

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY  
STATE REDRESS INQUIRY HEARING**

**Under** The Inquiries Act 2013

**In the matter of** The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions

**Royal Commission:** Judge Coral Shaw (Chair)  
Dr Andrew Erueti  
Ms Sandra Alofivae

**Counsel:** Mr Simon Mount, Ms Hanne Janes and Ms Danielle Kelly  
for the Royal Commission

**Venue:** Level 2  
Abuse in Care Royal Commission of Inquiry  
414 Khyber Pass Road  
AUCKLAND

**Date:** 21 September 2020

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**TRANSCRIPT OF PROCEEDINGS**

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**INDEX**

<b>OPENING STATEMENT BY MS JANES</b>	3
<b>OPENING STATEMENT BY MS ALDRED</b>	8
<b>CHERYL MUNRO ON BEHALF OF JAMES PACKER</b> Questioning by Ms Janes	10
<b>KEITH WIFFIN</b> Questioning by Mr Mount	30

## Hearing opens with karakia tīmatanga and waiata by Ngāti Whātua Ōrākei

(10.00 am)

**REGISTRAR:** The sitting of the Royal Commission is now open:

**CHAIR:** E ngā mana, e ngā reo,

e ngā hau e whā, rangatira mā, tēnā koutou. Kei te mihi atu ki te mana whenua Ngāti Whātua Ōrākei, kua karakia i te ata nei. Huri noa i tō tātau whare, arā tēnā rā tātou katoa. (Interpreter) "To the esteemed authorities, voices, representatives from all over who have come from afar to the many leaders I acknowledge you all once, I acknowledge you all twice, I acknowledge you all three times. I also acknowledge the bearers and custodians of the mana of this land, Ngāti Whātua Ōrākei, for coming and conducting the karakia this morning and I also acknowledge everyone here who is present many times over".

As the Chair of the Royal Commission into abuse in care, I welcome all attending the public hearing and those watching the live stream. A special welcome to members of the survivor advisory group and Te Taumata. The current alert level in Auckland means that the numbers who can attend as visitors to this hearing is limited, so we have given priority to these groups and to other stakeholders.

This is the Inquiry's first public hearing on redress processes relating to abuse in care. The hearing was scheduled to start earlier this year on 23 March but the Covid19 lockdown intervened and it had to be postponed. I want to acknowledge the patience of all of the witnesses who were ready to give their evidence then but have had to wait these long months until now.

The delay does mean that the hearing, this hearing can be held in this new hearing space, and it has purpose built facilities to meet the needs of all of those who attend. The premises were very recently commissioned and were blessed at dawn last Friday by Ngāti Whātua.

We have recently been joined by a new colleague, Commissioner Julia Steenson, bringing our number to five. However, the continuing restrictions of Covid19 means that the number of sitting Commissioners is limited to three. Neither she nor Commissioner Paul Gibson can be present at this first hearing. However, we are hopeful that additional Commissioners may be able to sit at the next redress hearing on faith based institutions, depending of course on the alert levels at the time. But most importantly, I want the general public to be able to freely attend as soon as it is safe to do so.

Thank you for your attendance today. I'm now going to invite my colleagues to introduce themselves. Commissioner Erueti.

**COMMISSIONER ERUETI:** Tēnā koutou katoa. Ko te mea tuatahi ki te kai-karakia o tēnei ra, ki a Ngāti Whātua, tēnā koutou katoa te mana whenua o tēnei rohe. Tuarua, e ngā mate kua haere ki te pō, tēnei te mihi nui ki a koutou. Ko Anaru Erueti tōku ingoa, he uri nō te waka o Aotea, ko Ngāruahinerangi te iwi, kō te Arakuku te hapū, no reira, tena koutou, tena koutou katoa. (Interpreter) "I want to acknowledge Ngāti Whātua again for their presence this morning in conducting the karakia. I also want to acknowledge those who have passed on before us and wish them a peaceful journey into the night. My name is Andrew Erueti and I'm a proud descendant of Aotea Waka.

**COMMISSIONER ALOFIVAE:** Ou te fa'atalofa atu i le paia ma le mamalu o le aufia, le paia o Ngāti Whatua ma isi ua mafai ga fa'atasi mai lenei tu la (Interpreter) "With the greatest respect, I acknowledge the esteemed gathering here today, the honourable people of the land Ngāti Whatua and all other distinguished guests who are here in support". I'm Sandra Alofivae and it's a pleasure and a privilege to be able to see you all here this morning. Thank you.

**CHAIR:** With those introductions, I now invite counsel assisting to address the inquiry. Mr Mount.

**MR MOUNT:** Ata mārie e te tiamana. Tēnā Koutou e ngā Kōmihana, tēnā koutou katoa. Tēnā tātou kua haere mai nei i runga i te karanga o tēnei kaupapa me ngā mahi nui kei mua i a tātou. (Interpreter) "I want to acknowledge the Commission and everyone here who is present today and acknowledge the fact that there is a hefty workload in front of us and the near future bears a lot of mahi or work to do".

Ko Simon Mount tōku ingoa, (my name is Simon Mount) I appear with counsel assisting together with a team today. May I introduce Hanne Janes who is the lead counsel for this redress hearing together with Danielle Kelly, a member of the counsel assisting team. We are also importantly joined today by Tom Powell, our solicitor assisting, by Rebecca Harvey-Lane, Alex Wills, Lauren Eastlake, Josh Bannister, Tim Armitage, Kate Green, importantly Emma Powell who will be operating the documents on the screens for us today, all members of our inhouse solicitor team who are forming parts of making this hearing what it will be today.

