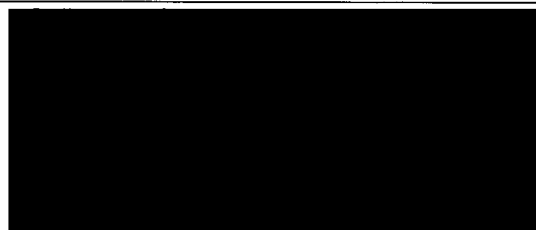


**IN THE MATTER OF THE ROYAL COMMISSION
INTO FAMILY VIOLENCE**

STATEMENT OF JANICE MARGARET SHUARD

Date of Document: 27 July 2015
Filed on behalf of: State of Victoria
Prepared by:
Victorian Government Solicitor's Office
Level 33
80 Collins Street
Melbourne VIC 3000



I, JANICE MARGARET SHUARD, Commissioner of Corrections Victoria, SAY AS
FOLLOWS:

1. I am the Commissioner of Corrections Victoria (**Corrections**). I have held this position since December 2012, having acted in the position since May 2012. Prior to this, I was the Deputy Commissioner of Offender Management within Corrections and had responsibility for the Sex Offender Management Branch, offender programs, sentence management and secretariat of the Adult Parole Board.
2. As Commissioner of Corrections, I am responsible for the administration of the *Corrections Act 1986* (Vic.) and leading and directing the Victorian correctional system. My key responsibilities include implementing government policy, setting policy and standards, setting operational frameworks and monitoring and evaluating the performance of correctional services across Victoria.
3. I make this statement in my capacity as Commissioner of Corrections.
4. I commenced my career in the correctional system in 1984 as a prison officer in Western Australia. Since then I have had over 30 years experience in various roles, including leadership roles within prisons and juvenile justice settings, both in Victoria and Western Australia. Between 2004 and 2006, I was the Director of the Corrections Inspectorate and had responsibility for independent monitoring and reporting on Corrections.

SCOPE OF STATEMENT

5. I have received a notice from the Royal Commission into Family Violence pursuant to s 17(1)(d) of the *Inquiries Act 2014* (Vic.) requiring me to attend to give evidence at the Royal Commission and to provide a written witness statement.
6. In this statement I respond to a request by the Royal Commission for information regarding Module 14 (Criminal Justice Response).
7. I understand that the Royal Commission is particularly interested in:
 - 7.1 facts and figures in relation to community based sentences and custodial sentences;
 - 7.2 the limitations in offering family violence programs to prisoners;
 - 7.3 the family violence programs that are offered to women prisoners who are victims or perpetrators of family violence;
 - 7.4 the nature of case management for offenders on a community correction order (CCO); and
 - 7.5 how decisions are made by Corrections to issue proceedings where an offender breaches a CCO.
8. I am aware that Deputy Commissioner Andrew Reaper has filed a witness statement dated 17 July 2015 which provides information about men's behavioural change programs, other programs offered to prisoners and offenders on CCOs as well as certain new family violence initiatives of Corrections. I refer the Royal Commission to Deputy Commissioner Reaper's statement for information about those matters

FACTS AND FIGURES

Community based sentences

9. In the 2014-15 financial year, 13,716 CCOs were registered by Corrections. 12,550 registered CCOs originated in the Magistrates' Court and 1,166 originated in the higher courts. This represents a 36 per cent increase from 2013-14, when 10,089 orders were registered (9,389 from the Magistrates' Court and 700 from the higher courts).

- 3 -

10. The average length of supervised CCOs over 2014-15 was 14.5 months, reducing to 13.8 months when unsupervised orders are included. A CCO is supervised when the Court attaches any condition other than solely community work, thus requiring a Community Corrections Officer to actively supervise the order.
11. We do not presently have data that shows the proportion of offenders on CCOs who have been sentenced for family violence related offences. Presently the information we receive when an offender is sentenced does not always indicate if their offence is family violence related. I address this limitation at paragraphs 16 to 25 below.

