted to be involved in every aspect of Society activity that would involve him also encountering children.

Ombudsman investigator to John Robinson

306. Mr A'Vard told the investigation there was a 'fine line' at Puffing Billy between removing volunteers and keeping other volunteers on side, as each had their own support groups and removing a particular volunteer could upset their supporters and jeopardise the Railway.

307. The investigation asked Mr A'Vard whether maintaining the support of volunteers was more important than acting decisively to remove Whitehead in 1985, to which he responded:

No, I don't think so. I come back to my earlier point about a dilemma. That, you know - is he innocent because the police have investigated and found nothing, or it would appear to have found nothing - in which case, innocence is presumed? Or do you fire someone on a rumour?

308. Mr A'Vard had, however, seen fit to warn his son Lachlan away from Whitehead several years earlier.

309. Mr A'Vard said he was appalled at the accusations against Whitehead as he had, to that point, placed a lot of trust in him. However, of the possibility of Whitehead reoffending, Mr A'Vard stated:

I don't think I had any thoughts of it happening again because I thought once the man had been fronted he wouldn't re-offend, you know; he'd go to grass.

310. The investigation asked Mr A'Vard how he came to know the outcome of the 1985 police investigation into Whitehead. Mr A'Vard said he knew because 'the man wasn't in jail', but confirmed that nobody at Puffing Billy sought to contact police to ascertain the outcome of the investigation or why it appeared to have been discontinued.

311. When it was put to Mr A'Vard that Whitehead was allowed to remain at Puffing Billy while children who raised concerns about him, including William Elms, were banned, he responded:

Well I can see that's how it looks. I'm just trying to think how and why though ... The police became involved with Whitehead, at which time Puffing Billy would say, well basically, what is - what needs to be done has been done. Suddenly when the police do not proceed the assumption is well, you know, maybe - maybe the fellow is innocent. If the police have nothing on him, can't charge him as a result of the allegations, if they have investigated it and dropped the case, what right do we have to interpret things badly?

Forced resignation (1991)

312. Various media articles have reported on Whitehead's departure from Puffing Billy, including an article published by Fairfax Media on 15 July 2015, which included the following account:

Puffing Billy Chief Executive John Robinson said management only became aware of concerns about Whitehead in 1990, when an allegation was made. Despite Whitehead's denial of wrongdoing, Mr Robinson said Whitehead's membership was cancelled and he was forced out.⁴

313. The *Mount Evelyn Mail* reported: 'It wasn't until 1990, after 20 years of volunteer work, that Whitehead was discharged as a volunteer from Puffing Billy over allegations of abuse'.⁵ It also reported Mr Robinson's statement that 'the whole Puffing Billy community is horrified by the publicity we are getting as a result of this', describing it as 'most unfair and most unfortunate'.

4 Richard Baker and Nick McKenzie, 'Puffing Billy sex fiend, former rail official Robert Whitehead pleads guilty over decades of abuse', *The Age* (online), 15 July 2015 <<https://www.theage.com.au>>.

5 Victoria Stone-Meadows, 'Abuser left "trail of human wreckage"', *Mount Evelyn Mail* (online), 20 July 2015 <<https://moutevelyn.mailcommunity.com.au/mail/2015-07-20/minors-abused/>>.

314. The investigation also identified an email from Fairfax Media to Mr Robinson, requesting comment on the statement that Puffing Billy personnel were warned of Whitehead's offending in the 1980s. Mr Robinson responded on 15 April 2015:

In approx. 1990 (date unknown) Management was made aware of an unconfirmed allegation of child sexual abuse against Whitehead (alleged victim unknown).

Management acted immediately and confronted Whitehead with the general allegation which he strenuously and heatedly denied.

Not being entirely satisfied with the honesty or otherwise of his response Management immediately decided to remove him as a volunteer from the PBR (Puffing Billy Railway) and to cancel his membership of the Puffing Billy Preservation Society.

This was done and he has had no connection with the PBR since that date [emphasis in original].

Further, at that time we learnt that Victoria Police were investigating allegations against him and we were involved in discussions with them (the Child Exploitation Unit) and fully cooperated with their investigation.

To this day we are unaware of the names of alleged victims or complainants in relation to Whitehead and can therefore make no further comment in relation to this matter.

315. Mr Robinson also sent an email to the *Mount Evelyn Mail* on 13 January 2015 stating:

In relation to your enquiry related to Bob Whitehead I can advise the following:

- (1) He is not a Puffing Billy Volunteer.
- (2) In earlier years he was a volunteer but has had no connection with the Railway for over 25 years.
- (3) We know nothing in relation to the allegations made against him.

316. At interview with the investigation, Mr Robinson said he only recently became aware that Whitehead was removed from Puffing Billy in 1991. This corrected date correlated with records in the Railway's archives.

317. Mr Robinson explained that in 1991, he and Philip A'Vard confronted Whitehead after hearing allegations of his child sexual offending that were 'very general in nature'. Mr Robinson, who was Chair of the Board and President of the Society at that time, initiated the action:

I remember going to Mr A'Vard and I said, 'You and I have to deal with this and we need to confront him ASAP'. And we did. I can't remember whether it took us one day, two days, two weeks, but we acted on it immediately. And we arranged to go to his home on a Sunday night. I don't recall a date. But I very vividly recall the meeting in his lounge room.

At the time he lived in a house somewhere in Upwey I think ...

So, we turned up this Sunday evening and said, 'Unfortunately Bob we've got a - we've got something we've got to discuss with you. We've heard some allegations, rumours only, that you might have been in some - I can't remember the words we used, but the intent would have been child sexual abuse. Whether we used those words I can't recall.

His reaction was instant. And his reaction was outrage, rage, denial, abuse of me, abuse of Phil A'Vard for daring to come into his home and accuse him of such things. He categorically denied [the allegations] about three or four times and he raved on for quite some time, he was livid that we'd come to his home and accused him of that.

318. Mr Robinson said that when Whitehead calmed down, they told him he had two options: to resign immediately or be removed as a member under the Society's Constitution. Mr Robinson and Mr A'Vard then left.

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319. Mr Robinson said Whitehead made his decision 'within a couple of days' and opted to resign and leave Puffing Billy. Mr Robinson said he never saw Whitehead again and that he 'sold his house almost immediately and moved to Nagambie'.
320. Mr A'Vard also told the investigation that he and Mr Robinson visited Whitehead at home in 1991. Contrary to Mr Robinson's account, he said that Whitehead was very calm, and surmised he 'was expecting it':
- Well, it was very quick, because Robinson and I turned up at his place one night with a bottle of beer and said, 'Let's have a drink. You're going to take the longest holiday from Puffing Billy you can possibly imagine. Goodbye'.
321. The investigation noted that Mr Robinson's account of Whitehead's reaction in 1991 accorded with his 1985 statement about Whitehead's 'strong' reaction to allegations at that time. It cannot be discounted that Mr Robinson was, in fact, recalling Whitehead's reaction to the 1985 confrontation, rather than the confrontation that occurred in 1991.
322. Whitehead reportedly made no admissions but neither Mr Robinson nor Mr A'Vard could recall what triggered the confrontation, other than a general rumour.
323. The investigation obtained notes made by a Victoria Police detective during a telephone conversation with Mr Robinson in October 2014. This conversation occurred as part of the investigation into Whitehead that resulted in his 2015 conviction. The notes indicate that Mr Robinson stated that 'somebody came to us with some sort of accusation' against Whitehead in about 1989 or 1990, that the accusation was credible and that it came from a child's parent.
324. The investigation showed these notes to Mr Robinson at interview, however, he could not recall any conversation of this nature with the parent of any child and could not explain why this was his account to police in 2014.
325. The investigation identified two significant matters concerning Whitehead's offending that occurred in the early 1990s:
- a Victorian Railways file referencing Whitehead's 1959 convictions was located at the Public Record Office Victoria
 - a police report about Whitehead's offending was made by a former Puffing Billy youth volunteer, Person A.
326. Person B, a former Puffing Billy member and VR employee, told the investigation that while he and another Puffing Billy member were researching at the Public Record Office in the early 1990s, they located a VR 'Secretary's file' on Whitehead. The file contained references to Whitehead's 1959 convictions, and Person B said it confirmed rumours that Whitehead had been to jail.
327. The investigation was also contacted by Person A, who stated he met Whitehead at Puffing Billy and was abused by him in the early 1980s when he was about 13 years old. At the time, Person A did not report the abuse to anyone, including those at Puffing Billy, because of Whitehead's power at Puffing Billy and Person A's concern that other members may have been involved in offending. Person A stated:
- Because he was quite a senior member [of Puffing Billy] at the time he had a lot of power within the organisation, everybody looked up to him and so on, it was going to be pretty hard to mention it, so to speak. And you don't know if people were involved in what he was involved in, or whether they were just looking at him as a senior person.

328. As a young adult, Person A contacted police to report the abuse, estimating this contact occurred during the early 1990s. He recalled the Child Exploitation Unit visited his home, where he made a statement and was reportedly told by officers they were aware of about 15–20 other victims of Whitehead.

329. Police records confirmed Person A made a report in 1991, but no further records were available to the investigation.

330. Person A's statement was remarkably consistent with Mr Robinson's account to the Secretary of the department, Richard Bolt. Mr Robinson advised Mr Bolt that Victoria Police Child Exploitation Unit officers told him in about 1990 that there was a police file 'a foot thick' on Whitehead, but not enough evidence for him to be charged.

331. The decision to remove Whitehead in 1991 was not, according to Mr A'Vard, something that was discussed with anyone else at Puffing Billy; 'most of this so-called dirty work' was done by the President or Vice-President of the Society. Mr Robinson and Mr A'Vard held these roles in 1991, and were Board members at the time.

332. The investigation found no evidence that Whitehead's 1991 resignation was discussed by the Board, the Committee of Management or the Society; and there was no public acknowledgement of his resignation in either of the Railway's publications.

333. Mr A'Vard stated at interview that he thought he and Mr Robinson had assured Whitehead that his resignation, and the reasons behind it, would be treated confidentially:

I think it may have been out of an awareness that the man, now, was destroyed. And then out of compassion that his life was completely – would be wrecked, which indeed, it was. Yeah, I suppose it was a human reaction. 'You go. We won't make a song and dance out of it. You go as far away as possible, for as long as possible'.

334. Whitehead's 1991 resignation letter was located in the Puffing Billy archives, contained in a folder labelled 'ETRB STAFF SENSITIVE!'. The letter, dated 11 August 1991 and shown at Exhibit G on the next page, was handwritten and addressed to Mr Robinson. It reads:

Dear John

For some time now I have felt that I need a break from Puffing Billy involvement. Now that the effort of the 12th Safe Working Course is virtually at an end I feel that this would be an appropriate time to take a rest. In addition, my sister and brother-in-law have for some time needed assistance in their business pursuits in the country, and I plan to give them some help at weekends and other times. I therefore write to advise that I wish to relinquish my official positions and cease active participation in Puffing Billy affairs for the present.

I take this opportunity to thank you all for your help and friendship in the past.

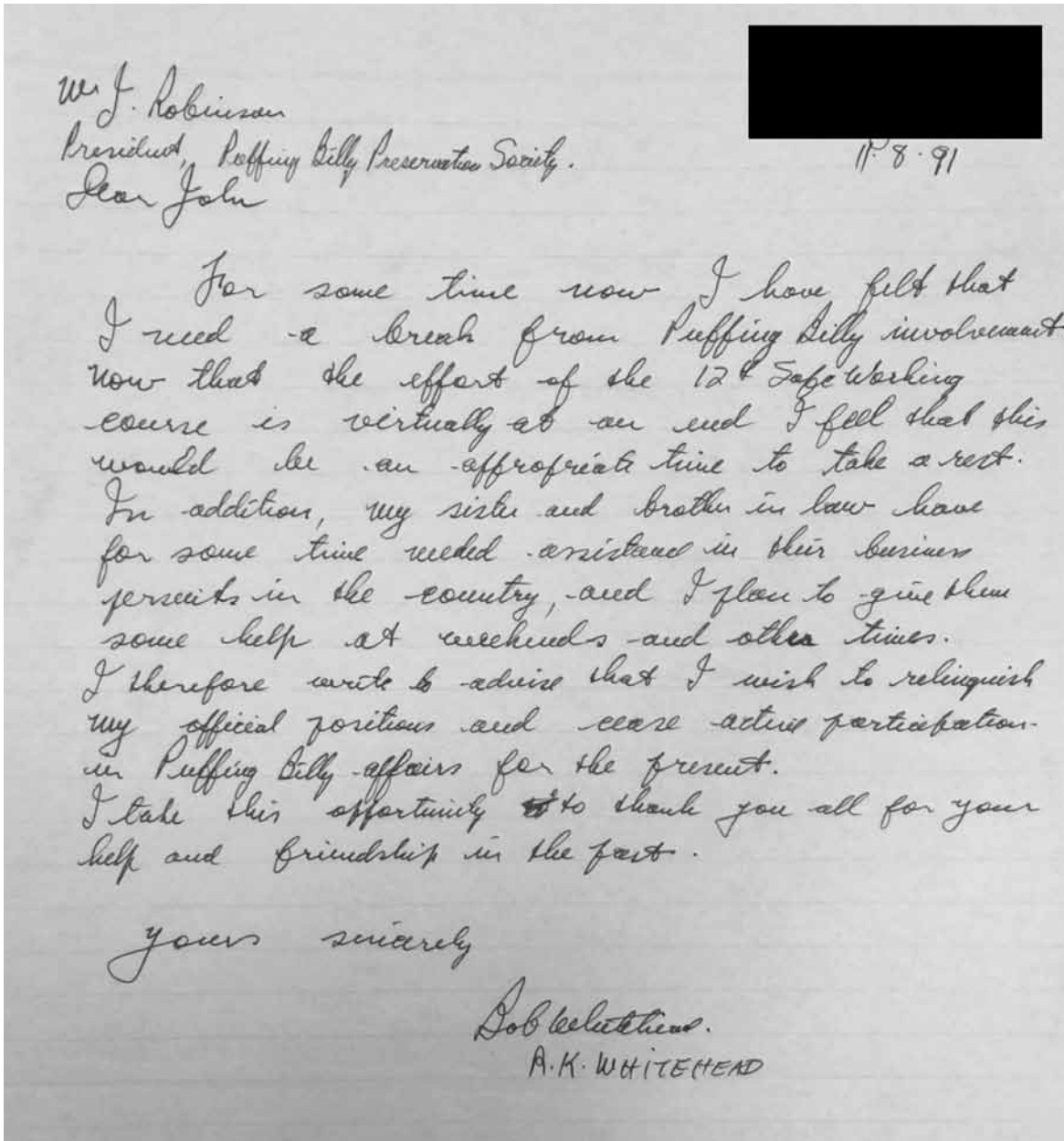
Yours sincerely

Bob Whitehead.

335. Whitehead's financial membership of the Society was not cancelled upon his resignation in 1991, as advised in John Robinson's email to Richard Baker of Fairfax Media; and he continued to be a financial member of the Society until mid 1992, at which point he elected not to renew his membership. A renewal reminder was sent to him on 28 April 1992; however, he did not pay his fee.

336. There are no records to show that Whitehead had any further involvement with Puffing Billy after this time. He instead joined the Seymour Railway Heritage Centre (SRHC).

Exhibit G - Whitehead's resignation from Puffing Billy, 1991



W. J. Robinson
President, Puffing Billy Preservation Society.
Dear John

11.8.91

For some time now I have felt that I need a break from Puffing Billy involvement. Now that the effort of the 12th Safe Working course is virtually at an end I feel that this would be an appropriate time to take a rest. In addition, my sister and brother in law have for some time needed assistance in their business pursuits in the country, and I plan to give them some help at weekends and other times. I therefore write to advise that I wish to relinquish my official position and cease active participation in Puffing Billy affairs for the present. I take this opportunity to thank you all for your help and friendship in the past.

yours sincerely
A.K. Whitehead.
A.K. WHITEHEAD

337. Evidence obtained by the investigation shows that in 2008 the then-President of the SRHC confirmed to police that he was aware of allegations of child sexual abuse against Whitehead, but said these were 'from a very long time ago' and 'never went anywhere in terms of charges being laid'. The SRHC President knew Whitehead from Puffing Billy and the investigation received evidence from several witnesses that the two were very close.

338. The SRHC President's account to police was that, because of this history, Whitehead was not permitted to attend the SRHC unless he was under supervision.

339. During 2008, police ‘strongly recommended’ to the SRHC that the organisation implement Working with Children Checks, but the SRHC President rejected the suggestion as being unnecessary. He told police the issue had been discussed at a general meeting and it was decided that instead of implementing checks, the SRHC would ban anyone under the age of 18 from volunteering or working with the organisation.

340. The investigation did not examine Whitehead’s involvement with the SRHC.

External reporting of allegations

341. Evidence obtained by the investigation indicates Mr Robinson told Mr Bolt that he had ‘acted immediately and went to police when there were suspicions about Hutchins and Whitehead’. Advice to the Board prepared and circulated following Mr Robinson’s meeting with Mr Bolt also indicated that Whitehead was ‘referred to police’ by Puffing Billy in 1990.

The investigation identified no evidence that John Robinson or any member of Puffing Billy management reported any allegations concerning Whitehead or Hutchins to police at any time.

342. However, the investigation identified no evidence that John Robinson or any member of Puffing Billy management reported any allegations concerning Whitehead or Hutchins to police at any time. This was put to Mr Robinson, who stated:

It was always my view that we contacted police but I was always, and I’ve said it always, I wasn’t certain whether I did it or whether somebody else did it. I was always contented in more recent years to know though that, irrespective of how it occurred, it occurred, and what had to happen, happened.

343. Regarding his statement to Mr Bolt that he had reported Hutchins and Whitehead to police, Mr Robinson backtracked and said that he did not recall who contacted the police and confirmed that he had ‘no direct recollection of calling police myself’. He did state, however, that he recalled meeting with police about Hutchins in 1985 and about Whitehead in 1991, after he and Philip A’Vard had confronted Whitehead.

344. During that meeting, he said, police ‘indicated to me that they had been investigating him [Whitehead] for a long, long time, but, I think the words were, “we haven’t yet been able to nail him”’.

345. Police records from May 1991, including those that refer to Mrs Elms’ contact with Puffing Billy and Person A’s report to police about Whitehead, suggest that police were investigating Whitehead’s offending at Puffing Billy in the months leading up to his confrontation with Mr Robinson and Mr A’Vard in August 1991.

346. However, the investigation was not able to obtain any further records from Victoria Police from around this time. It cannot be confirmed whether Mr Robinson or others at Puffing Billy spoke to police and, if so, whether this occurred before or after Whitehead’s August 1991 resignation.

347. Mr Robinson said he ‘would imagine’ that he reported to the Board, the Committee of Management and the Society Executive Committee about his contact with police, but could not specifically recall doing so. The investigation found no evidence of any such report in meeting minutes from the relevant period.

348. Mr Robinson also did not recall notifying the relevant department, the Minister for Tourism, the Minister for Transport or any other rail groups about allegations concerning Whitehead. He stated at interview:

It would be different now, but at that time [1991], given the circumstances of that time and that age and that decade, I think I probably took the view that I had discharged my responsibilities to the organisation by removing him ... I was prepared to take almost personal legal risk to rid the organisation of this bloke because of the rumour I had heard.

349. Contrary to Mr Robinson's evidence, Mr A'Vard said of the 1985 allegations concerning Whitehead that it was his understanding that a parent, and not Puffing Billy, had approached police. In his view, it was unlikely that anyone at the Railway would have ever made such a report.

350. He went on to say of Whitehead's removal as Secretary:

You've got a cancer, you cut it out; you get rid of it. And I would venture to suggest - well, there was no mandatory reporting in those days. And the concept of duty of care towards the victim wasn't highly developed in those days either, which is why I've asked, please, don't look at this through the lens of today.

351. Mr A'Vard said there was not a culture of reporting child sexual abuse allegations to police at the time, despite the seriousness of the allegations:

... the idea of it becoming prosecuted and setting up a situation where you go to police and report it is something which has crept into our society over a period of time ... I know they're crimes ... The crimes were in the statute book but the community wasn't following what [it] was unaware of.

352. The Railway's lack of action in response to allegations of child sexual abuse was in stark contrast to its routine and almost immediate reporting to police of comparatively minor issues, such as suspected thefts.

353. Despite the same allegations having been raised about Whitehead in 1991, only six years later, Mr A'Vard said he thought there was no point in going back to the police because its previous investigation into Whitehead did not result in charges. This is despite Whitehead having been tried and convicted in 1959 for the same type of offences.

354. While Mr Robinson claimed at interview that Puffing Billy 'clearly would have reviewed some processes' following Whitehead's removal in 1991, he could not name any specific action taken to investigate the matter internally or to identify other potential victims. In contrast, Mr A'Vard said that to his knowledge, the Railway did nothing to investigate the allegations.

You've got a cancer, you cut it out; you get rid of it ... there was no mandatory reporting in those days ... the concept of duty of care towards the victim wasn't highly developed in those days either ... please don't look at this through the lens of today.

Philip A'Vard

355. Former Society Executive Committee and Board member John Hearsch told the investigation members of the Society Executive Committee may have sought to keep knowledge of Whitehead's offending quiet to protect Puffing Billy's reputation:

Puffing Billy is a bit of an institution, as you know, and people see reputations as important, so I think that may have been in the back of people's minds at the time ... A lot of them have worked their lives in the pursuit of preserving [the Railway] and developing it, much the same as people in the church do the same thing. So, I wouldn't deny the possibility that some people were motivated to say, 'Well, we don't want this getting out in the media, we'll deal with it'.