So my role is simply to introduce the team today, and shortly after the other counsel have introduced themselves Ms Janes will provide an opening for the Commissioners and for the public in terms of what we can expect from this hearing.

**CHAIR:** Thank you Mr Mount. Ms Janes. Were you attending to address us first?

**MS JANES:** No, we'll have appearances from counsel.

**MS ALDRED:** E ngā Kōmihana tēnā koutou. Ko Ms Aldred ahau. Kei konei mātou ko Julie White, ko Max Clarke-Parker mō te Karauna. Thank you and greetings to the Commissioners. My name is Wendy Aldred and I appear for the Crown with Julia White and Max Clarke-Parker.

**CHAIR:** Thank you, Ms Aldred. Are there any other appearances? Thank you. Thank you Ms Janes.

#### **OPENING STATEMENT BY MS JANES**

**MS JANES:** Thank you ma'am. Tēnā koutou katoa. Tēnei te mihi maioha. Ko Hanne Janes ahau. Humble greetings to you all. My name is Hanne Janes. With Covid19 postponing the March hearing, we are grateful that this State redress hearing is able to proceed, even with the necessary health and safety restrictions.

This opening statement will briefly outline the context and nature of the hearing as it relates to the work of the inquiry under our terms of reference and it will then summarise the evidence we will be hearing over the next two weeks. I echo the acknowledgments that have already been made to mana whenua, members of the survivor advisory group, our taumata, and invited stakeholders, also core participants and those granted leave to appear.

I would also like to acknowledge at this time the enormous amount of work that has been done by the counsel assist redress team, the legal investigations team and the general

secretariat as a whole. There has been enormous effort pulling this together so that we can all be here today and we owe them a debt of gratitude.

But especially we acknowledge the victims and survivors, including those who have passed. Sadly, that includes one of the witnesses we would have heard from in March. While current alert levels mean the hearing is closed to the public, we welcome them all via live stream. Victims and survivors, be assured that you are front and centre of all of the work that is being done by this inquiry.

Turning to the terms of reference. Redress under terms of reference 10.7 is required to consider redress and rehabilitation processes for individuals who claim or have claimed abuse while in care, including improvements to those processes. It goes on to define redress processes. It includes monetary process such as historic claims and compensation, or settlement and nonmonetary processes, rehabilitation, counselling, apologies and social services.

The inquiry then, under terms of reference 32(b), is required to report and make recommendations on any appropriate changes to the existing processes for redress, rehabilitation and compensation processes.

Given public hearing time is limited, we will hear from 12 survivor witnesses in this phase one. I want to acknowledge their courage in appearing as witnesses and to express our gratitude to them.

It's important to note that public hearings, however, are not the only way that the experiences of victims and survivors seeking redress will be heard by the inquiry. Their voices have also been heard by the inquiry and taken into account in this hearing in a range of other ways. We've had close to 1,300 survivors registered with the inquiry as well as approximately 470 advocates and representatives.

As of last Monday, the inquiry had heard 523 private sessions via person and in Zoom. We also need to remember that the Confidential Listening and Assistance Service met and spoke with and assisted over 1,103 claimants.

At the contextual hearing we also heard from Cooper Legal and they told the inquiry they had settled around 1,100 claims and they currently have 1,250 clients with 14 open files. So they speak with the voice of some collective 2,300 claimants to the inquiry.

The Crown also, in the information that is provided to the inquiry, there are a range of consultations that they've undertaken and that information is also available to us and has been taken into account.

It is our hope that victims and survivors will hear and see themselves in the evidence presented during this public hearing, that they will hear and feel truly that they are believed, they are not alone and it is not their fault.

Over the course of the inquiry, victims and survivors will continue to be heard in private sessions, provide written statements and submissions and have opportunities to participate in hui, fono, workshops and round tables. This will be supplemented by research into international human rights obligations and whether they have been incorporated into the redress processes.

In December 2019, a report to the Cabinet social wellbeing committee noted the abuse of children is particularly abhorrent and there is no public benefit in allowing perpetrators or those vicariously liable for their acts to escape civil liability. Moreover, the very nature of abuse against children and abuse in the context of a dependent relationship can prevent a

claimant from coming forward and promptly bringing a proceeding. In some circumstances even until later on in adulthood.

After the Confidential Listening and Assistance Service delivered its reports, some memories never fade in 2015. On 8 December 2016 in response to the then Social Development Minister, Anne Tolley, announcing there would not be an inquiry as recommended, both the Green Party and the New Zealand Labour Party called for an independent inquiry and for a universal apology to be given.

On 13 February 2017 Labour's then justice spokesperson, Jacinda Ardern, now our Prime Minister, said:

"It's time the Government listened to the growing chorus of leading opinion calling for an apology and an independent inquiry into historical abuse claims. Labour has long committed to issuing a public apology when we are in Government. We must acknowledge publicly the mistreatment of so many young children in State care. There should be an independent inquiry. Their voices need to be heard".

We have that inquiry and the voices are being heard, but the victims and survivors are still waiting for that universal apology.

An American social reformer, Frederick Douglass, said in the late 1800s it is easier to build strong children than to repair broken men. When our systems fail to safeguard our children, young people and vulnerable adults, the focus of redress is on what is required to acknowledge what happened and as far as possible, to set right the harm suffered, to try and repair or restore the life victims and survivors were deprived of as a consequence of that abuse.

There is an overall scope for the redress investigation and that can be found on the website. There is also the scope for this particular redress hearing which is available on the website.