Custodial sentences

12. In the 2014-15 financial year, there were 5,169 sentenced prisoner receptions. This figure is similar to 2013-14, where there were 5,104 sentenced prisoner receptions. This data includes prisoners who were sentenced during the reference year, irrespective of whether they had previously been held on remand, and includes prisoners who were received into custody for cancellation of parole.
13. The number of these prisoners who had a violent offence as their most serious offence (including aggravated burglary and robbery, but excluding sex offences) at sentencing was 1,231, while 978 prisoners were flagged as a serious violent offender (within the meaning of s 77 of the *Corrections Act 1986* (Vic.)) during the same period.
14. From the 5,169 prisoners who were sentenced in 2014-15, the average effective sentence length (taking into account non-parole periods) was 10.6 months (or 322 days).
15. We do not presently have data that shows the percentage of these offenders who were sentenced for family violence related offences. I refer to this limitation immediately below.

CHALLENGES IN OFFERING PROGRAMS IN PRISON

Challenges in identifying family violence perpetrators

16. In many instances, family violence is not disclosed in information provided to Corrections about an offender when they enter the prison system.

- 4 -

17. As Deputy Commissioner Reaper stated during his oral evidence before the Royal Commission on 24 July 2015, the three main sources of information provided to Corrections which might reveal that a prisoner has engaged in family violence are:
 - 17.1 self-disclosure by a prisoner;
 - 17.2 externally provided information in the form of a judge's sentencing remarks and police summaries; and
 - 17.3 an offender's criminal history.
18. Self-disclosure can occur through the risk assessment process that is conducted when an offender enters prison. However, for the reasons I describe from paragraph 38 below, prisoners can be reluctant to divulge that they have perpetrated family violence.
19. In terms of externally provided information, when an offender is sentenced, Corrections will receive offence and offender information in the form of judges' sentencing remarks (where available) and police summaries.
20. A judge's sentencing remarks are the means by which offence information is obtained for prisoners and offenders who are sentenced in the higher courts (i.e. the County and Supreme Courts).
21. As I refer to at paragraph 41 below, the majority of prisoners sentenced each year receive a custodial term of less than 12 months and are sentenced by the Magistrates' Courts. Magistrates are not required to produce written sentencing remarks.
22. Accordingly, police summaries are the means by which offence information is obtained for prisoners and offenders who are sentenced in the Magistrates' Court. The summaries are utilised throughout the case management process, and are provided to other business units within Corrections as required.
23. However, police summaries do not always disclose that an offender has perpetrated family violence as clearly as judge's sentencing remarks do. Sentencing remarks are more likely to identify the individual as having engaged in family violence given the additional level of detail.

24. Copies of prisoner and offender criminal histories are available to Corrections staff through the internal E*Justice system, which has linkages with the Victoria Police Law Enforcement Assistance Program (LEAP) database.
25. Where an offender has previously been found guilty of a family violence offence (e.g. breach of intervention order), this will be visible on their criminal history. However, the context in which the offending occurred (i.e. whether an assault was against a family member) will not.

Other ways of accessing information

Accessing intervention order information

26. Access to intervention order information is also an important source of information in identifying family violence perpetrators. There are currently no automated systems for the sharing of family violence information between Corrections and other agencies. This includes the exchange of information relating to intervention orders.
27. Corrections has been working with Victoria Police to develop an IT solution that will provide staff across the system with access to up to date intervention order information for prisoners and offenders who are under the supervision of Corrections. Work on this solution continues, with a current projected completion date during the first half of the 2016 calendar year.
28. In the absence of a full IT solution, Corrections and Victoria Police have worked together to develop a manual process. This commenced formally in January 2012, with Corrections sending manual requests to the Victoria Police Prisons Intelligence Unit to check information regarding prisoner/offender intervention orders. Staff from the Victoria Police Prisons Intelligence Unit are embedded within the Corrections Intelligence Unit. The information sharing arrangements allow for the Corrections Intelligence Unit staff to have access to Victoria Police's LEAP database, where information pertaining to intervention orders is stored.
29. Corrections Intelligence Unit staff can then manually interrogate individual prisoner/offender records in LEAP and conduct searches to determine whether a prisoner or offender is subject to, or the victim of, a current intervention order, or whether they have been the victim or perpetrator in one or more historical intervention orders.