356. In response to the Ombudsman's draft report, John Hearsch said:

I was never in possession of such knowledge during my time at Puffing Billy and, had I been, I would not have supported any action other than an official report to the relevant authorities.

Puffing Billy is a bit of an institution ... A lot of them have worked their lives in the pursuit of preserving [the Railway] and developing it, much the same as people in the church do the same thing ... some people ... say 'Well, we don't want this getting out in the media, we'll deal with it'.

John Hearsch

357. During Mr A'Vard's interview he suggested that the location of the alleged offending was an important consideration in determining what action Puffing Billy took in response, and that offending which occurred off the Railway was not Puffing Billy's responsibility:

Mr A'Vard: If somebody was a thief and somebody said to you, 'Oh, Fred ... is a thief', but Fred ... had never committed the theft on your property, would you be as concerned? ... And you're aware, and you knew that he's not committed the theft on your property, but you just kept a wary eye on him. I'd say that's the same thing. When I say it didn't occur on Puffing Billy, it wasn't being done in Puffing Billy's name ... He was robbing other people. He's not robbing us. What are we going to do? You're working on rumour and innuendo.

Investigator: That goes to your statement, you said, 'At what point in time do you pick up responsibility for that action?'

Mr A'Vard: Yes, that's right.

Investigator: The action that we're talking about is a prominent member and volunteer at Puffing Billy offending against children who knew him through Puffing Billy, who were volunteers at Puffing Billy. Do you really think that analogy of theft applies?

358. Mr A'Vard subsequently withdrew his analogy.

359. The location of offending was also raised by Mr Robinson, which the investigation queried in a short exchange:

Investigator: Why is the location of Whitehead's offending a focus?

Mr Robinson: It's not a focus, it's just a ... it's obviously a factor of our interest because had offending occurred on the Railway, clearly it would be of much more concern to the Society or the Board than if it happened off the Railway.

360. Mr Robinson then referenced Wayne Clarke, the catalyst for this investigation, who was abused by Whitehead after meeting him through an ARHS rail event. Mr Robinson said this illustrated why there was a 'degree of importance' placed on the location of the offending, and that while the Railway may 'reasonably have been expected to have processes in place' to prevent offending on the Railway, 'we can't control what happens out of hours off the Railway in relation to people's private lives'.

361. As the investigation identified, however, Whitehead groomed children on the Railway and then offended against them elsewhere – a fact acknowledged by Mr Robinson at interview:

Mr Robinson: Now that's not to say for one second we aren't concerned about offences that might've taken place – if, for example, individuals were groomed on the Railway, either by Whitehead or – I mean, the thought of that is horrific, but it's clear from evidence that we now see in the last couple of years that it's quite likely that that happened.

Investigator: You indicated an awareness of practices of grooming and that indeed it was quite possible that Bob Whitehead would meet people and offend off the Railway, but his ability to befriend those children was because of his involvement at Puffing Billy. So why does the location of the offending matter in that sense?

Mr Robinson: Well, I think I've just said to you, in terms of the horrific nature of the offence, it doesn't ... you can only now say that this guy turned out to be evil in its worst form. The way he clearly groomed children for his own purposes ... a victim or two, as I've previously said in evidence, have said to me that he groomed on the Railway but never offended on the Railway. That was one of the victims that told me that, they said he was too smart for that - he would only offend when he got them off the Railway, away somewhere on his own where there was no chance of any witnesses.

Recent contact and action

362. Records obtained by the investigation identified that Mr Robinson, in his capacity as Puffing Billy CEO, provided a range of recent statements to various individuals, media outlets, and State and Commonwealth bodies that were enquiring about Whitehead's offending and his involvement with Puffing Billy.
363. These enquiries started in March 2014, when the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) requested information about Whitehead from the Society and the Board; and they continued in the wake of publicity about Whitehead's 2015 conviction; Mr Clarke's complaints to the department and Victoria Police; and the recent allocation of Commonwealth Government funding to Puffing Billy.
364. This section explores some key exchanges between Puffing Billy and these groups, and examines how the narrative around Whitehead's offending transformed over time.
- ### Contact from a former child volunteer
365. In examining Mr Robinson's Puffing Billy email account, obtained during the investigation's first site inspection, an email was identified from a former Puffing Billy youth volunteer, Person C.
366. In his email, dated 28 July 2016, Person C stated that as a child he had been sexually abused by a former adult volunteer at Puffing Billy. Person C sought information about his own volunteering history and that of his alleged offender.
367. Mr Robinson responded that the alleged offender had been removed following unsubstantiated rumours and that no official complaint had been made. This information was inconsistent with evidence obtained by the investigation, and evidence that Mr Robinson should reasonably have known.
368. Despite Mr Robinson's commitment to conducting a search of Puffing Billy's archives for additional information, the investigation could identify no further correspondence to Person C. Mr Robinson stated at interview that he had directed someone to search the archives, but that 'I don't think we found anything much in relation to [Person C]'.
369. When asked whether he would have raised Person C's disclosure with the Society Executive Committee or the Board, Mr Robinson responded:
- Probably not. Not because I would've been hiding it, but I probably didn't. I mean, periodically I have brought the Board up to date on, you know, routine matters that have been occurring since 2014 in relation to this whole nasty business. But whether I did in relation to that email, possibly not.

370. Mr Robinson also said a legal firm had contacted Puffing Billy regarding five other individuals who were seeking information about their volunteer histories with the railway. Each person was a youth volunteer during the 1980s.

371. Mr Robinson also confirmed that he had spoken with Mr Clarke and Mr Elms, and he believed he had raised some of these contacts with the Board:

I probably have, at some point, mentioned to the Board the names of a few people that have written to me about [Whitehead], only in recent times by a legal firm ... They have written emails to me seeking information which we've always done the best to comply with.

Contact with Commonwealth bodies

372. In March 2014, the Royal Commission contacted the Board and the Society requesting information about allegations of child sexual abuse handled between 1 January 1962 and 12 March 2014. It requested information about Whitehead and Hutchins, as well as several other individuals – some of whom Puffing Billy advised had never been involved with the Railway.

373. A joint response to the Royal Commission was prepared and signed by Mr Robinson on behalf of the Board. However, a current Board member advised the investigation that Mr Robinson prepared the response and the Board did not review or sign off on it before it was submitted.

374. Despite the Royal Commission requesting any information regarding the identity of victims, dates or details of the alleged abuse, Mr Robinson did not disclose his direct involvement in confronting Hutchins or Whitehead in 1985 or 1991, nor any of the information that would have been known by other long-term Puffing Billy members.

375. At interview, Mr Robinson said the preparation of the response was delegated to him by the Board as an administrative matter:

[The Board] was concerned about it, but these were the sorts of things that the Board would not normally do itself, that's why they've got a CEO, that's why they've got a senior management team. So, my distinct recollection is that they were happy for me to handle it.

376. Despite his role in confronting both Hutchins and Whitehead, Mr Robinson told the investigation that he was not of the view that he had a conflict of interest in preparing the response:

Mr Robinson: That didn't occur to me at the time because it's only the stuff that you've presented me with today which would give me any real concern ... if I had felt, seriously, that I had a conflict of interest, I would've delegated this whole thing off to somebody else, but I honestly didn't believe that I did have. So, once again, that is my honest answer. There were others involved, as I have described, in bringing these answers forward. [The response to the Royal Commission] is not my document. This is the business's document.

Investigator: But you did describe yourself as managing that process.

Mr Robinson: Yes, I would've, because I'm the CEO of the business and I would've had the responsibility for managing the process, but there was nothing untoward in it, I can absolutely assure you of that. It was just – I just saw it as part of my day-to-day responsibility in managing the affairs of the business, which is what I was contracted to do. So, I didn't see it as being outside my normal remit of, if you like, a CEO's responsibility. I certainly didn't – I certainly in no way, shape or form tried to control the process, no way.

377. In addition to his meeting at State Government level with Mr Bolt on 30 March 2017, the investigation noted the Commonwealth Government also made enquiries with Mr Robinson about Whitehead's involvement with Puffing Billy.

378. During the 2016 election campaign, the Federal Coalition pledged \$5.5 million towards Puffing Billy's construction of a Discovery Centre at Emerald Lake Park. The Commonwealth Department of Infrastructure contacted Mr Robinson in April 2017 to discuss that funding commitment, and sought information on what it described as the 'Whitehead issue' following a complaint from an unnamed individual who had objected to the federal funding on this basis.

379. Notes made by Mr Robinson about this telephone call stated:

3. She has obviously been tasked with preparing a response [to the complaint] but was clearly embarrassed raising the issue with me.
4. She did not want much detail but I briefly went through what happened in 1989 (including removing him [Whitehead] and informing police) and indicated all of the current process around the checking of volunteers and staff.

380. Despite having revisited the 'Whitehead issue' on a number of occasions since 2014, the information provided by Mr Robinson to the Department of Infrastructure was inconsistent with his other statements and evidence identified by the investigation.

381. The Commonwealth Government later confirmed the funds would be provided, and on 13 November 2017 the Victorian Government announced a co-commitment of \$8.2 million towards the Puffing Billy Discovery Centre.

382. Mr Robinson told the investigation at interview that the information he provided to various bodies about Whitehead - which the investigation has since shown to be inaccurate - 'wasn't deliberately inaccurate' and that at the time he believed he was giving an accurate account.

Working with Children and other checks

383. The investigation also observed that Puffing Billy had been contacted recently by various parties about its policy on volunteer checks, including police and Working with Children (WWC) Checks.

384. Puffing Billy first implemented police checks in October 2004, following publicity around the case of Malcolm 'Joe' Clarke, who joined the Railway as a volunteer in 2000. At that time, he had prior convictions for rape and murder from the 1980s and had served 11 years in prison. The Royal Commission had also requested information about Malcolm Clarke.

385. In 2002, Malcolm Clarke was arrested as part of an undercover operation that was conducted, in part, at Puffing Billy. He subsequently confessed to the 1982 murder of a six-year-old girl for which he was convicted in June 2004 and sentenced to life in prison.

386. While certain key existing Puffing Billy personnel were subject to police checks upon their introduction in Victoria in 2004, the checks were only applied to new volunteers who joined Puffing Billy from 2005.

387. WWC Checks came into effect in Victoria on 6 April 2006 under the *Working With Children Act 2005* (Vic). However, WWC Checks were only implemented at Puffing Billy in 2007, and were only applied to new volunteers. The Society and the Board confirmed this in their joint submission to the Royal Commission in April 2014, indicating that it was optional for staff who had already been working with the Railway.

It was not mandatory for all Puffing Billy volunteers to have police and Working with Children (WWC) checks until ... almost 10 years after police check requirements came into effect in Victoria and eight years after WWC Checks became mandatory.

388. Despite this, in July 2015 the *Mount Evelyn Mail* reported that John Robinson had stated 'all Puffing Billy staff and volunteers had been subject to police checks since 2005, and Working with Children Checks since 2007'.⁶

389. On asking Puffing Billy to clarify when these checks were implemented and to whom they applied, Mr Robinson told the investigation:

Following our response to the Royal Commission [in April 2014] our policy was reviewed and it was determined that the mandatory requirement for WWC and police checks would be made mandatory and retrospective for all volunteers and staff.

This process took some time to complete but those volunteers who were reluctant to go through the process (mainly elder members of the voluntary workforce) were advised that if they continued to resist they would be permanently removed as [Puffing Billy] volunteers.

390. It was not mandatory for all Puffing Billy volunteers to have police and WWC checks until after April 2014, almost 10 years after police check requirements came into effect in Victoria and eight years after WWC Checks became mandatory.

391. Puffing Billy also informed the Royal Commission in 2014 that it had no processes in place for staff or volunteer education or training programs regarding child protection or child sexual abuse.

Other offenders at Puffing Billy

392. In his letter to the department, Wayne Clarke raised concerns regarding another Puffing Billy volunteer, Anthony Hutchins.

393. Hutchins was convicted of 66 child sexual offences in 1987 after more than two decades of involvement at Puffing Billy. Mr Clarke wanted the department to examine why Hutchins was removed from the Railway, but Whitehead was not.

394. Hutchins was also the subject of information requested by the Royal Commission. The investigation identified an additional two individuals about whom allegations had been made during their time volunteering at Puffing Billy and who were not named in Royal Commission documents.

395. This section examines how Puffing Billy managed allegations about Hutchins and the two other offenders, who left Puffing Billy after concerns were raised about their alleged offending against children.

Anthony Hutchins

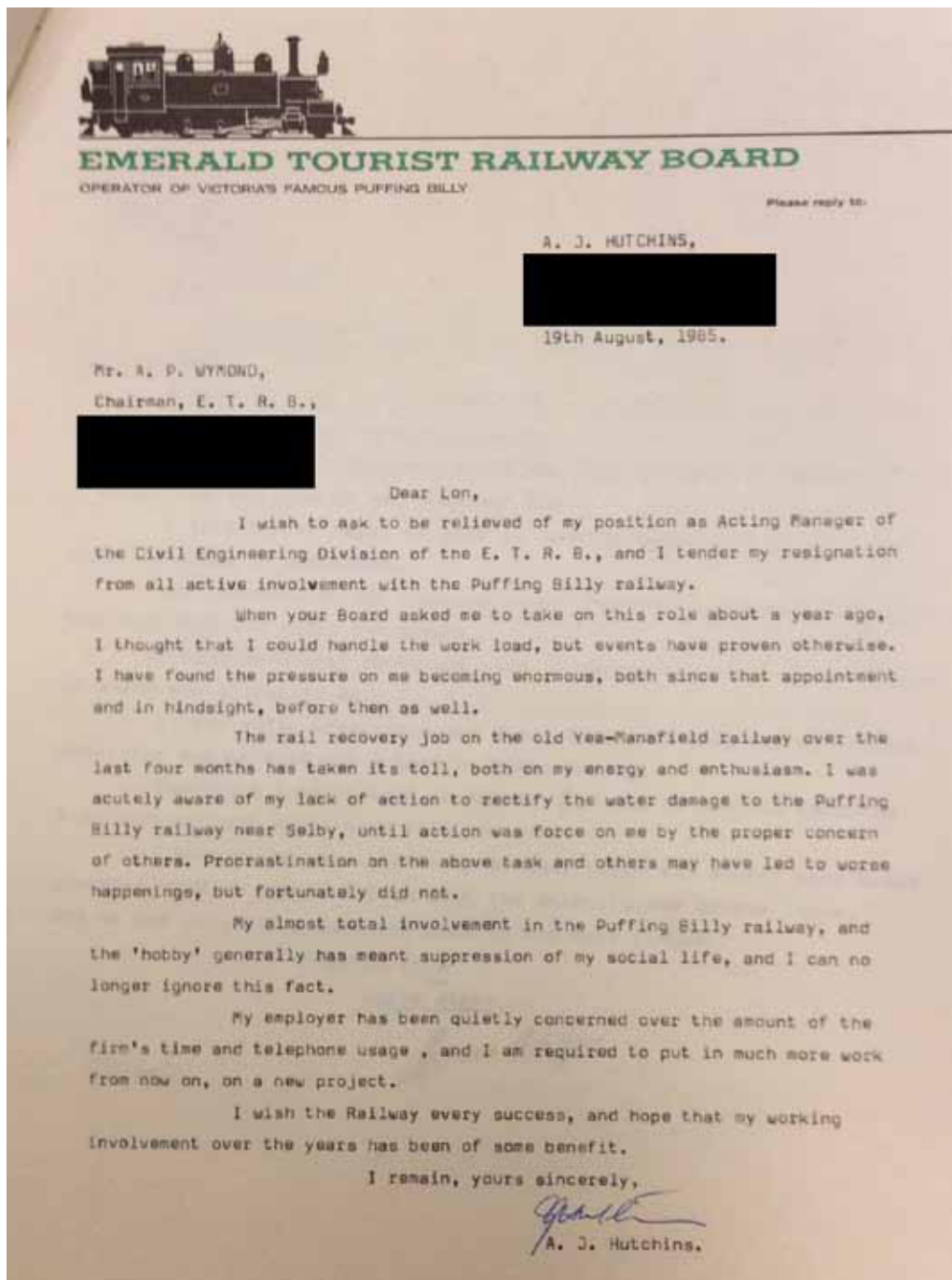
396. Hutchins became a member of Puffing Billy in 1961. Unlike many other witnesses interviewed as part of the investigation, he was not employed by Victorian Railways.

⁶ Ibid

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397. At his interview with the investigation on 8 December 2017, Hutchins recalled that his first years of involvement with Puffing Billy were entirely voluntary, and that he was primarily responsible for rebuilding the track.
398. In 1969, Hutchins became a member of the Society Executive Committee, his electoral platform being that he was 'interested in work for youth'.
399. Hutchins served on the Committee for only two years at that time, but became heavily involved in the Schools' Section (the Puffing Billy Youth Group's predecessor) in the years that followed, including as Officer-in-Charge of overnight stays.
400. In 1979, Hutchins was again elected to the Executive Committee. However, in July 1980, the Youth Group newsletter, *Sub Casa Termae*, recorded his unexpected resignation from volunteering:
- Some restructuring of the Track Branch can be anticipated following Tony's sudden resignation last month ... Tony will still be working for the Society however, and plans at this stage to concentrate on the building and maintenance of trolleys.
401. In the same month, the Society President received a letter from an adult volunteer, which stated:
- Over the past fortnight I have been hearing some disturbing and conflicting rumours concerning the action of Tony Hutchins in dropping out of the track maintenance activities. Basically, it has been suggested that a clash of interest was involved.
- ...
- I urge the Executive, in the interests of the Society as a whole, to take every possible step – palatable or unpalatable regardless of personalities to heal this rift at the earliest possible moment.
402. The Society President at the time responded to the adult volunteer in a letter dated 12 July 1980, stating:
- Thank you for your letter dated 5 July. It was tabled at the meeting of the Executive on Friday 11 July and was the subject of a long debate that included the participation of Tony Hutchins.
- We have decided to consider the matter in light of recent events and further debate is to be held at the Executive next Friday night when more detail is to be presented
- I share your concern over this matter and believe that the events that have resulted from Friday's meeting may resolve your concern.
403. The investigation was not able to identify any records to elaborate on the nature of the adult volunteer's concerns. The Puffing Billy archives did not contain minutes of any Executive Committee meetings held between June 1979 and January 1980. This is despite the investigation having located bound volumes of minute books from around that time, and loose-leaf minutes where bound copies were not available.
404. In response to enquiries regarding the absence of these records, John Robinson advised:
- We are unaware as to why the minutes in question are missing but are firmly of the view that the circumstances are in no way suspicious. In those times the [Puffing Billy Preservation Society] did not have an archive at all and all information currently in our possession has been gained from a wide variety of sources and individuals over many decades.
405. Hutchins continued to perform operational activities after he resigned as track supervisor, but ceased to be included in the Society's monthly news publications from October 1980. His involvement in all operations ended in February 1981.

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406. Society Executive Committee meeting minutes from 16 January 1981 did reveal that Hutchins' departure as track supervisor stemmed from a volunteering ban imposed by that Committee.
407. At that meeting, Hutchins requested 'a review of the present ban on his participation as a track volunteer'. The Executive Committee, which included Whitehead, Philip A'Vard, John Hearsch, Lon Wymond and John Robinson, agreed to consider the request:
- Moved Mr Robinson that Mr Hutchins be permitted to re-join the trackforce as an ordinary volunteer trackworker at a date to be determined. This is to be in accordance with terms and conditions set by the Manager, Civil Engineering, and that the position be reviewed in three months after any such re-instatement.
- Manager, Civil Engineering to report at next Executive meeting on terms and conditions.
408. In response to the Ombudsman's draft report, John Hearsch stated:
- The circumstances around Mr Hutchins' offending are well documented in the draft report and did not come to the Committee's attention during my involvement there ... following my departure from [the Board] in September 1980 and subsequently from the [Society Executive Committee] in September 1981, I had no further involvement in Society or Board management or administration for another 20 years.
409. No explanation was provided as to why Hutchins' ban had been imposed in the first place, and the relevant Society Executive Committee meeting minutes could not be located for review.
410. When asked at interview about his ban, Hutchins said it was imposed simply because he was not a good leader or organiser of people, and took over tasks after having delegated them.
411. At interview on 8 January 2018, Philip A'Vard provided a similar account of Hutchins' shortcomings, stating that he was 'not necessarily a good leader because he would do things himself rather than delegate'. Philip A'Vard added that Hutchins had 'clashed violently' with the track maintenance leader.
412. The investigation did not identify any evidence that the restrictions placed on Hutchins resulted from allegations of child sexual offending, and it was noted that the offending for which Hutchins was convicted did not occur until 1983.
413. During an Executive Committee meeting on 6 February 1981, it was decided that Hutchins could:
- work only when rostered, twice per month as trolley driver and only when the Works Foreman was on duty
 - offer technical support, arranged by the track leader or Works Foreman
 - participate in the Belgrave Redevelopment, but only on two specified days where the Works Foreman was on duty.
414. These restrictions remained until 11 September 1981, when the Society Executive Committee agreed to their removal. Hutchins had remained on the Executive Committee for the duration of his ban and restrictions. He recommenced supervising overnight stays for the Schools' Section in June 1981.
415. Having had his restrictions removed, Hutchins resumed his active involvement with the Schools' Section as Works Supervisor and Officer-in-Charge of an overnight work party in November 1981.
416. Records obtained by the investigation show that in 1984 Hutchins became responsible for bookings at Moyhu, a house owned by Puffing Billy and for overnight accommodation, including for Schools' Section members. Hutchins would later be convicted for sexual offences against children committed at that property.