It's important at this stage to emphasise that not all the areas relating to State redress processes that the Commission wishes to examine can be covered in the two phases of this public hearing. Some issues may not be covered at all, others may not be able to be addressed in the detail that victims and survivors, interested people, advocates and the inquiry itself would wish to cover at this stage.

I emphasise, that does not mean it is not important. It will be fully examined over the duration of the inquiry. The inquiry has already heard important evidence about redress generally at the contextual hearing in October 2019 and we are indebted to those witnesses as well as those who took the time to make public submissions. That evidence and those submissions can also be found on the Inquiry's website.

This hearing is in two phases. Phase one, which is the survivor voice is over the next two weeks. And we will hear about their experiences in seeking redress through civil claims or civil proceedings in courts or the Human Rights Review Tribunal against the State and that is Crown agencies such as the Ministry of Social Development, Ministry of Education, Ministry of Health and Oranga Tamariki. Phase two, which will start on Monday 19 October, will also run for two weeks and will focus on evidence from the Crown as to the processes that have been and still are available for those seeking redress.

Later in 2020 there will be a public hearing which will focus on the survivor voice of those who suffered abuse in faith-based institutions of the Catholic church, the Anglican

church and the Salvation Army. Again, the fact that that focuses on those three does not mean that other faith-based institutions will not be examined.

As you've heard, the survivor voice will be 12 witnesses with direct experience of seeking redress of abuse in State. Our first witness will be Cheryl Munro who is speaking on behalf of her son, James Packer, who had experiences in the Ministry of Health and also the Ministry of Education. Mr Keith Wiffin has experience with the Ministry of Social Development, Joan Bellingham, Crown Health Financing Agency, Chassy Duncan will be our first witness on the 23rd, which is Wednesday. On that day we will start early and I'm indebted to the Commissioners for agreeing to an early start of 9 am. Our witness is coming to us from the Falkland Islands and for him it will actually be 6 pm.

He will be followed by Patrick Stevens, that is a pseudonym and sadly that is our witness who has passed away. There will also be evidence from Earl White, that is also a pseudonym, and there is a leading case of *White v Attorney General* and he was one of the plaintiffs. Mr White will be followed by Leonie McInroe who is a survivor of Lake Alice. She'll be followed by Georgina and Tania Sammons and then Hope Curtin and they will speak about abuse in the MSD and foster care.

There will then be Kerry Johnston, also a pseudonym and he has had multiple claims from MSD, Ministry of Health, Ministry of Education and faith-based. And then we will also hear from Gay Rowe who is the sister of Paul Beale and that relates to the Ministry of Health.

The survivor voice and the experiences will also be presented in the evidence of Dr Fiona Inkpen from the children's services Tū Māia Whānau that relates to health camps. Trish Grant, the Director of Advocacy from the IHC, will be giving evidence about a claim that they have in the Human Rights Review Tribunal and also assisting somebody through a redress process.

And finally, in this phase you will hear from Amanda Hill and Sonja Cooper of Cooper Legal about their 20 years of claimant experience. Almost all of these witnesses will describe their thoughts about how, as a society, we could do better to respond and provide redress and what might have made a difference in their journey.

Due to Covid restrictions not all the redress counsel assist team can be here at any one time, so they will be attending depending on the day their witnesses appear, but I would like to acknowledge, we have Simon Mount QC, Danielle Kelly, Kerryn Beaton, Joss Opie, Andrew Molloy and Chris Merrick will also be joining us.

Some witnesses have been working with the legal assistance panel and they will also be leading witnesses that will involve Sonja Cooper, Amanda Hill and Francis Joychild QC.

Turning to a few housekeeping matters. We have heard some of those, but just for the record, the sitting times will start at 10am each day apart from Wednesday which will be 9am. Morning adjournment will be 11.30 to 11.45, the lunch adjournment 1 to 2.15, afternoon adjournment, 3.30 to 3.45 and the hearing will conclude approximately at 5pm.

Due to Covid health and safety requirements, as well as survivor witness wellbeing, the timing of the evidence has been phased so that there are only two sessions. This is to allow the witnesses to have a little bit of certainty about when they will be coming to give evidence, but also to allow cleaning in between witnesses. So everyone is required, requested to vacate the hearing room and the foyer over the lunch adjournment so that cleaning can take place. And we are also asked to maintain that social distancing. You'll see that we have

screens in the hearing room. These will display real time evidence and real time documents showing on the screen by a trial director.

Evidence shown has been redacted to comply with the Inquiry's general restriction order and our practice notes on anonymity and redactions. This is to ensure that natural justice principles are met and the privacy interests are protected as far as is possible while the Commission is not impeded from doing its work.

For witnesses giving evidence anonymously, they will not be seen on the public screens, or they may be visible but images may be blurred. The proceedings will be live streamed. We have safeguarding measures in place, including a 5 minute delay. That allows the Inquiry to halt the broadcasting if necessary. Circumstances may be if there is an error in something going out with a nonpublication or restriction order, or if it's required for the welfare of witnesses or others.

Redacted witness statements will be made available on the inquiry website after witnesses have concluded giving their evidence. A transcript will be provided to the Inquiry at the end of each day. It will be checked for accuracy and the intention is to make that available on the website in the hope that will be about 48 hours after the day of the hearing.

There is the ability under section 15 of the Inquiries Act to seek an order for nonpublication at any time. Counsel assisting should be made aware as soon as possible if such an application is sought so that appropriate steps can be taken to protect that information until the Commissioners have made a decision.