30. As this is a manual process, Corrections Intelligence Unit staff are not sufficiently resourced to conduct intervention order checks on all prisoners and offenders in the system. As at 13 July 2015, there were 6,136 prisoners and 12,488 offenders (of which 8,793 were subject to a supervised CCO) under the supervision of Corrections.
31. Priority is therefore given to prisoners who are seeking release on parole and certain individuals who are being assessed for suitability to commence a CCO.
32. The specific cohorts of prisoners who are seeking release on parole whose LEAP records are checked are:
 - 32.1 serious violent offenders;
 - 32.2 sex offenders; and
 - 32.3 prisoners with a known history of family violence.
33. Manual intervention order checks also occur if staff are considering recommending a curfew or residential restriction condition on a parole order.
34. The intervention order information that is obtained for these individuals is provided to those involved in conducting the parole assessment.
35. For individuals being assessed for suitability to commence a CCO, the specific cohorts where a manual check is undertaken are offenders being considered for either a residential exclusion, place exclusion, curfew or alcohol exclusion condition. The intervention order information that is obtained for these individuals is provided to the community corrections officers conducting the assessment of the individual's eligibility for a CCO.

New 'family violence offender' flag for Corrections intervention management system

36. Offence related information is recorded by staff on the Corrections Victoria Intervention Management System (CVIMS) treatment database. This information is used to inform screening and assessment processes to determine an offender's suitability to engage in offence specific or offence related interventions.
37. On 30 June 2015, a new 'family violence offender' flag was introduced into CVIMS, allowing Offending Behaviour Program staff within Corrections to flag

offenders whose offending occurs in the context of family violence. The aim of this measure is to enable the identification and flagging of family violence perpetrators and to assist in prioritisation for relevant family violence interventions.

Challenges in engaging perpetrators

38. Many factors contribute to offending behaviour and Corrections seeks to ensure that prisoners are able to access the right programs at an appropriate time during their sentence.
39. As all of the programs available to prisoners are offered on a voluntary basis, there are challenges in engaging prisoners to undertake programs while in prison.

The parole incentive

40. We find that prisoners with a term of imprisonment which includes a non-parole period have more incentive to voluntarily undertake programs. The non-parole period acts as an incentive for engagement because compliance with recommended programs is a factor which is considered when a prisoner applies for release on parole and their case is considered by the Adult Parole Board.
41. Where a prisoner is subject to a sentence without a minimum term, meaning their term of imprisonment is not subject to a non-parole period, there is less incentive for them to engage in recommended programs. The majority of prisoners received by Corrections each year do not receive a sentence with a minimum term/non-parole period (in 2014-15, this was the case for 3,937 of the 5,169 of the prisoners received). This means the parole incentive does not apply to them. The vast majority of these offenders receive a sentence of imprisonment of less than 12 months. Non-parole periods are not set by the courts for sentences of less than 12 months, and are discretionary for sentences of between one and two years.

Sentence length eligibility

42. All serious violent offenders must have three or more months remaining of their sentence (calculated by reference to the date their sentence lapses) to be eligible for an offending behaviour program intervention. This is referred to in Corrections'

Offending Behaviour Programs Service Delivery Manual (**Attachment JMS-1**) at page 13.

43. General offenders must have at least six months remaining to the date they are eligible for parole, or 12 months remaining until the end of their sentence (if they do not have a non-parole period) to be eligible for an offending behaviour program intervention. This is referred to at page 13 of the Offending Behaviour Programs Service Delivery Manual.
44. Prisoners are ineligible to engage in offending behaviour program interventions if their sentence falls below these thresholds.
45. These timeframes for eligibility ensure that prisoners have sufficient time to complete relevant interventions prior to their release into the community. This is consistent with evidence which suggests that commencing a programmatic intervention, but failing to complete it, prior to a prisoner being released from custody, can actually increase their risk of reoffending.

The family violence stigma

46. There are also challenges for Corrections in engaging male prisoners to undertake family violence targeted intervention programs because of the stigma associated with family violence offending within the prison population.
47. Many offenders who perpetrate family violence are housed in the general prison population. By voluntarily undertaking a family violence program they run the risk of disclosing to other prisoners that they have engaged in family violence.
48. Offenders who have engaged in family violence may be on the lower 'rung' of the prison hierarchy and could therefore be at an increased risk of being harmed by other prisoners who find out that they have perpetrated family violence.

New initiatives

49. Our treatment model has been under significant reform and our new Offending Behaviour Program Service Delivery Model commenced on 1 April 2015. This new model is referred to in Deputy Commissioner Reaper's witness statement. One of the objectives of the model is to provide a Statewide approach to the delivery of offending behaviour programs and services to ensure consistency, credibility and confidence in service delivery. The model also seeks to align best

practice in the assessment and treatment of prisoners and offenders with the operational demands of the corrections system.