Exhibit H - Hutchins' resignation from Puffing Billy, 1985



417. In August of the following year, Hutchins resigned from all involvement with the Railway. His resignation letter, dated 19 August 1985 and addressed to the President of the Society, Lon Wymond, is shown at Exhibit H above. It reads in part:

My almost total involvement in the Puffing Billy railway, and the 'hobby' generally has meant suppression of my social life, and I can no longer ignore this fact. My employer has been quietly concerned over the amount of the firm's time and telephone usage, and I am required to put in much more work from now on, on a new project.

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418. The Society's monthly publication from September 1985 noted Hutchins had resigned from the Railway. It did not mention he had been forced to resign after allegations of child sexual offending had come to light, but instead offered him 'best wishes for a somewhat more relaxed future'.
419. Records provided to the investigation from the Office of Public Prosecutions Victoria show three senior members of Puffing Billy – Lon Wymond, John Robinson and Robert Hugh Wilson – each provided a statement to police about Hutchins in October 1985. This was only one month after Hutchins resigned.
420. Mr Wilson told police that he had been approached by two young volunteers in June 1985. Both alleged to have been sexually assaulted by Hutchins.
421. Mr Wilson reportedly told Philip A'Vard, Vice-President of the Society and a Board member at the time, about the nature of the allegations and identified the boys.
422. At interview Mr A'Vard had very limited recollection of his discussion with Mr Wilson but confirmed the conversation did occur and that it concerned Hutchins 'interfering with the children'.
423. Mr A'Vard also stated at interview that he reported these concerns to Mr Wymond and Mr Robinson, which led to them confronting Hutchins about the allegations.
424. Mr Wymond's statement to police said:
- On approximately 13 August 1985 a meeting was held involving supervisors of employed staff to discuss salaries. This meeting was held at the office of John Robinson ...
- At the completion of the meeting Tony Hutchins was asked to remain and in the presence of John Robinson I put the allegations that had been made by [two members of the Youth Group].
- ... I detailed these allegations to Hutchins ... Robinson said, 'these are very serious allegations, you've got to level with us if you've got a problem, you've got to tell us' or similar words. Hutchins replied, 'yes I have a problem'.
425. As has been examined previously in this report, William Elms was part of the 1985 police investigation into Hutchins (in addition to the investigation into Whitehead). He was refused re-admission as a Puffing Billy volunteer after reporting Whitehead and Hutchins to police.
426. In statements made to Victoria Police in October 1985, Mr Elms, who was 16 at the time, indicated that after a series of offences in 1984, Hutchins had told him that he could no longer attend Puffing Billy. Mr Elms stated to police:
- I rang up one of the men in charge, [Robert Hugh Wilson], and asked him why I couldn't go up there, as I enjoyed it so much, and he told me that I was suspended from the Puffing Billy Society for at least a year and there was nothing I could do about it, or anything else to discuss. I thought that it was something Tony had cooked up to get rid of me.
427. The Robert Hugh Wilson who made the statement to police about Hutchins, and who Mr Elms referred to in his statement, is now deceased.
428. Mr Elms described at interview on 5 December 2017 that it was not until he was admitted to hospital that he disclosed Hutchins' offending:
- I blurted it out in front of ... the doctors that [another victim] was actually involved in it as well ... it just blew out from there that there was a big investigation where I had opened up the can of worms and it eventually became 66 odd charges ... The police were notified by the hospital and that's when a [Victoria Police officer] from the Child Exploitation Unit ... they made their way out to Heidelberg Police Station and that started one of many trips to the police station ...

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429. Hutchins had worked with Whitehead on the Mansfield Rail Recovery Project during this period, but at interview Hutchins denied being aware of any of Whitehead's offences at the time. The investigation did not identify any evidence that the men were aware of each other's offending.
430. Mr Elms told the investigation that he made a statement to police about Whitehead about the same time that he had done so regarding Hutchins. However, the investigation was not able to obtain any records of this statement from Victoria Police.
431. Media reports from that time indicate that Hutchins was arrested on 31 October 1985 and describe that he had 'used his position in the organisation to befriend young boys and assure their parents of his good character'.⁷
432. Hutchins was subsequently charged and ultimately convicted of 66 offences against six boys under the age of 16, including Mr Elms. Each of his offences was committed between January 1983 and August 1985.
433. Senior members at Puffing Billy became aware of allegations against Hutchins as early as June 1985.
434. He was sentenced to six years in prison, with a minimum sentence of four years. He served less than two years before being released on 23 March 1989.
435. Hutchins did not return to Puffing Billy on his release from prison. He did, however, occasionally volunteer at the Seymour Railway Heritage Centre, where he says he faced specific restrictions, including supervision. The investigation noted Whitehead's involvement at this rail group, following his own departure from Puffing Billy in 1991.

Adult 1 and Adult 2

436. Board Member A, a current member of the Board who has been involved with Puffing Billy since 1965, reported at interview that two other men, Adult 1 and Adult 2, were alleged to have offended against children at Puffing Billy during the 1960s.
437. Board Member A was a child at the time and could not recall details of the allegations, but it was his view that Puffing Billy had expelled both men after the allegations were made.
438. Philip A'Vard had a similar recollection at his interview, stating:
- ... I think we had a couple of paedophiles. If you like, the safety issue was excising the cancer. There's a fellow called [Adult 1] and a fellow called [Adult 2], and they sort of came around the Schools' Section and they were basically excised very quickly and sent packing.
439. Records provided to the investigation by Victoria Police indicate that Adult 2 has not been the subject of any police investigation.
440. However, in 1998–99, Adult 1 was investigated by police regarding the indecent assault of a child under the age of 16, which allegedly occurred during the 1980s. The matter was not authorised for prosecution.
441. The investigation identified that Adult 1 and Adult 2 were employed as teachers, and Puffing Billy membership cards showed they joined the Railway in 1961 and 1962 respectively.
442. Adult 1 and Adult 2 were both heavily involved in the Schools' Section. Adult 1 was a member of the Schools' Section Sub-Committee in 1962 and Adult 2 was an Officer-in-Charge until July 1966, when he was appointed head of the under 18s section.

⁷ Jenny Conley, 'Bail for man charged with 85 sex offences', *The Age* (Melbourne) 7 November 1985.

443. On 24 August 1964, Adult 1 wrote to Philip A'Vard, then Secretary of the Society, requesting that Puffing Billy reconsider its decision to exclude him from the Schools' Section. He wrote:

I understand that I have been banned from undertaking any Schools Section activities in the future. The decision has taken me by surprise. [Schools' Section Leader], who told me this, is unable to tell me the reason for this decision being made. I am writing this letter to ask you to explain who I have offended or what I have done. As I have informed [Schools' Section Leader] I have done nothing which to my mind warrants the action taken by the Committee.

...

I earnestly appeal to your Committee to reconsider its decision and invent some other punishment, so that I can return to the track with freedom to work where and with whom I please.

...

I have not mentioned the matter to anyone myself. Any correspondence should be marked 'confidential'.

444. The investigation did not identify any evidence as to why Adult 1 had been banned from the Schools' Section at the time.

445. At interview, Mr A'Vard could not recall any specific allegations that had prompted the ban, but stated that both Adult 1 and Adult 2 'were offending on our property, on the Railway'.

446. The investigation located Mr A'Vard's response to Adult 1, dated 27 October 1964, which showed the Committee reaffirmed its decision to ban him from the Schools' Section. However, Mr A'Vard also wrote:

I would like to point out, however, that this does not prevent you from taking part in other aspects of Society works and we would welcome your attendance at any Society work party other than School Section activities ...

As you request in paragraph 2, page 2 of your letter, we will regard this whole matter as highly confidential.

447. When asked to comment on his letter to Adult 1, Mr A'Vard stated that he had no recollection of it:

I don't know if I wrote that letter ... the fact of the matter is this letter was probably kept from me ... my gut feeling is that letter was written by Lon Wymond, the President.

448. Mr A'Vard added that letters would often be written for him or signed on his behalf by Lon Wymond, who is now deceased.

449. The investigation asked Mr A'Vard why Adult 1 was allowed to remain at Puffing Billy, despite concerns about him sexually offending against children. Mr A'Vard stated:

To one extent you're sort of pulling the trigger on a guy who you regard as a cancer in that part of your organisation and saying 'get out of there. We'll tolerate [you] over here, and to allow you to hold your head up in this area over here, we'll not talk about it. So, we don't cause you any embarrassment if you want to [move to another part of the organisation]'.

450. Adult 1 resigned from 'all Society activities and connections' by letter dated 29 January 1965.

451. Three years later, Adult 2 was removed from the Schools' Section and Mr A'Vard was again a central figure. In a letter to Adult 2 dated 22 February 1968, Mr A'Vard, Secretary of the Society at the time, wrote:

... I have been asked to inform you that after discussing the matter at length, the Committee has decided that no good purpose can arise from your continuing in the position of organiser of the junior part of the Schools Section ...

I am to advise you, therefore, that your services in this capacity, or any other matter concerning the Schools Section, are no longer required by the Society.

However, I have been directed to point out to you that you are most welcome to participate in any other field of the Society's activities and we would be pleased to see you as a member of any of the regular work parties run by the older section of the Works or Train Operations Branches.

452. Despite Adult 2 requesting a review of the decision on 16 March 1968, Mr A'Vard wrote to him on 17 April 1968 to reaffirm the ban.

453. Like Adult 1 before him, there was no explanation as to why Adult 2 was no longer permitted to work with children, and no further records of his involvement with Puffing Billy were identified.

454. At interview, Mr A'Vard could not recall either of the letters he had written to Adult 2, but stated that there had been rumours of his offending against children.

455. Mr A'Vard confirmed that he was aware at the time that both Adult 1 and Adult 2 were school teachers. However, he said that he did not believe the allegations were reported to the police or the schools where the men were employed. Mr A'Vard told the investigation:

Instead of making a big issue in front of the organisation, you took the person out ... So that they weren't made an example of

...

There was not a culture in the community of running to the police and telling them what was going on.

456. Mr A'Vard emphasised that he and other senior members of Puffing Billy had taken clear action to remove Adult 1 and Adult 2 from having direct involvement with children at the time.

457. However, when asked why these men were removed on the basis of conjecture, but Whitehead was allowed to remain despite having been investigated by police about clear allegations after years of known rumour, Mr A'Vard could not explain why he and other senior members of Puffing Billy had taken such a drastically different approach.

Instead of making a big issue in front of the organisation, you took the person out ... So that they weren't made an example of ... There was not a culture in the community of running to the police and telling them what was going on.

Philip A'Vard

Current action

458. The investigation did not set out to identify evidence of further offending by individuals involved at Puffing Billy or any other rail group examined in this report. However, the investigation is aware that two further individuals with historical involvement at Puffing Billy are currently under police investigation regarding allegations of historical child sexual offending.

Victorian Railways

459. This section of the report examines Whitehead's professional life, having been employed by Victorian Railways (VR) between 1947 and 1988, and taken out two railway property leases between 1973 and 1990.
460. As this report has identified, many people with whom Whitehead volunteered at Puffing Billy were also employed by VR. He also shared a lease of Taradale Railway Station with certain VR colleagues who were also involved with Puffing Billy.
461. This section will also highlight the extent of the crossover between Victorian rail groups and further examine those relationships.

Historical framework

462. A comprehensive history of the operation and administration of Victoria's railways is not required to understand this section of the report. However, it is necessary to set out the agencies responsible for key decisions made about Whitehead's employment and leasing of State-owned property.
463. The Victorian Department of Railways was first established in 1856 and was commonly known as the 'Victorian Railways' (VR). With proclamation of the *Victorian Railways Commissioners Act 1883*, three Commissioners were appointed and statutory responsibility for Victoria's railways was transferred to them.
464. Through the turn of the century, the Commissioners variously assumed responsibility for and handed over many functions, but their primary obligation to manage railway services was maintained.
465. In 1973, the Commissioners were replaced by the Victorian Railways Board in accordance with the *Railways (Amendment) Act 1972* (Vic). This coincided with a change in trading name to 'VicRail' in 1974.
466. When the *Transport Act 1983* (Vic) came into effect, VicRail was abolished and separated, with the State Transport Authority (STA) (operating under its trading name, V/Line) taking over responsibility for country rail and road passenger and freight services, and the Metropolitan Transit Authority (MTA) assuming responsibility for the operation of metropolitan rail services.
467. Following the *Transport (Amendment) Act 1989* (Vic), the STA and MTA were amalgamated and the Public Transport Corporation (PTC) was established.
468. Between 1948-88, Whitehead was variously employed by, and leased property from, VR, the STA and the PTC.
469. In a modern context, Victorian Rail Track (VicTrack) is the custodial owner of the State's transport-related land, infrastructure and assets in accordance with the *Transport Integration Act 2010* (Vic), having been initially established under the *Rail Corporations Act 1996* (Vic). VicTrack is responsible for leasing State-owned railway property and managing leases.
470. Administrative and operational responsibility for the railways has been transferred, transformed and split across various agencies. The agency responsible for assisting the Minister for Public Transport to administer the Transport Integration Act is the Department of Economic Development, Jobs, Transport and Resources.
471. The Public Transport Development Authority (Public Transport Victoria) is responsible for planning, coordinating, operating and maintaining the public transport system, having been established under the *Transport Legislation Amendment (Public Transport Development Authority) Act 2011* (Vic).

Whitehead's employment

Media attention

472. Driven in part by the concerns raised by Wayne Clarke, the circumstances of Whitehead's termination from and re-employment at VR were the subject of media attention long before this investigation started.
473. Various media articles have pieced together aspects of Whitehead's history, reporting that not only was he reinstated by VR after having been convicted and imprisoned for child sexual offences in 1959, but it was a Minister who lobbied for his re-employment.
474. These revelations led to widespread speculation that Whitehead had connections in the State Government who permitted him to re-enter his chosen profession and leverage his extensive knowledge of the railways to prey on young enthusiasts.
475. Newspaper reports have also called into question the ease with which Whitehead was able to lease two properties from his employer: the first at the disused Taradale Railway Station, which he leased along with several colleagues, and the second at Brighton Beach Railway Station, which he leased on his own.
476. By interviewing some of Whitehead's former colleagues and co-lessees, and examining historical documents, the investigation sought to establish who knew of his 1959 conviction and rumours of his offending, when they knew, and whether more could have been done to protect his young victims.

Historical policy

477. Despite reviewing thousands of records to identify how VR managed employment matters such as Whitehead's termination and reinstatement, the investigation was unable to locate historical policies that clearly set out how such matters were handled.
478. Despite the absence of these records, the considerable volumes of minutes from VR Board, Commissioner and Management meetings allowed the investigation to piece together facts to determine what action was taken and whether this accorded with widespread practice at the time.
479. An example of this came from a VR Commissioner's meeting on 25 August 1958, which showed that before 1946 any public sector employee convicted of a felony or an 'infamous offence' forfeited their employment.
480. Following an amendment to the *Public Service Act 1946* (Vic), the power to terminate the employment of railway employees was then conferred on the VR Commissioners. The automatic forfeiture of employment continued until 1955, before further changes to the Public Service Act. However, according to the same set of minutes, the VR Board continued to dismiss employees 'more or less automatically where convictions [were] obtained in outside Courts'.
481. The minutes did not directly address how VR managed applications for employment from individuals with criminal convictions, or from former employees who had been terminated and, following a criminal conviction, requested re-employment.

482. The investigation did locate retrospective commentary from a VR Board meeting held almost two decades later, on 26 April 1976, regarding the organisation's general approach to such applications. The minutes stated:

The General Manager informed the Board that the Department will, however, continue to obtain details of police records in relation to convictions in superior courts as it must have regard to the accessibility employees have to cash and valuable goods at stations and in goods sheds. These reports are now made available to the Manager Personnel, who takes whatever action is appropriate after discussion with the Head of Branch concerned.

The General Manager also added that provision will continue to remain on application for employment forms for the applicant to indicate whether or not he has had court convictions and failure to correctly fill in the forms could lead to dismissal.

483. The investigation interviewed five former VR employees, and questioned each about VR's policies at the time with respect to re-employing individuals with a criminal history.

484. Welfare Officer X was first employed by VR in 1965. He joined the Employee Assistance Services area in 1975 as a Welfare Officer and was appointed Manager in 1987.

485. Welfare Officer X stated at interview on 14 November 2017 that if someone went to jail, they usually forfeited their employment. However, he went on to say that if they proved to be a 'good citizen' while in prison, VR may have recommended their re-employment on release, as part of their rehabilitation.

486. In response to the Ombudsman's draft report, Welfare Officer X stated:

I was not responsible for the hiring and firing decisions of [VR] ... The comments reflect my observation of the practices of VR and my comments should not be seen as a personal endorsement of those practices ... I was not involved nor had any knowledge as to the rehiring of Mr Whitehead.

487. Board Member A, who was first employed by VR in 1973, provided a similar account at his interview on 27 June 2017, stating that there was an underlying view within the railways at the time that 'if you've done the crime and you've done the time, the ledger is wiped clean'.

488. Board Member A said people were frequently re-employed by VR on their release from prison.

489. Both witness accounts were consistent with commentary from a VR Board meeting in 1976, which revealed that VR had already recognised the importance of reintegrating offenders into society upon their release, provided their suitability to perform the role had been assessed:

... a considerable percentage of the personnel employed at Melbourne Goods have police records, which is an indication of our employment of persons with known records but in positions which have been evaluated.

Whitehead's early years and offending

490. Whitehead was first employed by VR as a Supernumerary Lad Porter on 10 December 1947. He was 16 years old.

491. After only seven weeks he resigned, but his official staff records do not explain why. However, the investigation was contacted by a member of the public, Person D, who stated that his father had been a station master at a location east of Melbourne at some stage between 1947-49.

Exhibit I – Newspaper article from The Herald, 1959



Man 'took boy away'

- *The Herald*, 19 June 1959

492. During a telephone call with the investigation, Person D stated that Whitehead attempted to sexually assault him at about that time, which he reported to his father and subsequently a VR Traffic Inspector. The inspector reportedly interviewed Person D and his father about the allegation, but Person D did not know whether the matter progressed.
493. The investigation was not able to identify any records with respect to this alleged incident, although it noted the significant passage of time since these events would have occurred.
494. Whitehead was re-employed by VR in 1948, and became a permanent employee in 1950. Notwithstanding a modest disciplinary record for arriving late to his shifts, he rose through the ranks, becoming a Train Controller at Bendigo in 1957.
495. A newspaper article on 19 June 1959, the headline of which is shown at Exhibit I above, was held on file by VR and revealed that just two years later, Whitehead was committed to stand trial for the abduction of a schoolboy.⁸
496. Court documents show that Whitehead was charged with three separate offences at about this time: two counts of indecent assault on a male person under 16 years and one of abduction of a male under 16 years. These offences were committed against three different children.
497. Whitehead was 26 years old when he committed the indecent assaults. He was a Victorian Scout leader at the time and police records indicate that he had been a member of the Scouts for 14 years.
498. Both offences had been committed under the guise of an initiation. Whitehead's crimes in the 1950s bore striking similarities to his later offending, which was noted by Judge Tinney, who presided over Whitehead's 2015 court hearing.

Whitehead's crimes in the 1950s bore striking similarities to his later offending ...

499. The abduction offence occurred in March 1959. Whitehead stopped his car next to an 11-year-old boy who was walking to school, offering him a lift and reassuring him that he was a teacher. After realising they were driving away from his school, the boy attempted to get out of the car. Despite Whitehead's attempts to stop him from doing so, the boy got out and yelled for help. Whitehead was confronted by the driver of another vehicle, who also noted his number plate.
500. On 19 November 1959, at 28 years of age, Whitehead stood trial at the Melbourne Court of General Sessions on all three charges. He was found guilty of each and sentenced on 23 November 1959 to 18 months in prison at Pentridge.
501. He served six months before becoming eligible for parole, and was released on 29 April 1960. It took only 10 days for him to be re-employed at VR.

⁸ 'Man took boy away', *The Herald* (Melbourne), 19 June 1959.

Exhibit J - Letter to Justice Rapke from Scouts Victoria, 1960

EREB.SS 25th February, 1960.

The Associate to His Honour,
Mr. Justice T. G. Rapke,
Law Courts,
William Street,
MELBOURNE, C.1.

Dear Sir, CONFIDENTIAL

I have been advised that arising out of the case against Mr. Robert Kingsley Whitehead, a former Scout Master, which was heard by His Honour Mr. Justice Rapke, that His Honour requested our Association to take steps to ensure that Mr. Whitehead did not come into contact with boys in future.

I would advise that this action has been taken as part of our standard procedure and Mr. Whitehead's particulars have been circulated to the other State branches so that there is no danger of him being issued with a Warrant outside Victoria.

Mr. Whitehead of course is on our list of persons not suitable for future Warrants.

Yours faithfully,

E. R. E. BLACK
GENERAL SECRETARY

502. While Whitehead was in prison, and at the request of Justice Rapke, the Victorian branch of the Scouts took steps to ensure Whitehead could not return. This action was confirmed by the Victorian Scouts General Secretary in a 1960 letter to Justice Rapke. This is shown at Exhibit J above. It reads:

25th February, 1960

Dear Sir

I have been advised that arising out of the case against Mr Robert Kingsley Whitehead, a former Scout Master, which was heard by His Honour Mr Justice Rapke, that His Honour requested our Association to take steps to ensure that Mr Whitehead did not come into contact with boys in future.