Some interim section 15 orders have already been issued by the Inquiry. Applications were sought by Cooper Legal and the Crown and were granted at the procedural hearing in February and are set out in minute 7. Applications were also sought by the Ministry of Justice and Ministry of Education and were granted in September.

Media or any other party wishing access to material apart from the redacted witness statements should speak with counsel assisting to check there are no section 15 orders so that they are not inadvertently breached.

In terms of questioning of witnesses, survivor witnesses will be questioned via counsel assist. Naturally the Commissioners may ask questions of any witness as they wish.

Questioning of non-survivor witnesses is at the leave of the Inquiry for phase one of this hearing. An application has been received from the Crown to question Cooper Legal and that has been granted.

Before going to hear our first witness, the Crown has a short opening statement.

**CHAIR:** Thank you Ms Janes. Yes Ms Aldred.

#### **OPENING STATEMENT BY MS ALDRED**

**MS ALDRED:** Kia ora. The Crown thanks the Commissioners for the opportunity to make this brief opening statement for this first stage of the State redress hearing. First of all, I'd like to say that we're grateful for the significant additional work done by those assisting the Commission to allow this hearing to proceed without further adjournment, in what obviously has been very difficult circumstances.

I'd also like to acknowledge the difficulty that the first adjournment will undoubtedly have presented, particularly for those survivor witnesses who were poised to give their evidence in late March when we went into lockdown.



I would also like to echo the sadness expressed by Ms Janes at the recent passing of one of the survivor witnesses known as Patrick Stevens who was to give his evidence at this hearing.

At this stage I intend to do really no more than briefly explain the Crown's participation in the redress hearing.

First, for the benefit of those watching who may not be familiar with the Inquiry process or the Crown response so far, I should explain that my colleague Max Clarke-Parker and I represent all of the core Government Ministries who engage with the Inquiry. Also present during the hearing will be Julia White, General Counsel for the Crown Secretariat.

In this hearing, those agencies are the Ministry of Social Development, Oranga Tamariki, the Ministry of Health, the Ministry of Education, the Crown Law Office and the Ministry of Justice in respect of legal aid.

The principles that Cabinet approved for the Crown's engagement in this Royal Commission included that the various agencies should be joined up for the purpose of the Crown response. So, when you hear reference to the Crown in this hearing, that reference is to all those agencies.

Public attendance at this hearing has been understandably limited by Covid19 restrictions. It had been the intention of the Crown to have agency representatives physically present for every day of the hearing. While this is impossible, of course those people will be watching remotely. I would like to acknowledge on behalf of the Crown those survivors, their whanau and members of the survivor advisory group who will be watching this hearing on the live stream.

We, as representatives of the Crown, will be here for this first half of the hearing primarily in a listening capacity. As with the contextual hearing that took place in late 2019, the Crown welcomes the opportunity to hear firsthand from survivors of abuse and to learn from what they say about their experiences with State redress systems. The Crown will not be seeking to question any survivor witness.

Further, we are likely only to address a very limited number of questions to non-survivor witnesses where that is considered necessary to provide context around statements that have been made or to deal with matters that the Crown considers may have been framed incompletely.

The Crown's objective in engaging with this public redress hearing is to supply helpful information to assist the Inquiry to fulfil its terms of reference. The Crown has taken the view that its central role in the hearing will be the provision of comprehensive evidence by its own witnesses.

The second phase of the hearing will be when you hear from those Crown witnesses. There will be nine witnesses in total from the Crown agencies who will provide their evidence and respond to questions from counsel assisting the Inquiry and others. The intention has been in selection and preparation of those witnesses to ensure that the Inquiry receives evidence from those best placed to give it in accordance with the Crown's undertaking given at the contextual hearing. Kia ora koutou.

**CHAIR:** Kia ora Ms Aldred. Ms Janes.

**MS JANES:** With the leave of Commission, we will call our first witness, Cheryl Munro. As Ms Munro comes to the stand, apologies for my pronunciation, I will get it wrong,

but in closing my statement I wanted to say I ōrea te tuātara ka patu ki waho, which means a problem is solved by continuing to find solutions. And as we embark on hearing our witnesses, that is what we hope the journey becomes for us.

**CHAIR:** Kia ora Ms Janes.

**CHERYL ANN MUNRO**

**CHAIR:** Good morning Cheryl.

A. Good morning.

**Q.** Please feel free to sit. Before we start, can I ask you to take the affirmation of your evidence. Do you solemnly, sincerely and truly declare and affirm that the evidence you will give before this Commission will be the truth, the whole truth and nothing but the truth?

A. Yes, I do.

**Q.** Thank you very much.

A. Thank you.

**QUESTIONING BY MS JANES:**

**Q.** Good morning Cheryl. I just want to make sure you've been able to locate your evidence?

A. Yes, I have.

**Q.** Can you please start by telling us your full name?

A. Cheryl Ann Munro.

**Q.** And you are James Packer's mother?

A. Yes.

**Q.** James has described at paragraph 1.4 of his evidence why you're giving evidence on his behalf?

A. Mmmhmm.

**Q.** Could you in his words read that paragraph?

A. "I am only able to give this evidence with the support of my mother, Cheryl Munro. My mother has been a critical support to me emotionally in my life. She continues to advocate for me. I am the only deaf member of my immediate family and suffer from Asperger's syndrome".

**Q.** Can we do that a little bit more slowly?

A. Sorry.

**Q.** Thank you.

A. "I have asked her to give this evidence on my behalf as I would find it too distressing to speak about this in person at a public hearing, but this is my evidence and I confirm what is described as true and accurate".