50. One significant change aimed at increasing prisoner engagement is the 'front-ending' of service delivery. This enables the identification and assessment of intervention needs upon entry into the corrections system and provides a greater opportunity to work with prisoners in areas including treatment readiness and motivation to participate in interventions throughout their sentence, as opposed to at the 'back-end' only.
51. As part of this reform agenda, we are turning our minds to how we manage the stigma associated with treatment for family violence. I refer to Deputy Commissioner Reaper's witness statement, which outlines the newly endorsed Offending Behaviour Program Family Violence pathway which we hope will go some way in increasing engagement by prisoners.

FEMALE OFFENDERS WHO ARE VICTIMS OF FAMILY VIOLENCE

52. Corrections recognises that a significant proportion of female prisoners and offenders are victims of family violence. Supporting victims of family violence within a correctional environment is a complex process, with the need to take into account issues including victimisation and trauma.
53. Identifying and supporting victims of family violence is fundamentally different from identifying and treating perpetrators. Appropriate supports must be in place in the event that a female prisoner chooses to disclose that she is a victim and seek assistance.
54. In addition to the programs and services referred to in the following part of my statement, I refer to further initiatives to support victims under the heading 'Strengthening Correction's response to family violence' from paragraph 70 below.

Programs for women prisoners

55. A wide range of programs are available for women prisoners and offenders, covering program areas including:
 - 55.1 offending behaviour;
 - 55.2 mental health;

- 10 -

- 55.3 drug and alcohol;
 - 55.4 personal development;
 - 55.5 parenting and motherhood;
 - 55.6 transition and reintegration;
 - 55.7 education and employment;
 - 55.8 disability and supported pathways; and
 - 55.9 culturally specific options.
56. Outside of the prison context, Corrections support individuals we engage with who are identified as victims of family violence by referring them to appropriate services in the community.

Out of the Dark

57. A program called 'Out of the Dark' is available for women prisoners who have experienced family violence prior to entering the prison system. This is a psycho-educational group program that aims to raise awareness about family violence issues by providing information about risks associated with family violence and the options and support services available within the community.
58. The program assists participants to identify family violence and the impact it can, or has had, on their life. The participants gain insight into how they can make informed decisions about creating change in their relationships and make positive and constructive decisions for future relationships. I attach the 'Out of the Dark' session guide (**Attachment JMS-2**).

Counselling

59. Corrections contracts the Centre Against Sexual Assault to deliver individual counselling for female prisoners who are victims of sexual assault, which often occurs in the context of family violence (see **Attachment JMS-3**) which includes further detail about this counselling).

Other family violence services available for women prisoners

60. Corrections also has a range of other services for women prisoners in relation to family violence. These services are listed in a document entitled *Family violence services with external providers in women's prisons (Attachment JMS-4)* and include:
 - 60.1 legal assistance, including support for Aboriginal women;
 - 60.2 advocacy for women (with or without children) to address homelessness, drug and alcohol issues and other underlying causes of criminalisation;
 - 60.3 family support services and parenting; and
 - 60.4 mentoring to assist women existing prison.

The way Corrections seeks to prevent family violence perpetrators having contact with female prisoners contrary to an intervention order

61. An individual must be on an approved contact or visit list in order to have contact with a prisoner.
62. When determining whether an individual is suitable to be a valid visitor, Corrections prison staff (Prison Intelligence Unit staff, Supervisors, Operations Managers and General Managers) can access the Corrections Intelligence Unit database, Centurion, to assist in the verification process. If the information on Centurion indicates that either the prisoner or the individual is a respondent to an intervention order, the individual will not be approved as a valid visitor.
63. Information regarding intervention orders may be entered into the Centurion database as an information report where the prisoner:
 - 63.1 discloses that there is an intervention order against them at the time of reception into custody;
 - 63.2 discloses that they are the affected person in an intervention order at the time of reception into custody; or
 - 63.3 has an intervention order served on them while they are in custody.
64. Information relating to family violence may also be detected through the monitoring of prisoner phone calls, which can occur through random or

intelligence led telephone monitoring or be targeted based on the behaviour of a particular prisoner.