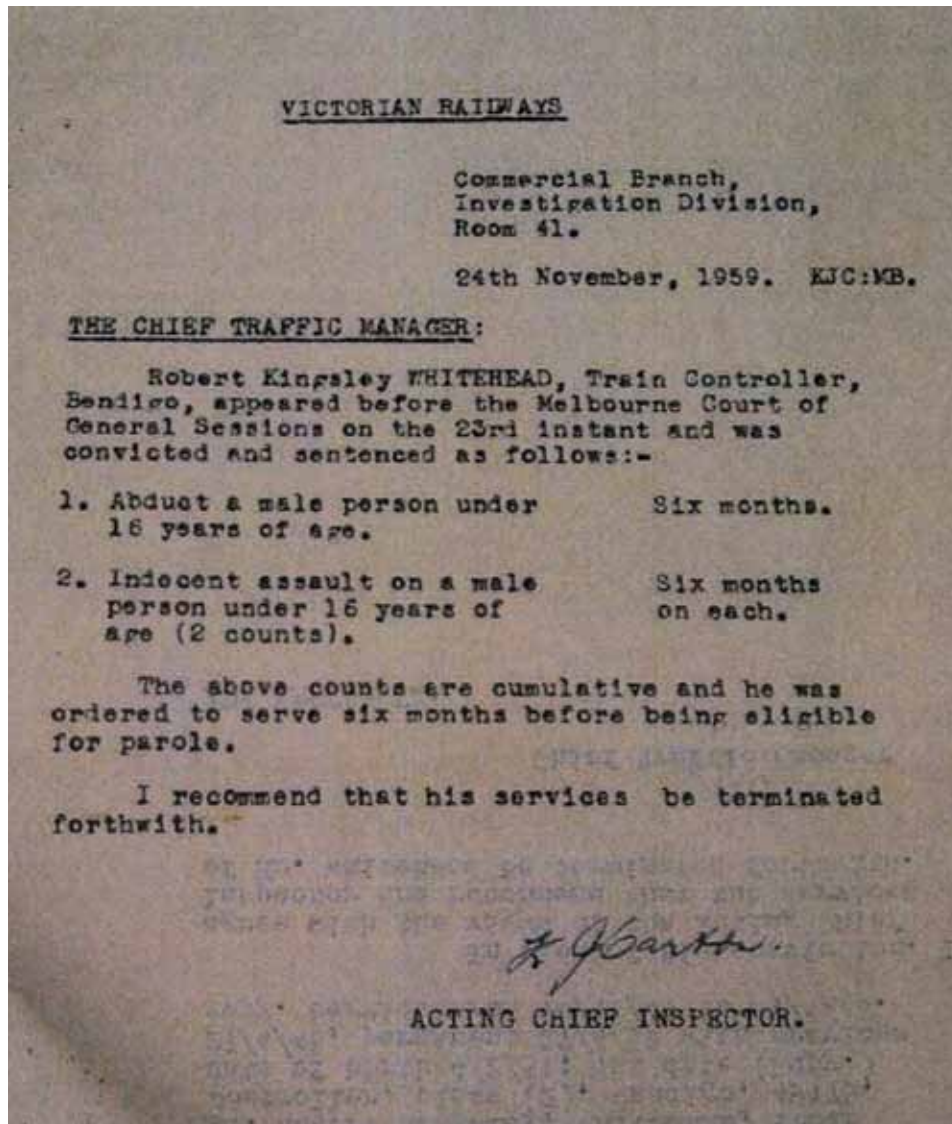
I would advise that this action has been taken as part of our standard procedure and Mr Whitehead's particulars have been circulated to other State branches so that there is no danger of him being issued with a Warrant outside Victoria. Mr Whitehead of course is on our list of persons not suitable for future Warrants.

Yours faithfully

E.R.E. Black
General Secretary

503. Whitehead's court file did not contain judicial reasons or a transcript of proceedings, and the investigation could not verify whether Justice Rapke's direction to restrict Whitehead's contact with children extended beyond the Scouts.

Exhibit K - Excerpt from Whitehead's Victorian Railways file, showing his convictions, 1959



504. VR records show that on 24 November 1959, the day after Whitehead was sentenced, VR's Acting Chief Inspector advised the Chief Traffic Manager of his conviction and recommended that his services be terminated immediately. This is shown at Exhibit K above. It reads:

24th November, 1959

THE CHIEF TRAFFIC MANAGER

Robert Kingsley WHITEHEAD, Train Controller, Bendigo, appeared before the Melbourne Court of General Sessions on the 23rd instant and was convicted and sentenced as follows:-

1. Abduct a male person under 16 years of age.
Six months.

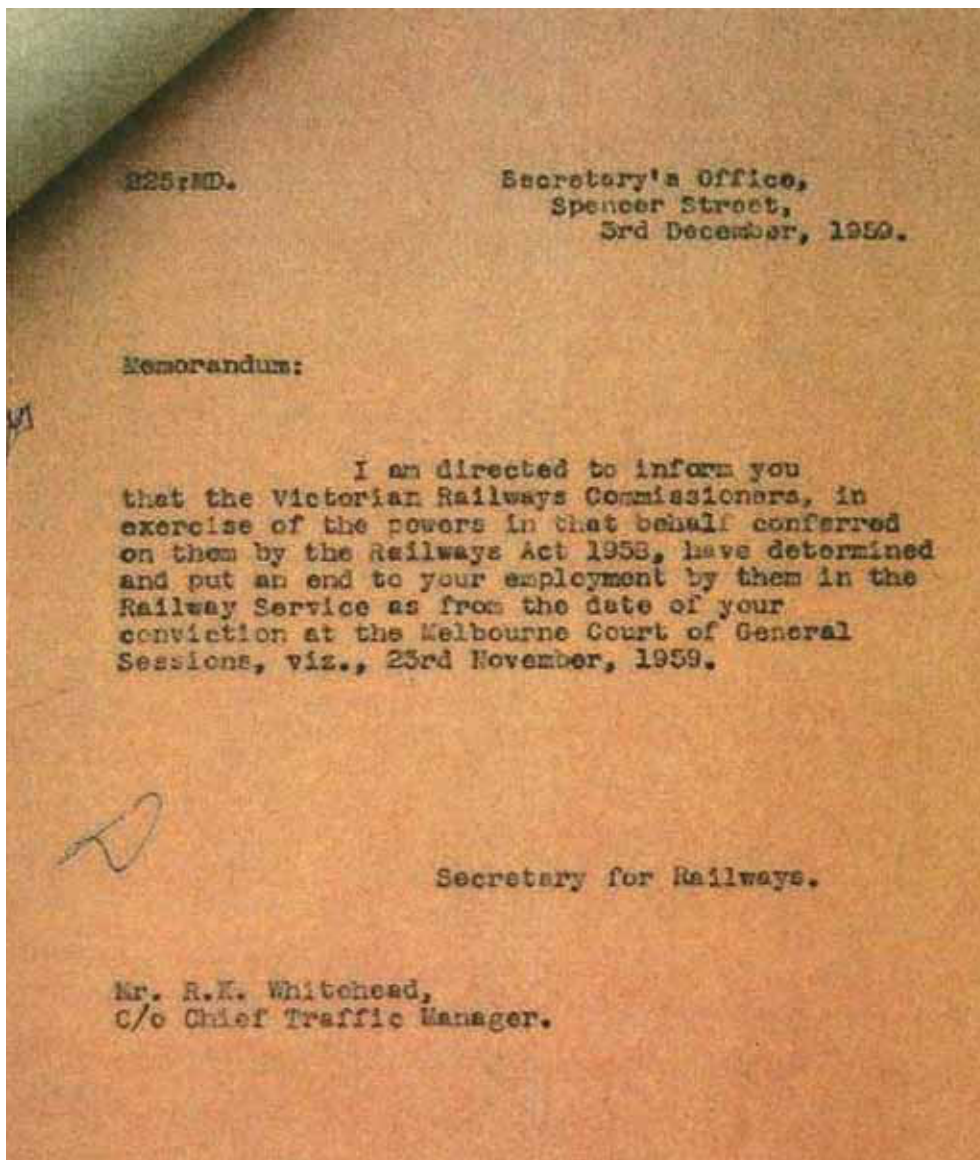
2. Indecent assault on a male person under 16 years of age (2 counts).
Six months on each.

The above counts are cumulative and he was ordered to serve six months before being eligible for parole.

I recommend that his services be terminated forthwith.

ACTING CHIEF INSPECTOR

Exhibit L - Memorandum from Whitehead's Victorian Railways file, showing his dismissal, 1959



505. The Secretary of VR was subsequently notified of the conviction, and Whitehead's employment was terminated by a memorandum dated 3 December 1959, shown at Exhibit L above. It reads:

3rd December, 1959.

Memorandum:

I am directed to inform you that the Victorian Railways Commissioners, in exercise of the powers in that behalf conferred on them by the Railways Act 1958, have determined and put an end to your employment by them in the Railway Service as from the date of your conviction at the Melbourne Court of General Sessions, viz., 23rd November, 1959.

Secretary for Railways.

Whitehead's re-employment

506. Records from the VR Secretary's file on Whitehead show that only 11 days after he was notified that his employment with VR had been terminated, his father contacted the office.

507. Media reports have indicated that Whitehead's father was Secretary of the Cheltenham Golf Club, and it has been speculated that his standing in the community afforded him close and powerful political connections. However, the investigation was unable to identify direct evidence of these connections, or further details of Whitehead senior's history.

508. The Secretary's file noted that the purpose of Whitehead senior's visit to the office was:

... to make personal representations on behalf of his son.

Mr Whitehead asks that the Department assist in the rehabilitation of his son by offering him employment in some capacity when he has completed his prison sentence.

509. Handwritten notes at the base of this record request that the Chief Inspector obtain Whitehead's police files and submit any comments with respect to his father's request.

510. The investigation also identified correspondence from the Chair of the VR Board, addressed to then-Minister for Local Government and local Member of Parliament for Whitehead's family, Sir Murray Porter. The letter, dated 17 February 1960, reads:

Regarding Robert Kingsley Whitehead, of whom you spoke to me this morning, I find that he is now serving a term of imprisonment for indecent offences.

Prior to his conviction he was employed as a Train Controller in the Railway Department, and in accordance with our practice he was dismissed from the service.

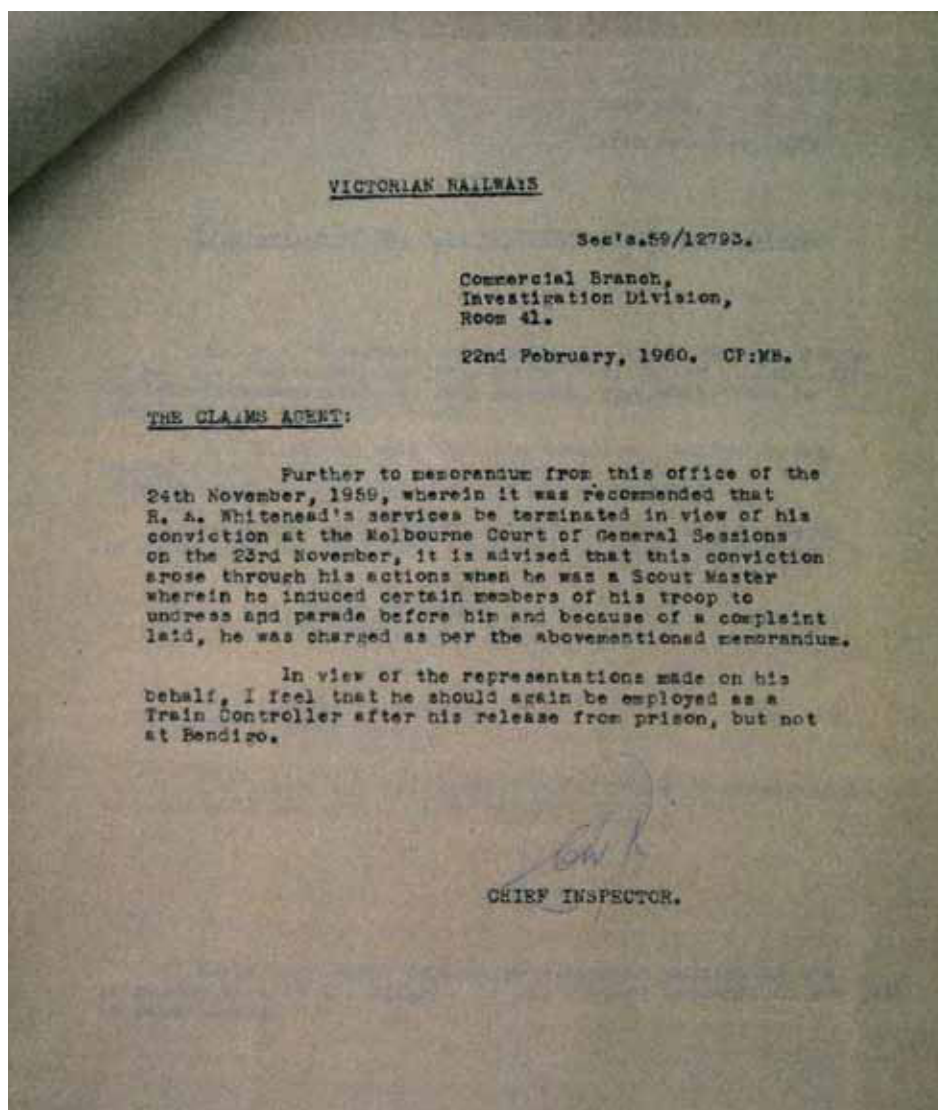
If on completion of his sentence he applies for re-employment we will favourably consider his application.

511. The letter was not sent, but the record shows that Sir Murray was advised of its contents by telephone.

512. It has been suggested that Sir Murray's approach to VR indicated that Whitehead had a powerful ally. However, the investigation found in various documents held at the Public Record Office Victoria (PROV) that at the time it was not uncommon for Victorian Government Ministers to make such representations for employment on behalf of their constituents.

513. Bound volumes of inward correspondence to the VR Secretary, Board and Commissioners show that Whitehead's circumstances were not unique, and that Ministers advocated for known offenders, some of whom had served time in prison.

Exhibit M – Excerpt from Whitehead's Victorian Railways file, showing decision to re-employ, 1960



514. Following his review of police reports relevant to Whitehead on 22 February 1960, the Chief Inspector wrote on Whitehead's VR file, shown at Exhibit M above:

... this conviction arose through his actions when he was a Scout Master ...

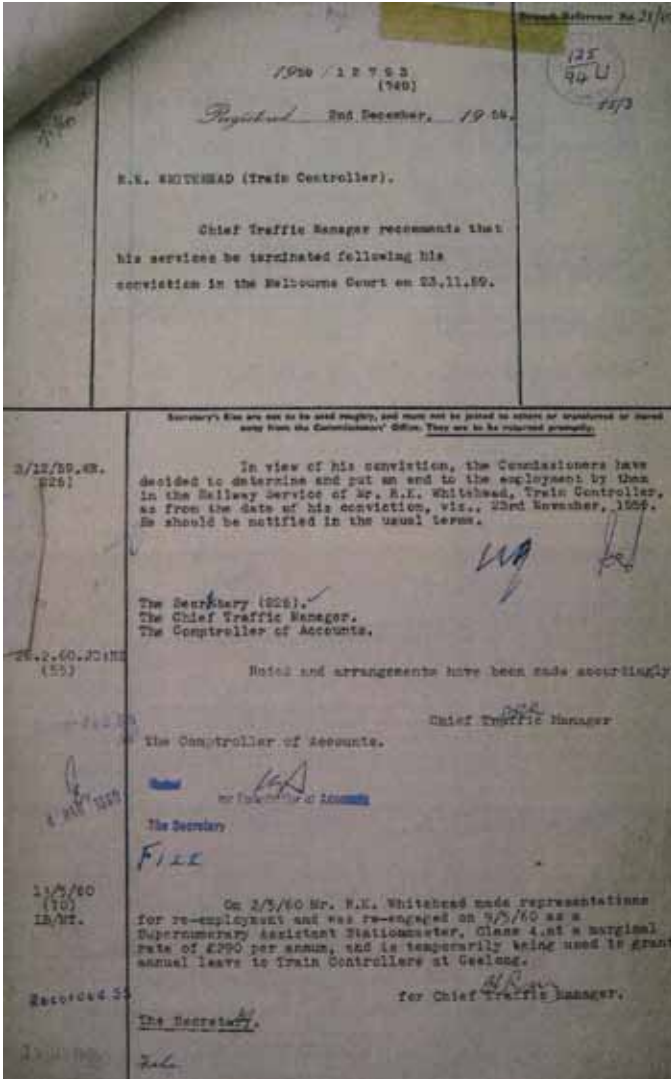
In view of the representations made on his behalf, I feel that he should again be employed as a Train Controller after his release from prison, but not at Bendigo.

515. The reason for VR's decision in this regard is unclear, as Whitehead's offending took place in the suburbs of Melbourne.

516. A single slip of paper in the Secretary's file indicates that an unidentified individual queried whether periodic reports should be provided on Whitehead following his re-employment. However, the suggestion was rejected by another unidentified member of staff.

517. Other than the rejected suggestion to obtain periodic reports and the decision to engage Whitehead away from Bendigo, there is no evidence that VR evaluated his suitability to resume his role as a Train Controller.

Exhibit N – Excerpt from Whitehead’s Victorian Railways file, showing his termination and re-employment, 1960



The Secretary’s file reads:

R.K Whitehead (Train Controller),
 Chief Traffic Manager recommends that his services be terminated following his conviction in the Melbourne Court on 23.11.59.

In view of his conviction, the Commissioners have decided to determine and put an end to his employment by them in the Railway Service of Mr R.K Whitehead, Train Controller, as from the date of his conviction, viz., 23rd November, 1959. He should be notified in the usual terms.

The Secretary (225).

The Chief Traffic Manager,

The Controller of Accounts.

 Noted and arrangements have been made accordingly.

Chief Traffic Manager

 On 2/5/60 Mr R.K. Whitehead made representations for re-employment and was re-engaged on 9/5/60 as a Supernumerary Assistant Stationmaster, Class 4, at a marginal rate of £290 per annum, and is temporarily being used to grant annual leave to Train Controllers at Geelong.

Signed: for Chief Traffic Manager.

The Secretary

518. The Secretary’s file, shown at Exhibit N above, indicates that Whitehead ‘made representations for re-employment and was re-engaged on 9 May 1960’. However, he was not engaged as a Train Controller, instead becoming a Supernumerary Assistant Station Master at Geelong.

519. When asked whether VR staff other than those with direct involvement in his re-employment would have been aware of the nature and extent of Whitehead's offending, Board Member A stated at interview that in hindsight he believed 'it was a very loose secret within Head Office that he was a paedophile'.
520. Board Member A stated that he was first alerted to Whitehead's 1959 conviction on receiving a copy of the Secretary's file from another former VR employee, Person B.
521. During a telephone call with the investigation, Person B provided evidence that he found this file at PROV in the early 1990s while conducting research. Person B said it confirmed rumours he had heard in about 1985 that Whitehead had served time in prison.
522. No former VR employees interviewed by the investigation stated that they were aware of the conviction before it was reported by the media in 2015. However, this report will go on to show that this was not the case.
523. In contrast to other employment records identified by the investigation, Whitehead's file contained very little. The investigation could not establish a complete account of his career because it could not locate his employee card, a record that identified prior roles a person had and when they moved to a new position.
524. However, it is clear that as he progressed through the ranks, Whitehead's authority grew. He eventually returned to the position of Train Controller, most notably at Spencer Street Railway Station.
525. Whitehead did not hold this position for long, however, with his medical file citing that the role caused him anxiety. By 1975, he was reassigned to research duties.

Leasing from Victorian Railways

526. Just before his re-assignment to research duties, Whitehead entered into his first of two property leases with VR: a residential lease of Taradale Railway Station (Taradale). Records obtained by the department confirmed that he and three colleagues began leasing Taradale in 1973.
527. In October 1975, Wayne Clarke was abused by Whitehead at Taradale over two days. The abuse was not reported to police or VR at the time, and Whitehead was not convicted in relation to this assault until 2015.
528. The historic stone station, located south-east of Castlemaine and about 100 kilometres from Melbourne, was closed by VR in 1976. This was several years after the lease started.
529. The investigation does not suggest that Whitehead's co-lessees were involved in or were aware of Whitehead's offending at the property during the time that they shared the lease.
530. Records obtained by the department show that Whitehead leased a room at Brighton Beach Railway Station by himself, which started in 1979.
531. In July 2016, Wayne Clarke wrote to the department, stating:
- I also find it incomprehensible that Mr Whitehead, a dangerous sex offender, was given two leases on railway stations ... I would also ask you to investigate this shameful period and ascertain why this was allowed to happen when the Victorian Railways knew of Mr Whitehead's serious predatory behaviour after his first conviction.

532. VR was the custodian of State-owned railway assets at the time, and was therefore responsible for the approval and management of both leases.

533. The leasing of railway property by private individuals was not uncommon at the time. The investigation reviewed a range of correspondence to VR at PROV, which revealed that during the 1950s and 1960s, VR employees and members of the public frequently enquired into the availability of such properties. Their applications were often approved.

534. From records of a 1974 VR Board Meeting the investigation identified that VR received more than \$1.75 million in revenue from such leases during the 1972–73 financial year, and expected a 10 per cent increase the following year.

535. The agency now responsible for administering such leases, VicTrack, informed the investigation that residential leases are now far less common, and that only four exist.

Taradale and Brighton Beach

536. Whitehead first expressed an interest in leasing Taradale as an individual in 1972, but was advised by VR's Chief Civil Engineer in a memorandum dated 25 May 1972 that if the current tenant withdrew from the property, 'it would be standard policy to sell for removal'.

537. The tenant did vacate later that same year, but before the property could be sold, an application to start a new lease was received from four VR employees, including Robert John Wilson, John Hearsch, Whitehead and one other.

538. Robert John Wilson was first employed by VR in 1966 and was continuously employed during the period of Whitehead's tenancy at Taradale. Mr Wilson had also been involved at Puffing Billy since 1961.