**Q.** And before we go through James' evidence, can you outline the steps that you took to equip yourself to be his advocate?

A. When I first had issues with James in Kelston and Sunnyside Hospital, I didn't have any experience of supporting James.

**CHAIR:** Just a moment please, I'm sorry, we seem to be having some technical issues. Might I say, as it is day one, we are bound to have some of these. I'm afraid one of them has arisen now. Should we adjourn Ms Janes?

**MS JANES:** Yes, I think we adjourn for 10 minutes to see whether the issue can be resolved.

**CHAIR:** I'm so sorry to have got this far and only to be stopped is a horrible thing. I hope that that's all right for you. Just try and relax, we'll be back as soon as the technical issue is resolved.

A. Thank you.

**Adjournment from 10.35 am to 10.42 am**

**CHAIR:** Yes Ms Janes.

**QUESTIONING BY MS JANES CONTINUED:**

**Q.**Cheryl, we were going to hear about your experience in terms of equipping yourself to assist James on the journey of redress.

**A.**So initially I had to learn sign language and also I had to learn about the mental health service and psychiatry so I could understand the language of that service. I set up the first service in New Zealand for deaf mental health and their family/whānau and that was recognised internationally. I also became a trainer for the DHBs in the South Island and central North Island so I could get some more understanding of what was happening for James.

**Q.**And James is unable to be with us today, but we wanted his presence, so with the Commissioner's leave we will have a very short digital story which shows you James.

(Video played)

"(Woman) "One day we will be able to sit back and just laugh and laugh and laugh.

(Man) I hate assumptions, assumptions are dangerous, they cost dreams, smother hope.

(Woman) This is my partner, who has stood by us when it seemed too hard to carry on.

(Cheryl) Years ago a wee boy was born, big hazel eyes and fat as a butter ball. We called him James. He was a happy contented child. We couldn't wait to have a second child, so 18 months later Richard was born; long, lean and handsome.

With support from family whānau, James was included in many activities. He joined the surf club, had a girlfriend, began work as a gardener, obtained his licence and owned a car.

When he was 22 years old his grandfather died. James could not appropriately express his grief. One night he took off his clothes and walked down the corridor of the community house where he lived. He was immediately admitted to Sunnyside Psychiatric Hospital.

Using visual cues, clinicians assumed James had schizophrenia. In the coming months, James was fed a cocktail of antipsychotic drugs. He nearly died twice. Our lives disintegrated. I asked for an interpreter so James could be properly assessed. They said 'we know best. Your expectations are too high. You're just his mother'. Years passed. James shambled along, shaking, dribbling, misdiagnosed and overmedicated. But the clinician said he had behaviours and he was uncooperative.

I knew something was wrong. What could it be? A psychologist recognised in the field of autism and using an interpreter accurately diagnosed James with Asperger's Syndrome. For the first time since that terrible night, James' culture and language were acknowledged. James went to Sunnyside, a healthy young man who was deaf and had Asperger's Syndrome. The consequences of assumptions have left him an older man, his hair going grey, bent shoulders, no self-esteem or confidence.

(Man) There have been many setbacks, but our family still have dreams and hope for the future. We stand united and proud, celebrating the differences within our family. Kia ora, kia mana, kia kaha". (Music).

(Video Ended)

**Q.**We've seen the effects for James after Sunnyside but there was a period prior to Sunnyside where there were also issues, so we will cover those first, Cheryl. Can you please read James' evidence paragraphs 1.1 and 1.3.

A."My name is James Frederick Alan Packer. I was born on 29 November 1970 and I am now 49 years old. I was born in Te Kuiti and was raised initially in the Waikato Bay of Plenty area. I went to Christchurch for work when I was a young adult at 21 years of age. I am Māori and I am from Ngāti Maniapoto.

This evidence is about abuse I experienced whilst at Kelston School for the Deaf and Sunnyside Psychiatric Hospital and my attempts to get recognition for the abuse that happened to me there. I hope that in giving this evidence others will not have to go through the same difficulties that I encountered. The stress on me personally and my family has been unbearable. It has taught me that the system is unfair. The way I have been treated is unfair and should happen to no one.

**Q.**As part of the redress process in relation to Kelston Deaf School, there was an occasion that you provided a statement yourself and that is at Exhibit 9 page 45. We will get that up on the screen. Can you look at that and confirm that is the statement you provided and it's true and correct?

A.Sure. Yes, I know that statement and it is true and correct.

**Q.**Thank you, Cheryl. And you'll be referring to information contained in that statement interspersed with James' evidence?

A.Yes.

**Q.**Turning to Kelston School For the Deaf, when was James there?

A.Approximately between 1983 and 1987 as a boarding student.

**Q.**And what did you see of James over those years?

A.We lived in Rotorua and we wanted to ensure that James was safe in a boarding school, so every fortnight James would fly home from Kelston School and alternatively every fortnight we would travel to Kelston to visit him.

**Q.**And there came a time when James made a disclosure to you. In his words, can you read his paragraph 2.2?

A."While I was at Kelston I suffered numerous instances of physical and emotional abuse at the hands of a teacher. There are too many instances to remember, but the ones that stick out to me are, being smacked open handed around the head and pushed hard in the chest in the classroom, being punched in the stomach on one occasion at a swimming pool, the teacher hitting me when I was using sign language to communicate with other students. I also witnessed him hit other students who used sign language on several occasions. Having to watch the teacher assault other students and also being intimidated and discouraged not to use sign language or risk being further assaulted, having to witness a teacher break the arm of another friend of mine. This was very upsetting to me and distressing. Being hit in the head with a wooden duster and having it thrown at me on numerous occasions and being repeatedly hit on my hands with a ruler".