65. Information may also be entered into the Centurion database pursuant to Corrections' manual process in accessing intervention order information (which I refer to in paragraphs 28 to 35 above).
66. Once the IT project with Victoria Police is completed during the first half of the 2016 calendar year (which I refer to at paragraph 27 above), Corrections will have access to up to date intervention order information for prisoners and offenders. This will greatly assist in preventing perpetrators contacting female prisoners in contravention of an existing intervention order.

Pre-release planning that is integrated in post-release support

67. Corrections' *Reintegration Pathway Service Delivery Model* commenced on 1 January 2015. It provides an integrated approach to transitional planning and support across four key stages of:

- 67.1 entry into custody;
- 67.2 sentence;
- 67.3 pre-release; and
- 67.4 post-release.

I attach the *Reintegration Pathway Service Delivery Model* at **Attachment JMS-5**.

68. The *Reintegration Pathway Service Delivery Model* provides general and targeted transitional activities at each stage that aim to build on achievements and interventions of previous stages. All sentenced female prisoners are eligible to receive these targeted and transitional activities, which focus on seven critical intervention domains, identified through research, to ensure a targeted and evidence based approach to reintegration services. These domains are:

- 68.1 housing;
- 68.2 employment;
- 68.3 education and training;

- 13 -

- 68.4 independent living skills;
 - 68.5 mental health;
 - 68.6 alcohol and drugs; and
 - 68.7 family and community connectedness.
69. The Corrections Housing Project also offers 52 housing places to prisoners exiting the prison system. All prisoners who progress to the post-release support stage are eligible, with prioritisation based on the risks and needs of individual prisoners.

Strengthening Corrections' response to family violence

70. As Deputy Commissioner Reaper has referred to in his witness statement, a project has recently been established to strengthen Corrections' response to family violence across the corrections system.
71. A Steering Committee, of which I am Chair, has been established to oversee the project, provide direction and make decisions on policy implementation.
72. Within this project, we are reviewing our model for supporting victims of family violence. Among other initiatives, this includes examining the training provided to staff to better support victims, with the option of expanding training on the Common Risk Assessment Framework (**CRAF**) to staff within the women's prison system being considered.
73. We have also developed Corrections' *Family Violence Policy Framework* (**Attachment JMS-6**), which outlines the key strategic objectives in relation to family violence. These objectives include:
- 73.1 the identification of perpetrators;
 - 73.2 delivery of targeted programs and services to perpetrators;
 - 73.3 supporting victims;
 - 73.4 creating an environment for change; and
 - 73.5 working with other systems.

74. The policy framework articulates our vision for the response to family violence. The guiding principles that underpin our strategic objectives will guide our service delivery over the coming years.
75. While the priority focus for Corrections is perpetrator accountability - targeting prisoners and offenders who are identified as having committed offences that occurred in the context of family violence - our focus is also to provide support to prisoners and offenders who identify as having been a victim of family violence.

POLICIES AROUND CASE MANAGEMENT AND BREACHES OF CCOs

Case management of CCOs

76. Offenders on CCOs receive a level of supervision commensurate to their level of assessed risk and need. Corrections utilises risk assessment tools to assess an individual's risk of general reoffending and to identify criminogenic needs to be addressed throughout the case management process. Our aim is to have offenders embrace strategies to reduce their risk of reoffending and to be guided towards successful completion of their order.
77. Guidance to staff providing case management to offenders on CCOs is contained in the Deputy Commissioner's Instruction - Case Management / Court Orders **(Case Management DCI) (Attachment JMS-7)**.
78. The Case Management DCI sets out that the key requirements of case management are to:
 - 78.1 initiate case planning interventions, commensurate with the level of assessed risk and need, within six weeks of a CCO commencing;
 - 78.2 monitor the offender within the supervision regime that is relevant to their identified risk; and
 - 78.3 monitor the offender's attendance and engagement in programs or services.
79. Case management of offenders is guided by the principle that Corrections is required to administer sentences in a manner whereby:
 - 79.1 the offender is not punished over and above the sentence imposed by the sentencing authority;

- 15 -

- 79.2 the legal requirements of the order are enforced in a non-judgemental way;
- 79.3 all directions take into account the legitimate rights and needs of offenders in relation to gender, employment, carer status and any disability and special needs;
- 79.4 intrusion into the lives of offenders does not exceed what is necessary to ensure compliance and community safety; and
- 79.5 fairness and equity form the basis of the case manager's decision making with an emphasis on ensuring order conditions are implemented and failures to comply are addressed.