539. At interview on 29 November 2017, Mr Wilson stated that he would have known Whitehead through VR or from having both been rail enthusiasts, but that they were not close associates before taking out the lease.

540. Mr Wilson added that he had never worked in the same area of VR as Whitehead, and recalled the genesis of the Taradale lease:

A person I was working with became aware that the Victorian Railways was going to call tenders for the demolition and removal of [Taradale] ... We heard about it and we mentioned it to two others that we worked with and were good friends ... We put in a request to lease the building because we wanted to stop it being demolished ... At some stage apparently, Mr Whitehead was looking separately to lease the station building and he, from memory, was told ... to approach us.

541. One of the 'good friends' referred to by Mr Wilson was John Hearsch. Mr Hearsch was first employed by VR in 1959 and worked continuously with the organisation until 1990, becoming a senior manager. He had also been involved at Puffing Billy since 1957.

542. At his interview on 13 December 2017, Mr Hearsch had a similar recollection of how Whitehead came to be involved at Taradale, stating that Whitehead did not know the core group of lessees and that he had 'sort of pushed himself into our lease at that time'.

543. Mr Wilson and Mr Hearsch both denied knowing, at the time Whitehead joined the lease, of Whitehead's 1959 conviction or that his employment had previously been terminated by VR.

544. Mr Wilson stated that he did not know of anyone employed by VR who was aware of the conviction, but that 'there must have been; railway managers at the time must have'.

545. When asked whether anyone involved in approving Whitehead's inclusion in the lease would have been aware of the conviction, Mr Wilson stated:

I knew a lot of those people working [at the VR Estate Office], and I'd state my life on the fact they wouldn't have had a clue. They were there to work on the railway. They weren't dealing with personnel issues ...

546. Mr Wilson went on to point out that by that time, more than a decade had passed since Whitehead had been re-employed by VR and that:

The Branch structure of the railway in those days was very much 'the Traffic Branch - you're the Rolling Stock Branch, you're totally different to us; the Accountancy Branch, you're different; the Way and Works Branch' ...

547. At interview on 25 July 2017, Board Member A, who was employed by VR in 1973, echoed Mr Wilson's account in remarking that VR had about 22,000 employees when he first joined. He described it as a 'vertically integrated business'.

548. In Board Member A's view, the VR Estate Office would 'probably not' have been aware of Whitehead's conviction because the branches were like silos.

549. By the time the Taradale lease was executed on 29 June 1973, Whitehead had replaced one of the men in the 'core group' who had initially shown an interest in leasing the property.

550. When asked at interview whether any screening or checks were conducted on any of the Taradale tenants, John Hearsch stated:

Not that I recollect ... I don't remember anyone coming to me and saying, 'we're just checking [anything]' ... I think the fact that we were sort of internalised within the railways at that stage, I think they assumed our bona fides.

551. The investigation identified that it was not VR practice at the time to conduct background or other checks on prospective tenants before their approval for such leases.

552. Whitehead subsequently wrote to VR's Chief Estate Officer in July 1978 seeking to lease an additional property:

I wish to obtain a lease of a suitable room in which to house books and documents and undertake historical research.

The room at Brighton Beach Station, until recently in use as a locker room for drivers and guards, appears now to be out of use.

Could you please advise if it would be possible to lease this room and the conditions and amount of yearly rental.

553. Following an inspection of the premises, VR offered Whitehead a lease at Brighton in December 1978. Despite not being formally executed until June 1979, the lease was backdated to start on 1 February 1979.

554. As with Taradale, the Brighton leasing file contained no evidence that any checks were conducted on Whitehead, or that his 1959 conviction was considered, before the lease was approved.

555. None of the witnesses interviewed by the investigation could provide additional information regarding the Brighton lease, and the investigation identified no evidence that Whitehead committed offences at the property.

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556. In 1983, the same year the State Transport Authority (STA) was established and took over responsibility for administering both leases, Whitehead sexually abused two young boys, Person E and William Elms.
557. Person E, just like Wayne Clarke, was abused at Taradale. William Elms did not allege that he was abused at Taradale, but had visited the station with Whitehead on the same day that he was abused at a different location.
558. When they were questioned by Victoria Police in 2014, both Mr Hearsch and Mr Wilson stated that they did not recall Person E or William Elms. The investigation found no evidence to refute their claims.
559. Mr Hearsch reflected on Taradale at his interview, stating that:
- I think I was pretty naïve ... [Whitehead] always used to have some young blokes with him ... the young guys would have all been teenagers, and they were always boys ... we just said 'that's what [Whitehead] does, he always befriends these young blokes' and there was never anything, sort of, untoward about it ... everybody seemed happy, they were young blokes who were interested in railways ...
560. Mr Hearsch went on to say he was confident that if the group ever thought that Whitehead was involved in child sexual offending, 'we would have kicked him out straight away'.
561. The investigation has identified elsewhere in this report that Mr Wilson spoke with police in 1985 about an investigation into Whitehead's alleged child sexual abuse. However, at interview Mr Wilson could not recall specific details of that discussion.
562. Mr Wilson said that until he was questioned by police he was not aware of any allegations concerning Whitehead, and that he did not become aware of his offending until it was reported in the media in 2015.
563. The police investigation in 1985 was not authorised for prosecution and Victoria Police was unable to locate any relevant records of this investigation. A separate brief from 2008 explained that 'information in relation to [Whitehead] was lost' during the conversion of information from one police database to another.
564. When asked whether he had any concerns about continuing the lease with Whitehead after the police contact, Mr Wilson said he never talked to Whitehead about it, and that:
- The fact that nothing was ever carried on with, I suppose we just put it in the back of our minds ... If we'd thought about it, I think my thought would be 'well, if there was something in it, why hadn't the police continued the investigation and done more?'
565. Similarly, Mr Hearsch stated that while he had not heard any concerns, if they were raised with him he would have dismissed them as rumours because he had never seen evidence of it.
-
- When asked whether he had any concerns about continuing the lease with Whitehead after the police contact, Mr Wilson said he never talked to Whitehead about it.*
-
566. Responsibility for managing the leases was transferred to the Public Transport Corporation (PTC) in 1989. Soon after, a substantial rental increase was proposed at Brighton and Whitehead advised PTC that he intended to vacate. He did so on 2 June 1990.
567. In October 1990, Mr Wilson wrote to PTC to request a 30-year lease at Taradale, including a list of proposed lessees. Whitehead was not on that list.

568. Mr Wilson stated at interview that he did not ask Whitehead why he no longer wanted to be involved at Taradale, and assumed that it was just as other lessees had come and gone over the years. The investigation found no explanation for Whitehead's departure, although the timing coincided with several queries about his involvement at Puffing Billy and was not long before he was forced to resign.

The modern standard

569. VicTrack is the current owner of the State's transport-related land, and is responsible for managing the modern equivalent of the leases examined above.

570. While the investigation did not identify historical policies relevant to State-owned property leases, the modern standard is the Victorian Government's *Land Transactions Policy*, administered by the Department of Environment, Land, Water and Planning. The primary purposes of the policy are to:

- provide a framework to achieve integrity, impartiality, accountability and transparency in land transactions
- ensure land transactions are conducted in accordance with the highest standards of probity, relevant legislation and Victorian Government policy.

571. The policy sets out that any agency responsible for land transactions must act with accountability and transparency, and conduct due diligence before disposing of, acquiring or leasing land.

572. The policy is supported by the *Land Transactions Guidelines*, which provide the practical framework for managing land transactions.

573. Neither document mandates background checks on prospective lessees, and the chief consideration for agencies is that they can legally proceed with a transaction and that it is financially sound.

574. The exact process by which VicTrack conducts land transactions is set out in its *Residential Leasing Process*. The process dictates that once property is determined as being available for lease, a private company is engaged by VicTrack to act as leasing manager. A local real estate agent is then engaged to market the property and conduct 'usual background checks' on prospective lessees, but the extent of these checks is left to the discretion of the agent.

575. The agency responsible for regulating the real estate industry, Consumer Affairs Victoria, does not set any minimum standards regarding such checks, and there is no expectation that agents conduct criminal history or other background checks before approving any lease.

Whitehead's departure from Victorian Railways

Disclosure to Employee Assistance Services

576. The earliest record of Whitehead's contact with the STA's Employee Assistance Services (EAS) was when he sought advice regarding early retirement options in 1984, when he was a Principal Research Officer.

577. EAS sat within the Personnel and Employee Relations Division (PERD) and fell under the remit of the Secretary's branch of STA. It had various functions, including to assist STA employees with issues related to:

- welfare, including injuries, illness and discipline
- rehabilitation and return to work
- drug and alcohol dependencies
- retirement and superannuation.

578. To protect the confidentiality of employees who were in contact with the service, EAS files were kept separate from other STA records.

Exhibit O – Excerpt from Whitehead's Employee Assistance Services file at the State Transport Authority, 1985

DATE	NAME	
	Bob WHITEHEAD	
11.11.85		S.O. 6. 54YRS JMSLR
		Referred by Kevin Findlay.
		Will be charged this week with 2 sexual offences (children?).
		Apparently wants LSL & then retire on 55 year retirement.
		Looks like he could be imprisoned. Has previous offence about 30 years ago, was in Pentridge for 6 months.
		Lives by himself. Owns his own house.
2.11.85		Interviewed - Discussed early retirement

579. On 23 September 1985 – just eight days after Whitehead had been confronted over child sexual abuse allegations by the Puffing Billy Preservation Society President and Treasurer, Lon Wymond and John Robinson, and the day before he resigned as Society Secretary – EAS had made various retirement pension calculations for him.
580. Seven weeks later, on 11 November 1985, Whitehead was referred to EAS by Kevin Findlay, to discuss his proposed early retirement.

581. Mr Findlay was first employed by VR in 1952, and at the time he referred Whitehead to EAS was employed as a Manager in PERD. Mr Findlay was also heavily involved with Puffing Billy as Returning Officer, including during the same period as Whitehead.
582. Whitehead's 1985 EAS file note, shown at Exhibit O above, states:

Will be charged this week with two sexual offences (children?).

Apparently wants LSL [long service leave] and then retire on 55-year retirement.

Looks like he could be imprisoned. Has previous offence, about 30 years ago, was in Pentridge for six months.

Lives by himself. Owns own house.

-
583. At interview with the investigation, Mr Findlay said he could not recall ever having been aware of the disclosure on Whitehead's EAS file, or having referred him to the service in the first instance.
584. At interview, Welfare Officer X, who was an EAS Welfare Officer at the time, stated that Mr Findlay had frequent contact with Victoria Police in his role at STA, and that it was not uncommon for him to refer employees to EAS.
585. Welfare Officer X had no recollection of ever having dealt with Whitehead in his role. However, on being shown the EAS record noting that Whitehead was likely to be charged for child sexual offending, Welfare Officer X confirmed that he had authored that record based on what Mr Findlay had told him.
586. A second conversation regarding Whitehead's early retirement occurred on 21 November 1985. According to Welfare Officer X, it would have been likely that Whitehead attended the EAS offices for an interview at the time, but he could not recall this conversation taking place.
587. At his own request, Whitehead was provided with formal information outlining his pension and superannuation entitlements in January 1986.
588. There are no other records on either the EAS file or Whitehead's central staff file that reference the disclosure about pending police charges or his prior conviction.
589. At interview, the investigation asked Welfare Officer X to reflect on why the contents of Whitehead's EAS file would not have prompted him to discuss the disclosure with his manager:

Welfare Officer X: Looking at the notes, the fact that the police were involved, there was no necessity for me to go to a [General Manager]. I'd only go to the GM or to a very Senior Manager if I thought someone was of poor character, if they had charges for theft or something like that – you wouldn't want them going into an accounting area where there's money or anything like that. But Bob Whitehead's situation was well known by the looks of it.

Investigator: Because the charges were pending?

Welfare Officer X: Because he'd been charged, Kevin [Findlay] was aware of it, he would have had access to whoever he thought [he should] tell, and he would have been told [about the pending charges] I'd assume, from the police. So, he would have been making decisions himself about who he would inform.

590. The investigation also asked Welfare Officer X about the systems that were in place in EAS to follow up such disclosures, given that there was no evidence that this occurred. Welfare Officer X stated:

There are cases that you would follow up for a whole range of reasons, and you would flag it ... with health issues and retirement issues, but there was nothing, I can't see why we would flag that, to follow that up ... I don't see the reason to do it. We would be at the mercy of the courts really, whether they're going to put him in jail or release him, and then that's a matter for personnel or HR, or a GM to make a decision on the outcome of the court case. And they may terminate him because of that, or not.

I wouldn't have seen it as important to sit down with [a GM] and say, 'Hey, you need to know this'. And keeping in mind the sorts of cases, we were dealing with people who were dying, people that were being disciplined, with alcohol problems, and this, this is a case that's distasteful but not odd. It's not something that you would throw your hands up and say, 'My God this is really standing out in my 40 years of employment' or whatever. It's just one of those things.

591. In response to the Ombudsman's draft report, Welfare Officer X stated:

Mr Findlay was a senior manager and a diligent one at that. He was engaged in the Personnel Division who were responsible for the management of employee relations generally. Given the fact that Mr Findlay was aware of the allegation and was a Senior Manager responsible for managing employee relations, it is not unreasonable for me to assume that Mr Findlay (and or other management) were attending to the issue.

My comment ... should not be taken as suggesting that I would only go to a General Manager or Senior Manager in the limited circumstances identified ... I was trying to say that in the case of Mr Whitehead, I was of the view that Mr Findlay was already dealing with it and that was the appropriate course ...

...

I was not in a position of authority to make decisions about Mr Whitehead's employment status, rather that rested with people such as Mr Findlay and other Senior Management (all of whom I had assumed were dealing with the matter) and who, given the hierarchical structure at [STA] at the time, would have told me to mind my own business if I had attempted to intervene ...

... I was referring to the specific circumstances of Mr Whitehead at that time (and not the issue he was accused of) ...

When I was referring to it as being 'distasteful but not odd', I was trying to highlight that criminal matters were regular occurrences [at STA] and so having another criminal matter (albeit as vile as this) was not odd.

... I had limited involvement with him ... My involvement with Mr Whitehead was an interaction around his retirement many decades ago ... my very small role in looking at retirement options he had does not equate to intimate involvement or support (through inaction or otherwise) for what he did.

592. Asked about the filing system and document retention policies of EAS, Welfare Officer X stated that EAS files were never destroyed but:

Before I left, I did shred a few pages within them because there was personal stuff, because I knew that within 30 years they were going to be accessed and it's pretty common for families who've had people working in the rail to do research ... I destroyed some sensitive stuff that was in there that I didn't want families to see.

593. Welfare Officer X went on to describe a case where he had visited the family of a STA staff member who had committed suicide. On speaking with the family, Welfare Officer X said he held suspicions that the deceased had sexually abused his own child. Welfare Officer X stated, 'That sort of stuff in files, I just destroyed'.

... I'd only go to the GM or to a very Senior Manager if I thought someone was of poor character, if they had charges for theft or something like that - you wouldn't want them going into an accounting area where there's money or anything like that. But Bob Whitehead's situation was well known by the looks of it.

Welfare Officer X

594. Welfare Officer X confirmed that the file note regarding Whitehead would have fallen into the category of records he would have destroyed. He could not recall why he had not destroyed Whitehead's file, but suggested it may have only been because he did not have time to get through all the files at the Spotswood archives.

595. The investigation noted that Whitehead's general employment file would also have been held at the Spotswood archives at this time. Welfare Officer X stated that no other staff member was aware of his decision to destroy the records.

596. In response to the Ombudsman's draft report Welfare Officer X stated:

I did not ever destroy any material related to Mr Whitehead ...

Occasionally when I spoke with persons who came to the EAS for assistance, I would make a note about my observations. They were opinions. Sometimes they were incorrect and on reflection, I should not have made those comments as I was simply speculating ...

...

... there were occasions when I removed information based on developments demonstrating that information to be incorrect. I was trying to ensure that the record was fair and accurate on the basis that people would inspect these records 30 years down the track and if something was wrong ... then it could be devastating. I did not do it often.

597. Welfare Officer X's response to the Ombudsman's draft report went on to state that the records he removed 'were personal in nature and not related to employment'.

598. Despite Whitehead's interactions with EAS in 1985 and 1986, he continued working until his retirement on 29 April 1988. That retirement, described as '40 years service' in a staff newsletter at the time, involved a farewell event where he was congratulated by the Chief General Manager of the Transport Operations Division, John Hearsch, who co-leased Taradale. The article noted Whitehead's 'active involvement at Puffing Billy', and that he intended to continue spending time at the Railway post-retirement.

599. At interview with the investigation on 13 December 2017, Mr Hearsch did not characterise Whitehead as a 'friend', but said he was nonetheless involved in many of the same rail groups, including Puffing Billy, the Australian Railway Historical Society and the Seymour Railway Heritage Centre.

600. Mr Hearsch stated at interview that he was not aware of Whitehead's 1959 conviction at the time of Whitehead's retirement, nor the information contained on Whitehead's EAS file. The investigation identified no evidence that Mr Hearsch was aware of the conviction or the EAS file, but Mr Hearsch said that 'there would have been people [at VR or STA] who must have known'.

601. In response to the Ombudsman's draft report, Mr Hearsch stated:

... I did officiate at Bob Whitehead's retirement function in April 1988, as indeed I did at many similar functions for other long serving employees.

There seems to be a hidden inference ... that our common involvements as rail employees, at Taradale and with Puffing Billy somehow led me to overlook or excuse Mr Whitehead's nefarious activities whereas ... I was completely oblivious to them. Maybe, in some eyes, this seems improbable when so many others apparently had such knowledge, but it is absolutely true. There is no way that I would have hosted Mr Whitehead's retirement function had I possessed such knowledge.

602. Mr Hearsch went on to say in his response that his involvement with Whitehead in several rail groups 'also applied to literally hundreds of others'.

Other police records

603. In the absence of police records concerning the 1985 investigation into Whitehead, the investigation was not able to identify whether his 1959 conviction was known to police at that time. The investigation was similarly unable to examine if the conviction was known when police took statements from another alleged victim at Puffing Billy in 1991.
604. However, a Victoria Police Information Report from 2008 noted that the police had information indicating that 'in 1959 Whitehead was convicted of abduction and indecent assault on a male. He was sentenced to 18 months imprisonment with a minimum of six months'.
605. Despite this, later records from Whitehead's Law Enforcement Assistance Program record did not report that Whitehead had a prior conviction.
606. Wayne Clarke had previously complained to Victoria Police about its failure to accurately record Whitehead's conviction, to which he was advised the criminal record 'was removed from the main index in error' at some stage before 1988.
607. Police told Mr Clarke that the seriousness of Whitehead's offending should have meant that these records were retained, but Victoria Police's response did not explain how or why police had information about the conviction in 2008 yet this information did not appear in its systems in 2012 or 2014.
608. Whitehead's 1959 conviction was subsequently added to his court outcome record in 2017.

Historical views towards offending and re-employment

609. During February and March 1986, a series of articles appeared in Victorian and national newspapers alleging that Metropolitan Transit Authority (MTA) Railways Investigation Officers (RIOs) had been involved in serious crimes, including child sexual abuse.
610. On instruction from the Minister for Transport at the time, the MTA engaged a prominent barrister to investigate these allegations in a report dated 22 December 1986 (the Halpin Report).⁹
611. The Halpin Report ultimately found that 14 of 253 RIOs had appeared before the courts charged with various offences, but it was excerpts from Parliamentary Hansard in the Halpin Report that demonstrated a certain societal attitude at that time; in particular an exchange between the Transport Minister and the Opposition Transport spokesperson.
612. The Opposition spokesperson stated that many RIOs had criminal records and that 'a high proportion of those are homosexuals and paedophiles who actively and sometimes openly use their positions to pursue illegal activities'. The spokesperson went on to refer to a police file on an RIO who had indecently assaulted two schoolboys between 1954 and 1958, and had several interactions with police regarding attempts to 'accost' young boys.

⁹ Brian Halpin, 'Report of review requested by Mr. K. P. Shea' (Investigation Department, Metropolitan Transit Authority, 22 December 1986). <<https://www.parliament.vic.gov.au/papers/govpub/VPARL1987-88No18.pdf>>.

613. The Transport Minister responded, as quoted in the Halpin Report:

That particular person ... committed an offence nearly 30 years ago. That person was last of interest to the police in 1966, 20 years ago. That person has had his name and those offences, that were committed when he was in his 20s, paraded before Parliament under privilege from the confidential police record ...

This person joined the railways in 1966 and since then has had a number of promotions on the basis of his good work record, but now, under Parliamentary privilege, the matters that were of concern to the police and to the courts in 1955 are paraded again.

614. The Halpin Report identified that the RIO referred to was employed by VR as a casual labourer after his parole officer made an appointment for him to be interviewed by the Officer-in-Charge of the Investigation Department, following his last appearance before the courts in 1965.

615. In 1973, having held various other roles during the interim period, the RIO applied for a position as Ticket Examiner, but before doing so asked the Officer-in-Charge – who was the same person who had reviewed Whitehead’s police records in 1960 before assessing him as being suitable to return to work – whether his prior convictions would preclude him from being appointed.

616. The Halpin Report showed that the Officer-in-Charge gave the matter ‘due consideration’ and ‘taking into account the views of higher authority ... would not oppose any application’.

617. The Halpin Report also noted that other high-ranking individuals – including the Secretary and the former Officer-in-Charge of the Investigation Department – knew of the RIO’s prior convictions, and that the RIO had ‘a clean departmental record’ and that his fellow officers ‘generally hold him in high regard’.

618. The Halpin Report did not comment on whether the initial decision to employ the RIO was appropriate, stating that such a conclusion ‘involves a consideration of question, inter alia, as to the integrity the community expects of its law enforcement officers and the community’s interest in rehabilitation’.