**Q.**He then talks in 2.3 about the disclosure?

A."While I was a student I disclosed this abuse to my mother. My mother contacted Kelston staff about these instances and spoke with the Deputy Headmaster or the Headmaster. Due to the length of time, I cannot accurately recall exactly who it was. But in any event, these complaints were not investigated. Neither myself nor my mother was questioned further about these complaints. Nothing was done to stop the teacher's behaviour towards me or other students at Kelston, so it continued".

**Q.**And you have an independent recollection about what you were told that you have in your statement at paragraph 6?

**A.**Yes, on one occasion when James was at home he did disclose to me he was being assaulted at Kelston. James told me that a teacher had punched him in the stomach while at the swimming pool on one occasion, and also hit him with a piece of wood.

**Q.**And around that same time, was there any independent information that came to you about the abuse that was happening?

**A.**Yes, there was. A matron at the school rang me because she said James was so distressed that she felt she needed to contact me, even though that wasn't permitted, and advised me that, you know, he was continually upset and he wasn't in a good situation.

**Q.**And James at 2.4 of his evidence talks about that and how it made him feel.

**A.**Yes. James did say that the boarding matron did contact me and voiced her concern about the treatment I was receiving at Kelston and the belief was that some of the staff were aware of the abuse and did nothing to stop it happening. James' words are, "I felt powerless and it was difficult to communicate what was happening to me because I was so afraid. My mother tried to get answers but was always pushed aside".

**Q.**And what steps were taken once you had that information?

**A.**Well, I went to the school and attempted to talk to the Headmaster or Deputy Headmaster, but nothing happened after that, it was just brushed aside.

**Q.**And at paragraph 4.8, that talks about how James felt, if you can read from the third sentence "I didn't know"?

**A.**"I didn't know who I could turn to. We didn't even know how to go about making a claim. There was no Government department or central person designated to support me or families like mine who would have wanted to bring claims".

**Q.**So can you talk us through, referring to James' evidence and your statement, what steps were taken then in terms of seeking legal advice and any other channels?

**A.**So I had heard about Sonja Cooper at Cooper Legal in Wellington and decided to reach out to her. I did not know at this time it would be many years and a long struggle to get any other kind of recognition. The process was very unclear or uncertain. Before lodging a claim in the courts, we decided to first try to get whatever information or records we could and there was several meetings between our lawyers and the Ministry of Education, but it was very difficult and the lawyers initially met with the Ministry of Education's representatives on 20 March 2013 and this was followed up by a letter to the Ministry. That sets out the allegations regarding to Kelston.

**Q.**So the first step on the journey was to obtain James' records?

**A.**Yes.

**Q.**Do you recall what the response was once they had been requested?

**A.**Well, neither the Ministry or Kelston were able to give me a copy of the relevant records about James' time in Kelston. They could not even work out amongst themselves who held the original personal files, and this made the redress process very, very stressful and frustrating and we just couldn't get the information from them.

**Q.**At paragraph 14 of your statement?

**A.**Mmmhmm.

**Q.**You have talked about the issue of obtaining those records?

A.I am aware that when Cooper Legal first requested James' records they were advised that Kelston no longer had the files and it was thought they had been sent to the Ministry. However, the Ministry has no record of receiving them. Given this, I'm not surprised there is no record of my complaint. However, I do not think that this should be able to be used as an excuse by the Ministry or Kelston for denying that Kelston failed to properly investigate or to suggest that it did so but now there is no record of it.

**Q.**And James also in his evidence at paragraph 4.26 describes his impression of the records issue.

A."For me the lack of proper record keeping has been one of the most difficult parts of this process. It also undermines a system of redress if no accurate records are kept. It makes the whole process stressful. Initially it made it difficult to get the information I needed to provide the necessary details to put my claim together. But it also made it difficult to provide the evidence the Ministry required to take my claim seriously. Relying on a poor system of record keeping and processes to deny the seriousness of my claims makes this whole thing more traumatic".

**Q.**Cheryl, after going through that process, initially there was compensation sought for James in the amount of \$35,000. Can you recall the basis that that figure was made of?

A.I think it was to do with Cooper Legal, just they based the assessment of abuse James had suffered against other settlements they were aware of at that time.

**Q.**And once the claim had been made, the Ministry of Education undertook its own investigation and James talks about this in their findings. If you could read paragraphs 4.16 to 4.19.

A."The Ministry undertook its own investigation of my claims of my experience at Kelston. We received a letter from Crown Law dated 29 July 2016. It was disheartening".

**Q.**Can I just stop you there because we will actually look at Exhibit 8, pages 12 which is that letter from July 2016.

A.Okay.

**Q.**Can you see that on your screen?

A.Yes.

**Q.**Excellent. The system works. If I can call out paragraph 3 on page 1 and, Cheryl, there can you outline what was offered by way of settlement?

A.There was an offer of a settlement payment of \$5,000 together with an additional amount to meet his legal aid debt and a letter of apology in full and final settlement of his claim.

**Q.**If we can call out paragraphs 8 and 9 and you'll see that appear on your screen.

A.So the Ministry found no documentary evidence of the teacher hitting students pre-1990 and during the period James attended the school. There are some records of incidents post-1990. These were investigated by the police and the school. The records show that the school disciplined the teacher and he was required to attend a refresher course.

**Q.**And then at paragraph 9 it sets out the conclusion of the investigation. Can you read that please?

A.Yes. "The Ministry accepts Mr Packer's claim that on occasions Mr Packer was smacked by the teacher".