Case management of female offenders on CCOs

- 80. Part 2.14 of the Case Management DCI outlines considerations for supervising female offenders. At the initial induction appointment following the imposition of a CCO, case managers must advise female offenders of their right to request supervision by a female officer. The offender may also be allocated to one of eight Dedicated Women's Case Managers across the state. These staff carry caseloads of predominantly high risk/high needs female offenders, and receive additional training that allows them to provide a more responsive case management approach to this cohort.
- 81. Among other things, the Case Management DCI outlines that when managing female offenders, case managers should consider:
 - 81.1 actively encouraging personal responsibility and self-reliance by maximising women's participation in, and control over, case planning and delivery;
 - 81.2 the centrality of children and childcare responsibilities, family and other relationships in women's lives;
 - 81.3 the option of outreach and home visits for women offenders;
 - 81.4 the use of case conferences for women involved with multiple human service agencies;

- 16 -

- 81.5 formal interagency partnerships with relevant community based service providers to address women's multiple and diverse needs and provide the option of a continuing relationship beyond their correctional order;
 - 81.6 providing opportunities for women to address, in a supportive environment, interrelated issues of mental health, substance abuse, past trauma and victimisation as part of a broader intervention plan; and
 - 81.7 providing opportunities for women to improve their life circumstances through the provision of appropriate education, practical advice, assistance and skills development. This also includes educational and vocational pathways that are relevant to women's needs and acknowledge the difficulties associated with gaining employment post release.
82. Community Corrections Officers have an important role in identifying whether a female offender is a victim of family violence. Many Community Corrections Officers are trained in the CRAF, which assists them to identify if a female offender is a victim of family violence. Sometimes the offender may also self-report that they are a victim of family violence.
83. The role of these Community Corrections Officers includes linking female offenders with agencies in the community who have the necessary skills and expertise to assist them. We recognise that an offender's condition and needs extend beyond any involvement with Corrections and that it is vital for the offender to develop therapeutic relationships with external community service providers so that continuity of service is maintained once the CCO has been completed.

Managing non-compliance and decision-making around breaches or contraventions

84. Guidance to staff in managing non-compliance with CCOs is contained in the Deputy Commissioner's Instructions – Non-compliance Court Orders (**Non-compliance DCI**) (**Attachment JMS-8**). Non-compliance may include non-attendance at scheduled appointments, failure to comply with a specific direction of the Court or a condition of the order, failure to participate or engage in programs or community work, or exhibiting unacceptable (e.g. violent, threatening, abusive) behaviour. This instruction ensures that:

- 17 -

- 84.1 offenders are managed in a way that demonstrates the benefits of compliance and the consequences of non-compliance; and
 - 84.2 non-compliance interventions are applied promptly and fairly, allowing for individual needs and in a manner that encourages positive behaviour change by offenders.
85. The Non-compliance DCI contains the considerations involved in determining what steps should be taken where there has been non-compliance with a CCO, which may include making a decision to issue proceedings for a breach or contravention.
86. Further guidance to staff on managing CCO breaches or contraventions is contained in the Deputy Commissioner's Instruction – Breach/Contravention and Applications (**Attachment JMS-9**).
87. When determining which non-compliance intervention steps to apply, or whether to commence proceedings for a breach or contravention of a CCO, staff take a number of factors into account, including:
- 87.1 the risk that the offender's non-compliance poses to the community and what the most appropriate response is;
 - 87.2 the offender's progress and response to the CCO, including completion and/or part completion of order requirements, engagement with services and progress in addressing offence-specific risks;
 - 87.3 the length of the CCO and the individual circumstances of the offender, including any responsivity issues and whether an individualised case management approach is required (for example, for offenders with an acquired brain injury or registered disability);
 - 87.4 the nature, frequency and severity of the non-compliance (for example, was the non-compliance an isolated incident, was it part of an escalating sequence of events and have there been changes to the offender's compliance history?);
 - 87.5 an assessment as to which intervention step would best support a prompt re-engagement of the offender and likely successful completion of CCO requirements; and

87.6 factors contributing to the non-compliance incident (for example, has the non-compliance been triggered by factors that may contribute to further offending and/or detrimentally impact the offender's ability to maintain compliance with the requirements of the CCO?).

Signed by

Janice Shuard

at Melbourne

this 27th day of July 2015

hazard.

Before me

An Australian legal practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)