619. It did, however, conclude that ‘the removal of [the RIO] from the position that he presently holds is not warranted and cannot be justified’, based on:

- the passage of time since his last court appearance
- the concept of rehabilitation
- his clean departmental record and performance in the role
- senior officers’ decision to appoint him despite knowing of his convictions.

620. The investigation can draw comparisons between the case of the RIO and Whitehead: both having been hired despite their employer being aware of their serious criminal offending, and each seemingly being skilled in their role and held in high regard among their peers.

621. Whitehead, however, continued offending, and allegations of his later offending were known to VR.

622. The cultural shift from several decades ago is underscored by the stark contrast between the Halpin Report and statements made by Judge Tinney in Whitehead’s 2015 Reasons for Sentence, where he stated:

... Your employment had been terminated upon your being sent to prison in November 1959. You knew you were sexually interested in children. You undoubtedly pursued that interest with these various victims, notwithstanding the fact that you had been previously convicted and imprisoned. I view with a sense of utter dismay the fact that you were re-employed by the railways in 1960 ...¹⁰

¹⁰ *DPP v Whitehead* [2015] VCC CR-15-00645 (24 July 2015) [3].

Whitehead's other volunteering

623. The investigation is aware that Whitehead was involved in more railway groups than those explored in this report, including the Signalling Record Society Victoria and the Seymour Railway Heritage Centre (SRHC).

624. Records identified by the investigation show that the same former SRHC President, referred to earlier in this report, was aware of the 1985 police investigation of Whitehead for child sexual offences at Puffing Billy, and knew that a prosecution did not proceed. The investigation noted that after being removed from Puffing Billy in 1991, Whitehead worked as a volunteer at the SRHC, but did so, according to the SRHC President's statement to police, under supervision.

625. The additional railway groups were not examined as part of the investigation and did not form part of Wayne Clarke's central concerns, and Whitehead's known offending was not linked to any of these groups.

626. This section examines Whitehead's involvement with the Australian Railway Historical Society, which did form part of Mr Clarke's concerns.

Australian Railway Historical Society

627. Before his involvement at Puffing Billy, Whitehead was heavily involved with the Victorian Division of the Australian Railway Historical Society (ARHS).

628. According to its website, the ARHS is an incorporated association established in 1945 to cater 'for all who have an interest in the railway history of Victoria'.

629. The ARHS conducts monthly meetings and supports the production of publications about Victorian railway history. It also produces its own newsletter and a monthly journal, *Newsrail*.

630. Since 1962, the ARHS has operated the Railway Museum at Newport and is the custodian of many railway heritage items owned by the State. The ARHS also manages an extensive archives collection focusing on Victorian railways.

631. The ARHS has a long history of organising rail tours and, according to several witnesses who provided evidence to the investigation, shared a sizeable proportion of members with the Puffing Billy Preservation Society.

632. At a meeting during the early stages of the investigation, Mr Clarke stated that it was his understanding that Whitehead was arrested and interviewed by Victoria Police during the 1970s after he allegedly assaulted two 14-year-old boys while at the ARHS.

633. Mr Clarke's concerns were echoed by the media, which suggested that Whitehead's departure from the ARHS was due to his predatory behaviour.

Becoming ARHS Secretary

634. To establish a clear timeline of Whitehead's involvement with the ARHS, the investigation summonsed the ARHS to produce:

- correspondence, complaints or other records showing any allegations or concerns about Whitehead
- records of any action taken by the ARHS to investigate Whitehead, in response to concerns that had been raised
- correspondence, management meeting minutes and other records with respect to Whitehead's resignation as ARHS Secretary in 1973 and his departure in 1979.

635. The ARHS was unable to identify specifically when Whitehead joined, but believed it to be May 1960. This accords with an ARHS annual election held in May 1964, records of which indicate that Whitehead had then been a member for four years. This suggests that Whitehead joined the ARHS immediately upon his release from prison.

636. Whitehead was elected to the ARHS Council in 1964.

637. The investigation received evidence from several members of the public concerning Whitehead's involvement at the ARHS. One of those came from Person F on 7 August 2017, who wrote that he had been groomed by Whitehead at the ARHS as early as 1965.

638. Person F wrote about being sexually assaulted by Whitehead in 1966 (for which Whitehead was convicted in 2015):

[Whitehead] warned me not to return to Puffing Billy, travel on any ARHS trains or tell anyone in authority as no-one would believe me because of his high standing in the VR, PB and ARHS.

[Whitehead] warned me not to return to Puffing Billy, travel on any ARHS trains or tell anyone in authority as no-one would believe me because of his high standing in the VR, PB and ARHS.

Person F

639. Person F's evidence was that no official report was made to police at the time. The investigation reviewed Person F's statement to Victoria Police from 10 November 2014, which read:

I recall telling [former ARHS President] and [former ARHS Executive Council member] ... that Mr Whitehead had tried to assault me as an initiation, but they didn't believe me.

640. The investigation confirmed in the 1965-66 ARHS Annual Report that both the former ARHS President and the former ARHS Executive Council member served on the ARHS Executive Council at the time. Both men are now deceased.

I recall telling former ARHS President and former ARHS Executive Council member ... that Whitehead had tried to assault me as an initiation, but they didn't believe me.

Person F

641. Person F also told the investigation that 'younger members who made public the activities of the paedophiles were treated with disdain', and indicated that there was a broader knowledge of Whitehead's predatory behaviour at the ARHS.

642. Several other members of the public supported Person F's claim.

643. Person G, a former member of the ARHS who contacted the investigation on 18 and 19 July 2017, reported that he had been groomed by another ARHS member during the 1960s, and stated:

Along with many, mostly younger railway enthusiasts of the era, the mid 1960s, I knew of Whitehead's conviction in 1959 and his ongoing sexual activities involving underage boys. It was common knowledge among younger enthusiasts in Victoria in the mid 1960s to 'keep clear' of Mr Whitehead.

At the same time, Mr Whitehead was idolised and revered in the railway enthusiast community as a distinguished railwayman and historian. Anyone who spoke against him was ruled out of order and put down. Those who spoke up were dismissed as troublemakers lacking any credibility.

644. Person G stated that he, too, had raised his concerns with a different former (and now deceased) ARHS President, who listened to his concerns but 'would not hear a word spoken against a fine and distinguished railwayman [Whitehead]'.

... Whitehead was idolised and revered in the railway enthusiast community as a distinguished railwayman and historian. Anyone who spoke against him was ruled out of order and put down. Those who spoke up were dismissed as troublemakers lacking any credibility.

Person G

645. Despite reviewing the supplied volume of ARHS documents, the investigation did not identify any written complaints or evidence that the allegations against Whitehead had been discussed at ARHS meetings.

646. Despite rumours of his predatory behaviour reportedly being widespread, Whitehead continued to serve on the ARHS Council until 1968, when he was nominated for the position of Secretary, which he subsequently accepted. He was concurrently Tours Officer and a member of both the Syllabus Items Committee and Publications Committee.

647. Person G also provided the investigation with a link to a private rail forum in which contributors shared experiences as young members of railway groups, including ARHS and Puffing Billy.

648. One contributor to the forum wrote of the 1960s that 'we knew then to never be alone with Whitehead ... [his offending] was very common knowledge even then'. Another author claimed that they 'first heard rumours about [Whitehead] in September 1965'.

649. According to Person G, it was almost inconceivable that people in senior management roles were not aware of Whitehead's offending, or at least allegations of it, during the 1960s and 1970s.

650. After taking up the position of Secretary in 1968, Whitehead unexpectedly resigned from the position on 9 July 1973 as shown in ARHS Council meeting minutes. The 1972-73 ARHS Annual Report stated:

We are losing two of our stalwarts of long standing. I refer to [ARHS Vice-President] who has been President on two occasions and a councillor for some years and Bob Whitehead, our Secretary.

On behalf of all members, to [Vice-President] and Bob our sincere thanks for their guidance, help and untiring effort which has contributed in no small way to the Society's success over the years.

651. Board Member A indicated during his interview with the investigation that he first became involved with the ARHS around 1968.

652. Despite not knowing why Whitehead had left the Society, Board Member A stated 'there has always been a cloud over [Whitehead's] resignation as Secretary'.

653. ARHS records do not provide a clear account of the circumstances of Whitehead's resignation as Secretary. While two records show that the resignation was discussed, including at an Executive Council Meeting on 26 February 1974, almost no detail is included:

A long discussion took place concerning the resignation of Mr Whitehead and his subsequent retraction of that resignation.
...

It was resolved that Mr Whitehead be invited to discuss the whole situation with Council on Tuesday 5 March.

-
654. Minutes from the subsequent meeting indicate that Whitehead did not attend. While the Executive Council held further discussions, it was resolved without explanation that the ARHS President would write to Whitehead.
655. The correspondence referred to above was not provided to the investigation, and the ARHS did not provide any explanation as to why Whitehead sought to retract his resignation.
656. The investigation interviewed President Z, a former ARHS President who has been involved with the Society since 1970.
657. When asked about the Council meeting referred to above, President Z stated that the minutes 'probably did not tell the full story, may well have been doctored or amended or altered'.

... the minutes 'probably did not tell the full story, may well have been doctored or amended or altered'.

President Z

658. When asked about the circumstances of Whitehead's resignation, President Z recalled that several volunteers who had been involved in the Railway Museum during their childhood had been elected to the ARHS Committee.
659. During a meeting before the one detailed above, these Committee members raised allegations concerning Whitehead's child sexual offending at the Museum, and Whitehead was subsequently removed from the Committee and as Secretary. According to President Z, the Committee members who raised the concerns were later forced out of the organisation by another Committee member who was also a child sexual offender.

660. President Z's account was consistent with that of another former ARHS President, President Y.
661. President Y, who became involved with the ARHS some years after Whitehead's departure, was unable to provide any evidence specifically related to Whitehead's offending.
662. However, President Y did state that by piecing together Society materials and speaking with people who were offended against as children, and long-standing ARHS members, it was his view that there was a 'network' of offenders operating out of the ARHS Railway Museum, and that there was knowledge of this:

There were people that were sort of aware of what was going on ... Within the museum, there were people who were aware of what was happening, were unable to deal with it, other than ... try to steer the kids away from the perpetrators. They obviously felt incapable of raising [the issue]. You actually had people in the museum that knew what was happening, doing their best to prevent it, and still not talking about it.

663. Witnesses and members of the public told the investigation of at least three other former ARHS members who were either subject to allegations or convicted of child sexual offences that occurred in the 1960s and 1970s.
664. President Z was not aware of why Whitehead sought to retract his resignation, but when told that he took on various other roles after resigning as Secretary, President Z stated:

That might have been why he was almost quarantined in the Archive - which probably wasn't the wisest decision - but he was sort of taken out of the official role.

665. It was President Z's belief that during 1973-74 there were charges pending against Whitehead concerning child sexual offending while he was at the ARHS. President Z was not sure how this information was spread or whether anyone at the ARHS spoke with police around the time, but indicated that Whitehead's offending was known among many senior members of ARHS.

666. The investigation did not identify any evidence to suggest that Whitehead was subject to police investigation at the time. However, the investigation could not discount that a police investigation did occur and files had been subsequently destroyed due to their historical nature, as was the case with police files concerning the investigation into Whitehead in 1985 and 1991.

Departure from the ARHS

667. With no clear succession plan in place, it was not apparent that Whitehead's resignation as ARHS Secretary was anticipated. No nominations were received to fill the vacancy, and several members acted in the role throughout the following year.

668. Despite being seemingly forced out of the position, Whitehead was permitted to take on a multitude of other roles, becoming active on the Tours Committee and Publications Committee, and as a Research Officer and the ARHS Archivist.

669. A former youth member at the ARHS, Person H, contacted the investigation on 12 July 2017 and stated that rumours about Whitehead continued well into the 1970s. He said of an ARHS tour:

... It was brought to my knowledge to watch out for Mr Whitehead, don't get to be alone with him ... I count myself lucky that other lower rung volunteers did have the temerity to warn me as in time they were certainly proved right.

670. It was when Whitehead was ARHS Archivist in 1975 and 1976 - as the rumours continued - that he sexually abused Wayne Clarke.

671. Mr Clarke first met Whitehead at an ARHS promotional day in 1974, and in 1975 he was sexually abused by Whitehead at Taradale Railway Station.

672. In 1976, Whitehead again sexually abused Mr Clarke, this time in the ARHS Archives Room at Windsor Railway Station. Whitehead remained ARHS Archivist until 1977.

673. Mr Clarke did not report the offences to police or the ARHS at the time. Whitehead was, however, convicted of these offences in 2015.

674. Records show that in the time leading up to his departure from the ARHS, Whitehead had been improperly using ARHS letterhead on his correspondence, and that he was also in a dispute with the ARHS Council after it was decided to appoint an Archives Committee, instead of having a sole Archivist.

675. The Committee wrote to Whitehead in May 1977 advising that he was no longer ARHS Archivist, but could join the Archives Committee. In response, Whitehead resigned as Archivist. ARHS Council minutes from 11 July 1977 show that his decision was acknowledged, and Council minutes from August 1977 indicate that he was 'no longer an official of the Society'.

676. His exit from all of his official roles with the ARHS was acknowledged by the President in the 1977-78 ARHS Annual Report, who wrote 'thank you hardly covers our debt to Bob'.

677. Whitehead maintained his ARHS membership but remained in significant conflict with the Council over property that he allegedly removed. The Council resolved to expel Whitehead over the dispute, and his attitude towards other ARHS members.

678. Despite being invited to attend a meeting to discuss the proposed expulsion, Whitehead resigned from the ARHS in August 1979. During this time, he had been gradually taking on an increasingly active role at Puffing Billy.

679. At interview with the investigation, President Z commented on how the ARHS dealt with the allegations about Whitehead:

Investigator: How do you view how that was handled?

President Z: In hindsight, it was poor. But perhaps the attitude, the issue in terms of public awareness of paedophilia is vastly different now to what it was then ... It was not handled well. And I think there was also that thing that 'ok, we don't want to necessarily perhaps create concerns about the Society or damage the Society's reputation'.

Investigator: So, do you think in that sense that the interests of the Society were put above the concern for the individuals who were offended against?

President Z: Yes, I think that might have been the case.

Links to Puffing Billy and Victorian Railways

680. The investigation has identified elsewhere in this report that rail enthusiasts at the time were scattered among volunteer groups. In many cases, they were also employed by VR and its successor agencies.

681. A person's status with a volunteer group - whether they were an inactive paying member, volunteer or in a management position - did not seem to influence their decision to become involved in more than one group simultaneously. This was no different with the ARHS and Puffing Billy.

682. Board Member A stated at interview that when he started with the ARHS, it had a membership of about 1,000. He estimated that 30 to 60 per cent of these people would have belonged to more than one rail group at the time, including Puffing Billy.

683. He went on to name five individuals, some of whom were office-bearers who had been simultaneously involved at the ARHS and Puffing Billy, and stated that a sizeable proportion of ARHS members also worked in the railways.

684. The investigation identified many other individuals who were involved at both the ARHS and Puffing Billy in the years immediately following Whitehead's departure, some of whom served on the ARHS Executive Council or various committees, and others who held management positions at VR.

685. President Z provided a similar account, stating that during the 1960s and 1970s there were a number of VR employees who were also involved with the ARHS, and that it was common at the time for members to be involved with Puffing Billy.

686. The investigation asked President Z whether Puffing Billy would have been aware of the circumstances of Whitehead's departure from the ARHS:

Almost certainly, they would have. At that point in time there was probably a reasonable degree of - or quite a high degree of - overlap between the two organisations. People who volunteered and worked there were part of their administration ... A lot of those people belonged to all of the organisations.

687. President Z said that once allegations of Whitehead's offending became more widely known at the ARHS, ARHS volunteers questioned why Whitehead had been allowed to continue volunteering at Puffing Billy:

There were people who were certainly well aware that he had been, that the events related to [Whitehead's resignation as Secretary], people were aware of that, be it by hearsay or whatever, the word had got round and as to why, and often the question was raised, 'well, how come he's working at Puffing Billy?' Which basically, we couldn't answer, we had no answer to.

688. Despite being clearly of the view that Puffing Billy would have been aware of Whitehead's offending at the ARHS, President Z stated there had been no attempt by anyone at the ARHS to warn Puffing Billy that he should not be involved with children.

... President Z stated there had been no attempt by anyone at the ARHS to warn Puffing Billy that he [Whitehead] should not be involved with children.

Conclusions

Re-employment with Victorian Railways

689. Consistent with its policy at the time, Victorian Railways (VR) terminated Whitehead after he was convicted for child sexual offences in 1959. After some of the most senior VR employees assessed the seriousness of his offending, Whitehead was re-employed immediately after his release from prison, and only six months after he was convicted. This was again consistent with the organisation's approach to the 'rehabilitation' of convicted offenders – not, of course, a bad thing of itself but only successful if a person is suitable for the role. The agency's assessment in this regard is crucial.
690. While the investigation identified that a former Minister advocated for Whitehead's re-employment, historical records show that this was not unusual. Many other individuals received similar treatment, indicating that Whitehead was not graced with exclusive political connections. Based on VR's heralded record of hiring former criminals, it is likely that Whitehead would have been re-employed without such intervention.
691. The investigation did not identify the method by which VR assessed convicted offenders for employment or whether any specific thresholds or restrictions applied. For this reason, the merits of that decision cannot be scrutinised at an administrative level. It is curious, however, that in re-employing Whitehead VR made the seemingly irrelevant decision to ensure that he did not return to Bendigo, and declined to ensure periodic reports on his conduct were provided. It is reasonable to speculate that, given the nature of his offending, such reports would have monitored the risk of Whitehead having unsupervised contact with children such as he had at Puffing Billy. This may have prevented tragic consequences for his victims.
692. There was no concerted attempt by VR to conceal its decision or Whitehead's criminal history. The investigation identified that some of the most senior members of staff at VR were aware of the circumstances of his conviction, but found no evidence that these people 'protected' him from further consequence.
693. While the investigation was not able to identify a full chronology of Whitehead's time at VR, including the extent to which he had access to children in each role, it is apparent that he used his status to groom children. He grew in prominence and authority, gained trust and credibility, and – particularly as Train Controller – had access to timetables and other rail artefacts that young enthusiasts revered.
694. Whitehead's job also afforded him the status that made him such a valuable and authoritative member of other rail groups he joined. Based on the evidence available to the investigation, first-hand knowledge of Whitehead's 1959 conviction was seemingly known by a privileged few at VR, but speculation was rife. The rumours of his offending against children were widely known and it is highly unlikely that such rumours did not follow him to other rail groups given the tendency for rail enthusiasts to be involved in many organisations.
695. The timing of Whitehead's approach to the State Transport Authority's Employee Assistance Services (EAS) area in 1984–85 was not coincidental. He had just become the subject of a police investigation into allegations he had sexually abused children, had been confronted by the most senior members of Puffing Billy, and was expecting to be charged.

696. Neither Mr Findlay nor Welfare Officer X could recall discussing the content of the EAS file note directly with Whitehead. Welfare Officer X had assumed that Mr Findlay, having referred Whitehead to the EAS and given his seniority within the Personnel Division at STA, would have followed up on the content of the file note if he believed it was necessary to do so. Welfare Officer X had no decision making role regarding Whitehead's employment.

697. I do not question Welfare Officer X's statement of his abhorrence at Whitehead's sexual offending against children. However, his view that the revelations about the offending at the time did not stand out shows a concerning attitude at the time of how to manage allegations of child sexual abuse in the absence of an actual police charge. This attitude was not unique to Welfare Officer X, VR or STA: Puffing Billy and the ARHS took an identical approach. Public perception has moved in the past 30 years, but child sexual abuse was a crime in that era as it is today.

698. Welfare Officer X also admitted to destroying public records to protect people who in accessing such records in the future may have been hurt by their contents. Welfare Officer X characterised the records he destroyed as 'personal in nature and not related to employment'. The fact remains, however, that these were public records and Welfare Officer X destroyed them without authority. While there is no evidence that he destroyed Whitehead's records, this investigation has highlighted the importance of preserving public records. In the context of the investigation, such historical records could potentially validate survivors' accounts of their attempts to report child sexual offending and establish who knew what information at a given point in time and what action they took in response.

699. VR re-employed Whitehead – a convicted child sexual offender – but chose not to monitor his conduct; failed to identify the continued threat he posed after he self-reported potential police charges for further abuse; and then gave him a rousing farewell on his retirement. It was also well known that he regularly volunteered alongside children at Puffing Billy.

700. On the evidence available to the investigation, it is clear that VR should have done far more to prevent the tragic turn of events that enabled Whitehead to offend against so many young victims.

Leasing of State-owned property

701. VR approved Whitehead's joint lease of Taradale Railway Station with three colleagues in 1973, and an individual lease of Brighton Beach Railway Station in 1979.

702. It has been shown that Whitehead's 1959 conviction and the nature of his offending were known by many at VR when he was re-employed in 1960. However, it is not possible to determine that those responsible for approving his involvement in either lease, more than a decade later, were aware of these facts.

703. The investigation did not establish that VR Estate Office staff who approved Whitehead's leases were aware of his conviction at that time. Evidence from former VR staff suggests that, while rumours of Whitehead's conviction did exist within the lower ranks of VR, actual knowledge of the nature of his offending was not widespread. The large size and delineated structure of the organisation make it unlikely that VR's Estate Office was aware of his conviction or able to use it as a relevant consideration.

704. Given that the decision to re-employ Whitehead had been made more than a decade earlier by some of the most senior officials at VR and came with no additional restrictions, even if the Estate Office had been aware of his conviction, it is unlikely that it would have declined him as a lessee or defied an executive order.