**Q.**And can you describe how you and James felt about that finding and my understanding that led to your statement?

A.Well, it was completely disheartening. We weren't believed, it wasn't true, it's very difficult to know where to go. We had issues trying to get redress. There was nowhere to go. He wasn't believed.

**Q.**And you wrote your statement in the hope that they may reconsider?

A.Yes.

Q.And you talk at paragraph 1620 of your statement?

A.Yes.

Q.Could you read that please?

A."I have read the Ministry's response where it has said it will accept James' claims that he was, on occasion, smacked by the teacher. The teacher may have been my son's teacher for one year, but he had a lot of contact with James and all the other students inside and outside of the classroom. The teacher did a lot more to James than just smack him. As I have said previously, James told me he was punched by the teacher, hit with a piece of wood. I am also aware he was smacked around the head and was pushed in the chest. This is much more serious than what the Ministry is accepting. I do not accept the Ministry's statement that it will not accept the more serious allegations of abuse because of the lack of documents, and because there is no evidence of any complaints pre-1990. I made a complaint pre-1990 and no one recorded it evidently. This does not mean it did not happen".

Q.Cheryl, what did you hope to accomplish on behalf of James at this point of the process?

A.Just that he was believed and they would listen and believe the other children that just didn't have a voice.

Q.You received a response, if we go to Exhibit 10 page 1, you received a response from the Ministry of Education in July 2017?

A.Yes.

Q.And if you can go to paragraph 5, calling out paragraph 5?

A.Mmmhmm. "The information referred to in support of the counteroffer, such as Ms Munro's statement and allegations made by other claimants, must be considered alongside other factors, including the absence of any documentary information directly supporting the allegations made by Mr Packer and the fact that the police investigated allegations made about the teacher and did not charge him and information received from the teacher himself denying the allegations made".

Q.Going back to the issue that you had sought records and there were none?

A.Yes.

Q.And it appeared now that that was being relied on to support that it didn't happen, what were your thoughts about that?

A.I would have thought any organisation would have kept records.

Q.And if we can go to highlighted paragraph 3?

A."My letter of 29 July 2016 sets out in detail the Ministry's findings in relation to the allegations Mr Packer has raised. Despite the absence of any direct evidence supporting Mr Packers' claim, for the purpose of settlement, the Ministry accepted that Mr Packer may have experienced inappropriate and excessive physical management similar to other complaints previously reported".

Q.Having received that letter in James' evidence at paragraph 4.20, he talks about his reaction to this response.

A.Mmmhmm. "The Ministry's response on 13 July 2017 was totally dismissive. It denied any direct evidence but said that the Ministry accepted that I may have experienced inappropriate and excessive physical management similar to other complaints previously reported. It said that I had not raised any new information that required the Ministry to reconsider the original offer. It felt like after four years or so we had hit a brick wall".

**Q.**At this stage James had been seeking redress for approximately four years?

A.Mmmhmm.

**Q.**And you attended with James a judicial settlement conference, that was requested by the Crown, you requested and the Crown believed was an exercise in futility, James calls it, at paragraph 4.1. I understand the claim was actually settled at that judicial conference though?

A.Yes.

**Q.**Can you please read paragraphs 4.23 to 4.25?

A.Mmmhmm. "The judicial settlement conference was frustrating. It did not seem to me that the Crown were willing to engage meaningfully in the process. They seemed to come with a prepared script of what to say and how much to offer to make it easier for them. It was not focused on healing or even giving me a meaningful opportunity to say how I felt about what happened or how we got here".

**Q.**And 4.24 and 5?

A."It also felt like we had been shut out in so many ways. For example, we understand that the teacher was investigated in 2014 by the police for historic abuse of students. We did not know about this before it happened. We were just told about the outcome at a later point in time when Cooper Legal had found out. We were not approached to be part of that process. I understand that the police decided not to prosecute because it happened so long ago and because they were only physical rather than sexual assaults and a lack of concrete evidence. We should have been involved in the investigation. The Ministry should have facilitated us to be able to get police to ask questions of the teacher rather than conducting its investigation behind closed doors.

We eventually settled my claim at the judicial conference. We settled by way of a memorandum that was signed by us on 28 November 2018. We agreed to settle for the sum of \$10,000 and an apology from the Ministry. The Ministry also agreed to pay the legal costs. However, even that had exclusions. They wouldn't pay for the previous proceedings we had to file in the High Court. There was also some delays in receiving compensation and our funds".

**Q.**If we can look at Exhibit 13 pages 23, that is the memorandum of settlement with the Ministry of Education. If we first look at paragraph 2, if we can call that out.

A.Mmmhmm.

**Q.**That shows that the defendant denied the claims?

A.Mmmhmm.

**Q.**And paragraph 3. And as you've said it was for a settlement sum of \$10,000 in full and final settlement. We won't go to paragraph 4, but that covered the payment of the legal fees. But if we can go to paragraph 6 and call that out. Can you read that please?

A."The defendant will provide a letter acknowledging the plaintiff's experiences and recording an apology for the plaintiff's experience when he attended Kelston School for Deaf Children between 1983 and 1987".

**Q.**Did James receive a letter of apology and what did he feel about what he received?

A.We did receive a letter of apology. It was really meaningless really. It didn't take into account the things we've just talked about and being involved in the process.

**Q.**That process took approximately five years?

A.Yes.

**Q.**How would you describe the impact of that five year process on James, you and the family?



A.It's hard to describe, it's just debilitating. You just feel so alone. There was actually nobody to help you. There was no interaction really.