705. VR did not conduct any background checks on Whitehead or the other Taradale lessees, and there was no requirement to do so. Given that Whitehead was re-employed by VR despite knowing his criminal history, it is unlikely that such checks, if conducted, would have prevented him from obtaining a lease.

706. It is not the practice of VicTrack, the agency currently responsible for managing similar leases, to require background checks on prospective tenants. It is possible that someone with a criminal record like Whitehead would be able to lease railway property in Victoria today.

707. The investigation accepts Mr Hearsch's belief that the Puffing Billy Executive Committee discussion about Whitehead's 'untoward behaviour' occurred in the 1960s. On balance, it is far more likely that this discussion occurred when Mr Hearsch was on the Executive Committee between 1974 and 1981, as Whitehead had been removed as ARHS Secretary in 1973 following allegations of child sexual abuse, and only became more actively involved at Puffing Billy after his acrimonious departure from the ARHS several years later.

708. Based on Mr Wilson's and Mr Hearsch's relationships with Whitehead; their active involvement in the same railway groups; the proliferation of rumour among their colleagues at VR, Puffing Billy and the ARHS; Mr Wilson's involvement in the 1985 police investigation into Whitehead; and Mr Hearsch's recollection of a discussion at Puffing Billy of Whitehead's 'untoward behaviour'; the investigation considers it is highly likely that both Mr Wilson and Mr Hearsch were aware of at least rumour surrounding Whitehead during the time they shared the Taradale lease.

709. However, the investigation found no evidence that Mr Wilson and Mr Hearsch were aware that Whitehead was offending while they shared the Taradale lease or that they facilitated the offending or assisted Whitehead to conceal it.

Appointment as Secretary of the Puffing Billy Preservation Society

Whitehead's offending

710. Whitehead became a member of Puffing Billy at least as early as 1961 – the year after his release from Pentridge prison. His imprisonment for child sexual offences in 1959 was already known by some volunteers at the Railway by the time he became involved, and it would appear that some, although sadly not all, school-aged rail enthusiasts knew that he was a person to avoid at all costs.

711. The investigation established that the timing of Whitehead's progressive increase in responsibility at Puffing Billy in 1976 was no coincidence. His departure from the ARHS in the same year was directly linked to allegations of child sexual abuse, including those offences against Mr Clarke and Person F that have now been proven.

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712. The heritage rail sector during this era was highly connected, and dual membership of Puffing Billy and the ARHS was not unusual. Based on these close ties, coupled with Mr Hearsch's evidence that senior members at Puffing Billy discussed Whitehead's 'untoward behaviour' during a meeting in the 1960s or 1970s, it is more likely than not that senior members of Puffing Billy were at the time aware of the circumstances surrounding Whitehead's acrimonious departure from the ARHS and at least of rumours that this was due to allegations of child sexual abuse. Despite this, they gave Whitehead more roles at the Railway.
713. Philip A'Vard, one of the most senior members of the Railway, knew that Whitehead was a paedophile, and warned his son to this effect at some point between 1976 and 1979. The investigation identified no evidence that Mr A'Vard warned other young volunteers, informed other senior members of the Railway or took his knowledge to the police.
714. This placed direct knowledge of concerns about Whitehead's child sexual offending with Mr A'Vard, Vice-President of the Railway, and Lon Wymond, President of the Railway, before 1980. Despite this, Whitehead was elevated to Society Secretary in 1980 and held the position until 1985.
715. Despite Mr A'Vard's inability to recall how or when he became aware of allegations concerning Whitehead, the investigation found that he was told of an attempt by Whitehead to sexually assault a young volunteer during a telephone call with the child's parent. According to Mr A'Vard, this occurred 'long before' Hutchins was suspected of child sexual offending in 1985, as it was Hutchins who confirmed Whitehead's identity before Mr A'Vard informed Mr Wymond of the call. The investigation could not establish the date of this telephone call; however, the call must have occurred before Mr A'Vard warned his son about Whitehead.
716. Puffing Billy did not conduct any vetting or background checks on adult volunteers for the 30 years that Whitehead was involved. When the Railway's lax screening procedures were identified in 1984, Whitehead - who was an active child sexual offender at the time - recommended that it was not necessary to implement a more robust system of background checks. The Railway agreed with his conclusions, despite surely being aware that he had a vested interest in making such recommendations, and it made no effort to tighten its systems until after Whitehead left in 1991.
717. Between starting his active involvement in the Society and his 1985 resignation, Whitehead sexually abused many children, several of whom he met at Puffing Billy. His abuse was calculated: he used his position of trust and knowledge of trains to groom his victims, being careful to do so off Railway property and often under the ruse of an initiation - a tactic the investigation dated back to his offending in 1959.
718. John Robinson, Puffing Billy CEO, told the investigation Whitehead's 1985 resignation was not related to allegations of child sexual abuse, and provided the same advice to the Secretary of the Department of Economic Development, Jobs, Transport and Resources in 2017. Contrary to evidence from Mr Robinson, Whitehead's 1985 resignation was directly related to allegations of that nature. The investigation identified that his resignation came eight days after he was confronted by Mr Wymond and Mr Robinson regarding child sexual abuse allegations and just one month after the same men had confronted Hutchins about similar child sexual offending, to which Hutchins made admissions.

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719. These were not disembodied rumours that were general in nature; they were specific concerns raised directly with senior members of Puffing Billy management by two boys. Yet again, several of the most senior members of Puffing Billy – including the Chair of the Board and Society President, Mr Wymond, and the Treasurer of the Society and Board member, Mr Robinson – knew of Whitehead's actions.
720. Mr Robinson attempted to dilute his responsibility, telling the investigation that he was 'only a member of senior management' and that it was Mr Wymond's responsibility to decisively remove Whitehead at the time. However, by his own admission, the matter should have been dealt with by the Board – of which Mr Robinson was a member – yet he made no attempt to even broach the issue at a Board meeting.
721. Puffing Billy was also made aware of 'problems' about Whitehead in April 1986 on receipt of a letter from William Elms, a Puffing Billy youth volunteer and victim of both Whitehead and Hutchins. Despite not referring directly to child sexual offending, there is little doubt of the true meaning of the euphemism employed by Mr Elms. The Railway refused to take any action against the perpetrator – Whitehead was permitted to return only two months later – and instead punished Mr Elms, who pleaded to return.
722. The investigation also accepts that Mr Elms' mother repeatedly contacted the Railway from 1985 onwards to warn that Whitehead was sexually abusing children. Evidence of Mrs Elms' contact with Puffing Billy is recorded in historical Victoria Police documentation and the investigation has no reason to doubt that she, as the mother of a child who had made statements to police about Whitehead's abuse, made these telephone calls.
723. Despite no less than five people raising direct complaints about Whitehead's offending with senior members at Puffing Billy by April 1986, Whitehead was permitted to continue with the Railway until August 1991. No member of Puffing Billy management took any steps to follow up with police to ascertain the status of its investigation or to assess whether it was appropriate for Whitehead to return.
724. Mr Robinson's account to the investigation that senior members of Puffing Billy only became aware of a 'very general rumour' concerning Whitehead in 1991 has been proven to be incorrect. His account is generally consistent with statements he has provided to media outlets and various State and Commonwealth Government bodies when questioned about the offending. However, the evidence is clear that Mr Robinson, and others, had direct, personal knowledge concerning allegations of Whitehead's offending at least six years before they moved to exclude him from the Railway.
725. Given what was known at the time, it is more likely that Whitehead's denials when confronted in 1985, along with his reputation as a long-term and valued volunteer, were given more weight than these complaints and rumours.
726. Neither Mr Robinson nor Mr A'Vard could recall the specific details of what prompted them to confront Whitehead in 1991 about further allegations of child sexual abuse. It is known that Whitehead returned to the Railway as an active volunteer in July 1986, just 10 months after his resignation, and resumed a range of on-track and administrative roles, including those which gave him ready access to children.

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727. The investigation identified that concerns had been raised about several roles held by Whitehead in 1989–90, that allegations concerning Whitehead were reported to police by another victim in 1991, and that a VR file containing information about Whitehead’s 1959 convictions was found by a Puffing Billy volunteer at the Public Record Office in the early 1990s. However, the true catalyst for the 1991 confrontation with Whitehead remains unknown.
728. The investigation found some of Mr Robinson’s evidence on this issue to be unreliable. It is reasonable to accept that Mr Robinson’s memory has faded during the 30 years since he initially confronted Whitehead in 1985. However, Mr Robinson confronted Whitehead twice in six years about allegations of child sexual offending. On balance, the investigation does not accept that he had no recollection of the 1985 confrontation – particularly if he did indeed react with ‘absolute horror’, as he claimed, on hearing rumours of Whitehead’s offending in 1991.
729. The investigation identified no evidence that any restrictions were placed on Whitehead’s volunteering to prevent him from having access to children. Despite Mr A’Vard’s evidence that management took action against Whitehead in 1985 by requiring his resignation as Secretary, and that he was monitored in an ‘informal’ way, his participation in on-track work – the very roles that provided him access to children – continued unencumbered.
730. At no stage did Railway management refer any allegations of child sexual offending concerning Whitehead to police. Puffing Billy did, however, take swift action reporting minor issues such as theft to police when it saw itself as the ‘victim’, which was in stark contrast to the lack of action concerning actual victims of child sexual abuse. In the eyes of the Railway, this was apparently not its problem.
731. Despite the seriousness of the allegations against Whitehead in 1985 and 1991, they were never discussed at Board meetings. There is no evidence that State Government nominees appointed to the Board, including the Minister for Transport’s representative, were informed of the allegations or consulted on what action should be taken. The Minister for Tourism, the Minister for Public Transport and the department were never advised. While the investigation cannot conclude that this would have altered the course of history by preventing any of Whitehead’s offending, this is a most serious failure by a public body.
732. A recurring theme at the interviews of both Mr A’Vard and Mr Robinson was the location of Whitehead’s offending. Both men initially stated that offences committed by Whitehead on the Railway, as opposed to elsewhere, would be of far greater concern to the Society or the Board. Mr Robinson acknowledged that it was ‘quite likely’ that Whitehead groomed children on the Railway, and that the location did not change the nature of Whitehead’s horrific offences. However, both Mr A’Vard’s and Mr Robinson’s commentary on the importance for Puffing Billy of the location of offending demonstrates a profound ignorance of child grooming and the abuse of positions of trust and power. It also reveals much about the lens through which they viewed Puffing Billy’s responsibility for the offending.
733. What is even more concerning was Mr A’Vard’s suggestion that the victims may have been the predators and that the investigation should consider whether these children were pursuing the adults. In the context of this investigation, and particularly given that Whitehead pleaded guilty to his offences, Mr A’Vard’s proposition is, at best, absurd. Child sexual offending was and remains a crime, and the investigation at no stage had any reason to doubt the credibility of Whitehead’s victims.

734. Despite Mr Robinson's evidence that the Board has never received a written complaint about child sexual abuse, the investigation found that Puffing Billy's archives policy, which was drafted by Whitehead, specifically stated that complaints were not to be held in the archives. It is, therefore, not unusual that the investigation could not locate physical evidence beyond Mr Elms' letter. Further, Mr Robinson's statement is peculiarly specific to written complaints, but does not address why the Railway failed to act on the array of verbal complaints that had also been made about Whitehead. Given the investigation did not identify how the Railway recorded telephone calls or verbal complaints, how these records were retained, or if they were recorded at all, it is not possible to determine how many times allegations were made against Whitehead. However, it is highly improbable that the investigation identified the full extent of such interactions.

735. Allegations concerning Whitehead's child sexual offending were known by senior members of Puffing Billy many years earlier than Mr Robinson has publicly claimed. The Railway had the opportunity to prevent Whitehead from becoming more actively involved in 1976 after he left the ARHS; Mr A'Vard and Mr Wymond could have ended his rise to the role of Society Secretary in the late 1970s; Mr Robinson and Mr Wymond could have acted decisively when Whitehead was confronted in 1985; and Mr A'Vard and Mr Robinson could have ensured that he did not continue to be actively involved in the years leading up to his forced resignation in 1991. The investigation is satisfied that the action taken by Puffing Billy in response to allegations against Whitehead during his involvement was designed to protect the Railway's reputation. The children who, driven by their enthusiasm for trains, volunteered with the Railway were of little significance.

Governance

736. Between 1977–2002, all three levels of Puffing Billy management were controlled by the Society Executive Committee. This afforded a group of volunteers unfettered control over all aspects of the Railway's operations including management of memberships, personnel and complaints. The Society also made decisions on Whitehead's involvement with Puffing Billy without involving an independent party. Decisions about Whitehead's involvement were not discussed with non-Society members of the Board, and any subsequent actions were not authorised by the Board as a whole.

737. The composition of the Board in accordance with the Emerald Tourist Railway Act enabled the Society to achieve this level of control without appropriate scrutiny. The provisions contained in the ETR Act do not ensure the independence of Board members and, in fact, facilitate the appointment of a majority of members who have inherent conflicts of interest.

The investigation is satisfied that the action taken by Puffing Billy in response to allegations against Whitehead during his involvement was designed to protect the Railway's reputation. The children who, driven by their enthusiasm for trains, volunteered with the Railway were of little significance.

738. Each member of the Committee of Management between 1977–2002 was an officer of the Board, and therefore an officer of a public entity with associated governance obligations. Whitehead was a public officer from November 1980 to September 1985, when he sat on the Committee of Management, and again when he was the Board's Archives Officer from July 1986 up to his forced resignation in August 1991. He was not simply a volunteer at Puffing Billy when he offended against multiple children; he was a public officer.

739. Mr Robinson's concurrent membership of the Society also gives rise to a conflict that should be reviewed. Since 2014, he has been responsible for providing advice to a range of State and Federal bodies about Puffing Billy's handling of historical child sexual offending. This advice has, in one case, supported Puffing Billy's bid for government funding. Given Mr Robinson's direct involvement in the historical matters, his provision of this advice without independent scrutiny represents a serious conflict of interest.

740. The investigation is satisfied that Mr Robinson had, and continues to have, a vested interest with respect to the issues at the heart of this investigation. His ability to recognise where one responsibility ends and the other begins has been compromised. In making representations about his knowledge of Whitehead's offending, Mr Robinson has not acted in the interests of victims.

741. Based on the varied and often limited responses provided by Puffing Billy to the various enquiries it received since 2014, Mr Robinson – as the person responsible for producing these responses – did not provide an accurate and fulsome response in each case.

742. Puffing Billy's failure to provide full and accurate information about historical child sexual offending at the Railway to victims, the Royal Commission, government bodies and the media has significantly compromised the ability of victims to achieve reparation. In doing so, Puffing Billy has exacerbated the devastating and ongoing impact of child sexual abuse on these people and denied them their right to 'satisfaction' – that is, the verification of facts, public disclosure of truth and public apologies.

743. In response to the Ombudsman's draft report, Mr Robinson's legal representative said:

[The report states] that Mr Robinson had and continues to have a conflict of interest ... Those passages are simply not supported by the evidence. The best that can be said of the evidence is that Mr Robinson either could not recall the 1985 events, or had conflated the 1985 and 1991 events. He was providing a full and frank account to the best of his recollection and knowledge. His recollection has been shown to be inaccurate. This is unsurprising given the passage of time.

[The report] finds that 'Puffing Billy has exacerbated the devastating and ongoing impact of child sexual abuse' by Mr Robinson's failure to provide full and accurate information in response to various enquiries since 2014. However, the report should confirm that this is due to inadvertence and the imperfection of memory due to the passing of time ... rather than a deliberate strategy ...

At all material times Mr Robinson, as a director of the Board, was nominated in accordance with the [Emerald Tourist Railway Act 1977 (Vic)] and with the consent of the Governor-in-Council. Irrespective of whether he was appointed by the Minister, the Board or by the Society, he was bound by usual directors' duties and obligations conferred by the ETR Act and attended Board meetings and otherwise conducted his directors' duties as a director of the Board, not as a member or office bearer of the Society. It is commonplace for boards, particularly in relation to public authorities, to comprise representatives of various stakeholders but nonetheless, it is the obligation of every Board member carrying out directors' duties to act in the interests of the entity, in this case the Emerald Tourist Railway, and not in the interests of the nominating body.

Other offenders

744. The investigation did not set out to comprehensively examine the history of child sexual offending at Puffing Billy. However, it is clear that Whitehead was not the only adult who met, groomed and offended against young volunteers at the Railway.
745. Anthony Hutchins, just like Whitehead, joined Puffing Billy and projected himself as a credible, hardworking and valuable volunteer. He rose to prominence by joining the Society Executive Committee on the premise that he was a capable track worker interested in working with young people. That interest was more sinister.
746. Despite the ban and subsequent restrictions that were imposed on Hutchins between 1979–80, and the seemingly related letter from an adult volunteer, the investigation is unable to conclude that these restrictions were triggered by allegations of child sexual abuse.
747. However, the missing minutes from Executive Committee Meetings between June 1979 and January 1980 are a conspicuous absence given the investigation located records from immediately before and after this period, and bound volumes from every other point in time. It is possible that they were purposely removed to conceal why Hutchins was banned and the nature of the ‘disturbing and conflicting rumours’ that an adult volunteer had heard. However, the investigation cannot verify this hypothesis.
748. Despite his track-work ban, Hutchins was not stood down from the Society Executive Committee. Immediately after his restrictions were lifted, he was reinstated to a managerial role, supervised overnight stays and was given unfettered access to children. This proved a tragic course of events, and he offended against at least six children in the years that followed.
749. The circumstances that led Lon Wymond and John Robinson to confront Hutchins in August 1985 are not entirely clear. Robert Hugh Wilson was informed of allegations against Hutchins in June 1985, but Hutchins was not confronted until two months later despite three of the most senior members at Puffing Billy – Philip A’Vard, Mr Robinson and Mr Wymond – each being aware of those allegations. Hutchins did not resign until the end of August, and nobody from Puffing Billy made police statements until October.
750. What is clear is that Puffing Billy made no attempt to report the matter to police. Based on evidence available to the investigation, those children who did complain about Hutchins – and in some instances also about Whitehead – either had their pleas ignored or were cast out. The interests of the Railway were put above the interests of the child victims.
751. While there were no mandatory reporting requirements at the time, young victims with valid complaints about sexual abuse were punished by the Railway and forced to seek justice for themselves, while steps were taken to protect the reputation of the alleged offenders and the Railway.
752. The investigation obtained evidence that allegations concerning Hutchins may have been withheld from Mr Wymond for almost one year before Hutchins was ultimately confronted. However, Mr Wymond is deceased and there is insufficient evidence to make a conclusion in this regard.
753. Regarding Adult 1 and Adult 2, Puffing Billy did act during the 1960s to separate them from children by prohibiting their further involvement with the Schools’ Section. However, this action was far from absolute. Both men were welcome in any other section of the Railway, and there is no evidence that Puffing Billy reported the matters to police.

754. Action was taken against Adult 1 and Adult 2 with very little evidence. Yet Whitehead – about whom there had been prolific rumour and a police investigation into allegations known by the most senior members of Puffing Billy – was permitted to remain at the Railway with no sanctions in place. On balance, the investigation is satisfied that Puffing Billy chose to ignore the threat that Whitehead posed to young children for fear of losing his contribution as a valuable volunteer.

755. In response to the Ombudsman’s draft report, Mr A’Vard’s legal representative stated:

He is very disappointed that you have determined to make ‘adverse comments’ about him in your report particularly as the complaints that are at the origin of your investigation were investigated by the police who laid no charges against Mr Whitehead.

756. Mr Robinson’s legal representative stated in response to the Ombudsman’s draft report:

... in 1985 at least Mr Robinson, Mr Wymond and Mr Robert Wilson had discussed the matter with police and Mr Robinson and Mr Wymond had assisted with statements. It should also be noted that it is conceivable that the organisation, as with many others at the time, was reliant on the outcome of police and law enforcement procedures to assist informing it as to the allegations and risks posed. Further, as there is no evidence of Mr Whitehead offending post-1985, it appears that appropriate measures and surveillance were in fact put in place, but with the passing of time evidence of what they were does not remain.

... Clearly, the evidence supports a finding that on 24 October 1985, Mr Robinson was aware of allegations concerning Mr Whitehead. However, the fact that in 2018, a 73 year old man’s memories of 1985 (33 years previous) and 1991 (27 years previously) were conflated or confused is entirely unremarkable.

...

Whilst the passage of time has unsurprisingly affected Mr Robinson’s memory, there is no evidence, and it should not be suggested, that he had any intention of providing inaccurate information. The fact of assisting the police in 1985 stands squarely against any suggestion that he is the sort of person who would mislead the authorities or conceal information on such matters. The Ombudsman should not find that Mr Robinson recalls the 1985 confrontation with Mr Whitehead when the only witness capable of answering that is Mr Robinson himself – he is clear that he has no memory but he does not suggest it did not occur. He has remained consistent throughout this process that he has no recollection of the 1985 confrontation with Mr Whitehead – even in the face of the police statement.

...

... The lack of evidence of offending post-1985 suggests that appropriate, albeit informal, measures were put in place. Further, and particularly given the passing of time, the evidence does not support the Ombudsman delineating the order in which the entities regarded particular interests.

757. I accept that the passage of time has affected Mr Robinson’s ability to clearly recall the events of 27 and 33 years ago. However, given that he clearly recalls reacting with ‘absolute horror’ in 1991, I find it difficult to accept that he could not recall the similar events of only six years earlier, when he made a statement to police in 1985.

758. Mr Robinson correctly identifies that some of the most senior members at Puffing Billy discussed allegations of Whitehead's offending with police or made formal statements in 1985. However, at no point in the six years leading up to Whitehead's forced resignation in 1991 did any of these men attempt to clarify the status of the police investigation. If the Railway was, indeed, reliant on the outcome of the police investigation to provide information about the allegations against Whitehead and the risks he posed, it would be entirely logical to follow-up with the investigating officer. In any case, the Railway already knew the precise allegations that had been made, and there was nothing precluding them from taking their own steps in response.

759. The investigation rejects Mr Robinson's assertion that because Whitehead was not convicted of any offences post 1985, that 'appropriate measures' were put in place to prevent him from offending at Puffing Billy in the six years before he was forced to resign in 1991. There is no evidence that even 'informal' measures were put in place, as claimed by Philip A'Vard; and Mr Robinson's response to the Ombudsman's draft report directly contradicts his statement at interview when he agreed that Puffing Billy failed to take appropriate action to prevent Whitehead from offending further.

760. Mr Robinson's suggestion that there is no evidence of Whitehead offending post 1985 is tenuous at best, given that he confronted Whitehead and saw fit to force his resignation from Puffing Billy after further allegations of child sexual abuse were raised in 1991.

761. The attitudes expressed by Mr Robinson show a profound lack of understanding about the seriousness of the trauma caused by child sexual offending. One need only note that it was not until 2015 that Whitehead was convicted for 24 child sexual offences from as early as the 1960s, to recognise that many survivors do not report their offender until decades after the offending took place. Others, who did report their offending at the time, often found they were ignored or that the matter would not be brought before the courts; and sadly, in some cases, the offender is never reported.

Volunteering with the Australian Railway Historical Society

762. The investigation established a clear chronology of Whitehead's involvement with the Australian Railway Historical Society (ARHS). The similarities with his subsequent volunteering at Puffing Billy are particularly striking.

763. Whitehead cultivated a credible persona and made himself invaluable to the organisation, despite there having been consistent rumours of his predatory behaviour from an early stage. What is now known is these were far more than just rumours: Whitehead had already offended against Person F before he became Secretary in 1968.

764. Based on the evidence available to the investigation, it is not possible to conclusively determine that individual members of the ARHS Executive Council were aware of Whitehead's offending at specific points during his tenure.

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765. However, it is inconceivable that those same members were not aware of rumours, allegations and innuendo about Whitehead's offending at the time. The ARHS failed to take decisive action to remove him from the organisation and showed a clear preference for retaining the volunteer services of a sexual predator whose skills and expertise were held in high regard rather than protecting its young members.
766. The true reasons for Whitehead's resignation as ARHS Secretary remain shrouded in secrecy judging by official records alone. However, from witness evidence the investigation found that it was more of a forced removal due to allegations of child sexual offending.
767. After years of rumour and child sexual offending for which he was convicted in 2015, Whitehead was forced to leave the position of ARHS Secretary under the same cloud as he did at Puffing Billy almost 15 years later. His pattern of offending was undeniable. Yet, just like at Puffing Billy, his legacy was praised.
768. In almost exactly the same way as Puffing Billy, the ARHS thought it would suffice to transition Whitehead into a different administrative role, and 'quarantined' him in the ARHS archives. However, this move proved futile as the rumours persisted and Whitehead's guilty plea in 2015 confirmed that his offending continued. Wayne Clarke was abused in the ARHS Archives Room at Windsor Railway Station.
769. Whitehead's reputation, particularly among young ARHS members, was that he was to be avoided at all costs. Any efforts to raise concerns about his conduct were treated with contempt. The evidence indicates that at least three senior ARHS members were made aware of allegations about Whitehead, but failed to take any action.
770. That two former ARHS Presidents have separately come to the same conclusion that the organisation was aware of allegations concerning Whitehead and a 'network of offenders', but failed to take decisive action to protect its young members at the time speaks volumes.
771. The only time that young members of the ARHS were safe from Whitehead's horrific crimes was when he left for Puffing Billy, and, as the investigation is now aware, this only changed the location of Whitehead's grooming. However, this came several years after the ARHS had first discussed the allegations, and more than a decade after two children told several members of its Executive Council.
772. The investigation did not identify direct evidence that individuals concurrently involved with Puffing Billy and the ARHS were aware of the reasons for Whitehead's removal as ARHS Secretary at the time his involvement with Puffing Billy increased. However, based on the number of mutual memberships, the evidence of rumours that infiltrated the ranks of both organisations, witness evidence from two former ARHS Presidents, and John Hearsch's recollection of discussing Whitehead's 'untoward behaviour' at Puffing Billy during the 1960s or 1970s, it is inconceivable that knowledge of allegations concerning Whitehead's sexual offending against children did not follow him as he moved freely from one organisation to the next.
773. In response to the Ombudsman's draft report, the ARHS stated, 'ARHS Vic now has in place rules which should preclude a similar situation arising.'

Opinion

774. On the basis of the evidence obtained by the investigation, the Emerald Tourist Railway Board – Puffing Billy – acted in a manner that is unreasonable, unjust and wrong, pursuant to section 23(1) of the Ombudsman Act, in failing to:

- consider the rumours and reports of Whitehead's offending against children in deciding to appoint him as Secretary of the Puffing Billy Preservation Society in 1980
- consider whether it was appropriate for Whitehead to remain involved with the Railway or whether he posed an ongoing risk to young volunteers following the police investigation in 1985
- put any mechanisms in place to monitor Whitehead's conduct or restrict his access to children
- take any action following William Elms' letter, and instead upholding his ban from the Railway
- record any contact with victims who came forward, internally investigate any allegations, or report the matter to police
- exclude Whitehead from the Railway until at least six years after its most senior members were approached by several victims who claimed they had been sexually abused by Whitehead.

Recommendations

775. While this investigation is specifically concerned with the actions or inaction of a small number of current or historical Victorian government agencies associated with the railways, it raises many issues that have already been the subject of intensive consideration.
776. The Royal Commission into Institutional Responses to Child Sexual Abuse reported in December 2017 following a five-year inquiry. The report not only laid bare the scale of the national tragedy of children abused in institutional settings – more than likely for generations – and the failings of both institutions and governments to respond to that abuse; but also exposed the impact of those failings as well as the societal attitudes that allowed so much abuse to continue unchecked.
777. Importantly, the Royal Commission made a series of recommendations for governments and institutions to better protect children and to respond to the needs of survivors. These include preventative measures, in particular, Child Safe Standards which should be adopted by all institutions involving children; as well as a National Redress Scheme to help people who experienced child sexual abuse.
778. The Victorian Government announced in March 2018 that Victoria will join the scheme, which is intended to provide:
- access to psychological counselling
 - a direct personal response, such as an apology from the responsible institution for people who want it
 - a monetary payment, to be assessed on a case-by-case basis, not as compensation but to acknowledge the harm caused.
779. This is a national issue, and the Bill currently before the House of Representatives regarding the scheme falls short of implementing several of the Royal Commission's recommendations in full. These limitations do not affect Victoria in isolation, but every State and Territory that joins.
780. I welcome the steps the Victorian Government has already taken to deal with this stain on our conscience, which should also benefit the survivors of abuse by Robert Whitehead and other perpetrators associated with Puffing Billy. The recommendations that follow reflect, and build on, this commitment, although more needs to be done to see full implementation.

To the Minister for Tourism and Major Events

Recommendation 1

Apologise publicly to Wayne Clarke and any other victim of Robert Whitehead, for the current and historical actions of government agencies who individually or collectively failed to protect children from sexual abuse.

Recommendation 2

Review the current structure and composition of the Emerald Tourist Railway Board in light of its responsibility as a government agency, and the governance issues associated with its relationship with the Puffing Billy Preservation Society.

Minister's response:

I acknowledge and commend you for your thorough and diligent work in relation to this important and sensitive matter which sheds light on these tragic events. This report will help bring closure for the victims and help guide government to improve processes and procedures in relation to how we can better protect children.

I am grateful for the opportunity to review the draft report and its conclusions and recommendations. I understand that the Department of Economic Development, Jobs, Transport and Resources has had several discussions with your office and that refinements to strengthen the recommendations have occurred as a result of those discussions.

I wish to advise that I accept in full all the final recommendations that you have directed to me and I have requested that the department manages and oversees their implementations as soon as possible. I have also instructed the department to ensure that your office is provided with appropriate reporting on the implementation of the recommendations.

To the Department of Economic Development, Jobs, Transport and Resources

Recommendation 3

Ensure that the Child Safe Standards (at Appendix A) are implemented by the Emerald Tourist Railway Board and commission a review by the Commission for Children and Young People on the progress of implementation within 12 months of this report.

Recommendation 4

Establish a unit to assist members of the public who claim to have experienced child sexual abuse perpetrated by an adult member of Puffing Billy to seek redress in accordance with the principles established by the Royal Commission.

Recommendation 5

Facilitate, as far as practicable and in accordance with law, access to any relevant documentation held by or accessible to the department, for members of the public who claim to have experienced child sexual abuse.

Department's response:

I accept in full all of the final recommendations that you have directed to the Department of Economic Development, Jobs, Transport and Resources. My department will direct and oversee the implementation of those recommendations.

To the Emerald Tourist Railway Board

Recommendation 6

Apologise publicly to any volunteer at Puffing Billy who became a victim of child sexual abuse perpetrated either by Robert Whitehead or any other adult member of Puffing Billy.

Recommendation 7

Implement the Records and Recordkeeping Principles (at Appendix B) to ensure documents are preserved and individuals can access records about themselves.

Recommendation 8

Implement the Royal Commission's Child Safe Standards to ensure that the best interests of children are a primary consideration.

Recommendation 9

Review the continued suitability of John Robinson as the Chief Executive Officer of the Puffing Billy Railway.

Board's response:

The Board accepts the findings and recommendations of the Ombudsman.

The Board's response to the Ombudsman's draft report is at Appendix C.

Appendix A

Child Safe Standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse

What makes institutions safer for children

Recommendation 6.4

All institutions should uphold the rights of the child. Consistent with Article 3 of the United Nations Convention on the Rights of the Child, all institutions should act with the best interests of the child as a primary consideration. In order to achieve this, institutions should implement the Child Safe Standards identified by the Royal Commission.

Recommendation 6.5

The Child Safe Standards are:

1. Child safety is embedded in institutional leadership, governance and culture
2. Children participate in decisions affecting them and are taken seriously
3. Families and communities are informed and involved
4. Equity is upheld and diverse needs are taken into account
5. People working with children are suitable and supported
6. Processes to respond to complaints of child sexual abuse are child focused
7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training
8. Physical and online environments minimise the opportunity for abuse to occur
9. Implementation of the Child Safe Standards is continuously reviewed and improved
10. Policies and procedures document how the institution is child safe.

Recommendation 6.6

Institutions should be guided by the following core components when implementing the Child Safe Standards:

Standard 1: Child safety is embedded in institutional leadership, governance and culture

- a. The institution publicly commits to child safety and leaders champion a child safe culture.
- b. Child safety is a shared responsibility at all levels of the institution.
- c. Risk management strategies focus on preventing, identifying and mitigating risks to children.
- d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children.
- e. Staff and volunteers understand their obligations on information sharing and recordkeeping.

Standard 2: Children participate in decisions affecting them and are taken seriously

- a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives.
- b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated.
- c. Children can access sexual abuse prevention programs and information.
- d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns.

Standard 3: Families and communities are informed and involved

- a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child.
- b. The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible.
- c. Families and communities have a say in the institution's policies and practices.
- d. Families and communities are informed about the institution's operations and governance.

Appendix A – continued

Standard 4: Equity is upheld and diverse needs are taken into account

- a. The institution actively anticipates children’s diverse circumstances and responds effectively to those with additional vulnerabilities.
- b. All children have access to information, support and complaints processes.
- c. The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.

Standard 5: People working with children are suitable and supported

- a. Recruitment, including advertising and screening, emphasises child safety.
- b. Relevant staff and volunteers have Working With Children Checks.
- c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations.
- d. Supervision and people management have a child safety focus.

Standard 6: Processes to respond to complaints of child sexual abuse are child focused

- a. The institution has a child-focused complaint handling system that is understood by children, staff, volunteers and families.
- b. The institution has an effective complaint handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report.
- c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.

Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training

- a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse.
- b. Staff and volunteers receive training on the institution’s child safe practices and child protection.
- c. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures.

Standard 8: Physical and online environments minimise the opportunity for abuse to occur

- a. Risks in the online and physical environments are identified and mitigated without compromising a child's right to privacy and healthy development.
- b. The online environment is used in accordance with the institution's code of conduct and relevant policies.

Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved

- a. The institution regularly reviews and improves child safe practices.
- b. The institution analyses complaints to identify causes and systemic failures to inform continuous improvement.

Standard 10: Policies and procedures document how the institution is child safe

- a. Policies and procedures address all Child Safe Standards.
- b. Policies and procedures are accessible and easy to understand.
- c. Best practice models and stakeholder consultation inform the development of policies and procedures.
- d. Leaders champion and model compliance with policies and procedures.
- e. Staff understand and implement the policies and procedures.

Appendix B

Records and Recordkeeping Principles recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse

Volume 8, *Recordkeeping and information sharing* recommendations

Records and recordkeeping

Minimum retention periods

Recommendation 8.1

To allow for delayed disclosure of abuse by victims and take account of limitation periods for civil actions for child sexual abuse, institutions that engage in child-related work should retain, for at least 45 years, records relating to child sexual abuse that has occurred or is alleged to have occurred.

Recommendation 8.2

The National Archives of Australia and state and territory public records authorities should ensure that records disposal schedules require that records relating to child sexual abuse that has occurred or is alleged to have occurred be retained for at least 45 years.

Recommendation 8.3

The National Archives of Australia and state and territory public records authorities should provide guidance to government and non-government institutions on identifying records which, it is reasonable to expect, may become relevant to an actual or alleged incident of child sexual abuse; and on the retention and disposal of such records.

Records and recordkeeping principles

Recommendation 8.4

All institutions that engage in child-related work should implement the following principles for records and recordkeeping, to a level that responds to the risk of child sexual abuse occurring within the institution.

Principle 1: Creating and keeping full and accurate records relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture.

Institutions that care for or provide services to children must keep the best interests of the child uppermost in all aspects of their conduct, including recordkeeping. It is in the best interest of children that institutions foster a culture in which the creation and management of accurate records are integral parts of the institution's operations and governance.

Principle 2: Full and accurate records should be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse.

Institutions should ensure that records are created to document any identified incidents of grooming, inappropriate behaviour (including breaches of institutional codes of conduct) or child sexual abuse and all responses to such incidents.

Records created by institutions should be clear, objective and thorough. They should be created at, or as close as possible to, the time the incidents occurred, and clearly show the author (whether individual or institutional) and the date created.

Principle 3: Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately.

Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained in an indexed, logical and secure manner. Associated records should be collocated or cross-referenced to ensure that people using those records are aware of all relevant information.

Principle 4: Records relevant to child safety and wellbeing, including child sexual abuse, should only be disposed of in accordance with law or policy.

Records relevant to child safety and wellbeing, including child sexual abuse, must only be destroyed in accordance with records disposal schedules or published institutional policies.

Records relevant to child sexual abuse should be subject to minimum retention periods that allow for delayed disclosure of abuse by victims, and take account of limitation periods for civil actions for child sexual abuse.

Principle 5: Individuals' existing rights to access, amend or annotate records about themselves should be recognised to the fullest extent.

Individuals whose childhoods are documented in institutional records should have a right to access records made about them. Full access should be given unless contrary to law. Specific, not generic, explanations should be provided in any case where a record, or part of a record, is withheld or redacted.

Individuals should be made aware of, and assisted to assert, their existing rights to request that records containing their personal information be amended or annotated, and to seek review or appeal of decisions refusing access, amendment or annotation.

Appendix C

Emerald Tourist Railway Board's response to the Ombudsman's draft report, 12 June 2018



EMERALD TOURIST RAILWAY BOARD

ABN 99 299 638 143

OPERATOR OF VICTORIA'S FAMOUS PUFFING BILLY

12 June 2018

Ms Deborah Glass, OBE
Victorian Ombudsman
Level 2
570 Bourke Street
Melbourne VIC 3000

Dear Ms Glass

Ombudsman's investigation into the Victorian Railway, its successor organisations and associated rail entities, and convicted child sex offender, Robert Whitehead

I refer to the draft Ombudsman's report provided to the Emerald Railway Tourist Board (**Board**). Thank you for the opportunity to respond.

The Board's primary goal is to support the victims of child sexual abuse perpetrated by any adult member of Puffing Billy Preservation Society (**PBPS**) against its youth members. In addition to this primary goal, the Board accepts the findings and recommendations of the Ombudsman.

In responding to the draft report, the Board has responded to the recommendations in the draft Ombudsman's report and to a separate set of four recommendations provided by [REDACTED] to the Board's lawyers, PwC, on Thursday, 7 June 2018.

Whilst the Board acknowledges that recommendations 2, 3, 4 and 5 are directed to the Minister for Tourism and the Department of Economic Development, Jobs, Tourism and Resources, the Board makes the following observations in addition to any response that the Minister or the Department may make.

Recommendation 2

Review the current structure and composition of the Emerald Tourist Railway Board in light of its responsibility as a government agency, and the governance issues associated with its relationship with the Puffing Billy Preservation Society.

The Board welcomes the opportunity to work with the Minister and government in order to review and revise the structure of the Board and to review and revise the governance and relationship with the PBPS.

Recommendation 3

Ensure that the Child Safe Standards (at Appendix A) are implemented by the Emerald Tourist Railway Board and commission a review by the Commission for Children and Young People on the progress of implementation within 12 months of this report.

The Board has already commenced a process to implement the Child Safe Standards by the Board and the PBPS.

The Board will work with the Department as required in order to implement these Standards and in relation to a review of progress of implementation within 12 months of the Ombudsman's report.

Recommendation 4

Establish a unit to assist members of the public who experienced child sexual abuse as a volunteer with Puffing Billy to seek redress in accordance with the principles established by the Royal Commission.

The Board will work with the Department as required by the Department, in relation to assisting all victims of child sexual abuse perpetrated by adult members of the PBPS against its youth members.

In addition, the Board intends to:

- Make an unreserved public apology to victims of child sexual abuse perpetrated by adult members of the PBPS against its youth members;
- Where the victim is known, make an unreserved private apology to victims of Robert Whitehead and Anthony Hutchins; and
- Provide information to victims about any redress scheme once implemented.

Recommendation 5

Facilitate access to relevant documentation from Puffing Billy's archives to those wishing to seek compensation through the courts.

The Board is committed to granting full access to its documents and to documents of the PBPS.

The Board will work with the Department as required by the Department to facilitate this access.

Recommendation 6

Apologise publicly to any volunteer at Puffing Billy who became a victim of child sexual abuse perpetrated either by Robert Whitehead or any other adult member of Puffing Billy.

The Board accepts this recommendation and intends to implement this as soon as practicable.

Recommendation 7

Implement the Records and Recordkeeping Principles (at Appendix B) to ensure that documents are preserved and individuals can access records about themselves.

The Board accepts this recommendation and intends to implement these principles. The Board will take advice from relevant experts about how to implement the principles, and as stated above in respect of recommendation 5, will work with the Department in this process.

Recommendation 8

Implement the Royal Commission's Child Safe Standards to ensure that the best interests of children are a primary consideration.

The Board restates its response to recommendation 4 above. The Board has already commenced a process to implement the Child Safe Standards by the Board and the PBPS.

The Board will work with the Department as required in order to implement these Standards and in relation to a review of progress of implementation within 12 months of the Ombudsman's report.

Recommendation 9

Review the continued suitability of Mr Robinson as the Chief Executive Officer of the Puffing Billy Railway.

The Board accepts this recommendation and can advise the Ombudsman of the following.

Appendix C – continued

Mr John Robinson is employed as the Chief Executive Officer of the Board pursuant to a contract of employment dated 1 April 2016. The contract is for a fixed period expiring on 30 June 2018.

In or about September 2017, the Board and Mr Robinson entered into negotiations for the extension of the period of employment for a further 9 months. This negotiation took place prior to the concerns being raised through the process with the Ombudsman and the contract extension was agreed to by the Board (subject to written documentation and the proper process for a contract extension being followed).

On 24 April 2018, following concerns of the Board about the actions of Mr Robinson in his capacity as Chief Executive Officer, Mr Robinson was stood aside on full pay pending a formal investigation into his actions. The allegations against Mr Robinson included that he had misled the Board, particularly in relation to information given to the Board during the Ombudsman's investigation.

The Board appointed an external investigator for the purpose of conducting the investigation into allegations against Mr Robinsons.

During the investigation, and prior to the investigator putting the allegations to Mr Robinson, Mr Robinson advised the Board that he withdrew his offer to have his contract period extended and advised that he would cease employment on 30 June 2018. Mr Robinson further advised that he was not in a fit state of health to undertake the role of Chief Executive Officer.

Based on Mr Robinson's ill-health and the cessation of his employment on 30 June 2018, the Board took no further action in relation to the investigation and chose to await the outcome of the Ombudsman's report.

Following receipt of the draft Ombudsman's report by the Board, the Board has determined that the findings against Mr Robinson amount to serious misconduct and may justify summary dismissal. The Board has commenced a process to put the findings by the Ombudsman to Mr Robinson for his response.

Following receipt of any response from Mr Robinson, the Board will consider whether Mr Robinson's employment should be terminated forthwith.

The Board is committed to providing an environment where our volunteers and paid staff are safe. The Board is a volunteer board and it takes this responsibility seriously. We intend to work tirelessly to redress these issues and to earn the trust of the community.

If there are matters that the Ombudsman wishes to discuss at any time, please do not hesitate to contact me.

Yours sincerely



Jacquie Frentice
Deputy Chair



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February 2015

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October 2014

Investigation into allegations of improper conduct in the Office of Living Victoria

August 2014

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