**Q.**A hard question for you to answer, but James had a powerful articulate advocate in you. What would the process have been like for somebody going through it on their own without somebody advocating?

A.I'd say impossible. I only became articulate and knowledgeable because I went back to school and learned about some basic principles, otherwise I started off knowing nothing. It's just too draining, it's too difficult.

**Q.**And some years later you attended a reunion at Kelston Deaf School and you talk about that at paragraph 15 of your evidence. What do you recall about that?

A.There was a reunion at Kelston School and James did want to go. I contacted Kelston School and confirmed that that particular teacher would not be at the school. So, we went to the school reunion and while I was there one of the teachers came to me. He had been there when James was at the school and his comment to me was, "It's a wonder James survived given what he's been through. Staff were aware of what was happening to James while he was in Kelston. It was so obviously significant they remembered years later".

**Q.**As you've thought about it and as you have been involved in the community, have you had any sense of lessons learned or changes made either within the Kelston School for the Deaf or the Ministry of Education?

A.Well, I was really shocked to find that many, many years later that teacher was still teaching at Kelston School. I'm talking like 20 years later, even though it was aware to other teachers of the abuse and the abuse did continue.

**Q.**Is there anything else you want to say before we start to move on to the next phase?

A.Well, yeah, vulnerable children that were being violently abused by a sadistic teacher and a bully, they had no way of contacting family, because they were at boarding school. It was quite clear that many other incidents of abuse happened at that school. In particular by that teacher and I did try to go to the police but there was always some reason why it didn't follow through. So those children are out in the community now and I'm sure there's many of them that haven't had any support or help.

**Q.**And then at age 21 James went to Christchurch?

A.Mmmhmm.

**Q.**We've heard a little bit about James, but if you can go back to paragraph 1.2 of his brief, or in your own words, describe who James was and what was he like between Kelston around that age?

A.Well, after leaving Kelston James did go down to Christchurch. He had a fulltime job as the groundsman. He had saved up and bought his own car, he had a driver's licence, he was fully involved in sports, he played a lot of sport. He was in the social club with the Deaf Association. So he was very fit and healthy.

**Q.**And was there an occasion prior to Sunnyside that he actually had an assessment?

A.Yes, he did.

**Q.**What did that disclose at that stage?

A.He had an assessment because we were looking for other opportunities for him, other jobs, trying to get him to a place of his own, a renting situation or shared accommodation so he could be more independent. Yeah.

**MS JANES:** Madam Chair, we're going to move to Sunnyside. We're a little bit ahead of the morning adjournment, but it does seem a natural time to break before we then go into the next phase.

**CHAIR:** Yes, that is a good idea. Cheryl, we're going to take a break now. 15 minutes.

**MS JANES:** Thank you.

**Adjournment from 11.20 am to 11.46 am**

**CHAIR:** Thank you Ms Janes.

**QUESTIONING BY MS JANES CONTINUED:**

**Q.**Cheryl, just before the break you had talked about James and he was a well-functioning young man before he went to Sunnyside. Can you tell us what happened that caused the admission to Sunnyside?

**A.**As I was talking before, we were supporting James to move into housing accommodation and he'd had an assessment that said he was fit and well. He was actually staying in accommodation with other people. Then James had been brought up to be very close to his grandparents, James and Richard, and his grandfather passed away. When he passed away I came to Hamilton to help my mother and James was in profound grief from the passing of his grandfather and he walked down the corridor where he was staying and took his clothes off. There was nothing untoward sexually or physically unusual about that, but he was placed in Sunnyside Hospital at that time and I came back from Hamilton to find he was in psychiatric care.

**Q.**And at paragraph 3.1 of James' brief, he talks about becoming a patient and says that he was there for a period of about 11 years from 1992 until around 2003. Is that your recollection?

**A.**Yes, that's correct.

**Q.**I understand that you've read James' medical notes from Sunnyside. Could we go to Exhibit 16 page 1 and 2 and this is the notes of an assessment done shortly after he was admitted. The date on it is from 8 June 1992. We're having some technological problems, we may actually do it

**CHAIR:** Do we have, can you give me the number please?

**MS JANES:** We do, it is Exhibit 16. It is a letter from the Canterbury Area Health Board dated 8 June 1992 and it's a progress report on James Packer.

**CHAIR:** Thank you.

**QUESTIONING BY MS JANES CONTINUED:**

**Q.**Cheryl, you have a copy there with you as well?

**A.**Yes.

**Q.**Would you like to highlight the areas that were particularly important for you when you saw that?

**A.**Sure. So James was admitted to hospital and he had an assessment from the senior clinical psychologist. It states here that he has a profound hearing loss, there's been a deterioration in his behaviour which may or may not be related to an underlying psychosis process, however it says there's nothing really untoward with James. There's no significant depression of mood and history is not suggestive of a major affective disorder. There's no evidence of a manic depressive psychoses.

**Q.**And if I can take you to the third paragraph under mental state examination on the first page. Do you see mental health?

**A.**Yes, sorry.

**Q.**And the third paragraph after that?

A.Yes.

**Q.**If you read the final sentence starting "it is clear"?

A.Yes. "It is clear that he is able to understand and grasp information quickly notwithstanding his hearing deficit and is able to make appropriate responses".

**Q.**And if you can turn to page 2 of that same assessment about the fifth paragraph down it says "the initial impression is"?

A.Yes.

**Q.**Can you read those three points please?

A."There is no evidence of any significant intellectual disability. There is no evidence of any formal mental illness. There is an understandable mood shift related to the death of his maternal grandfather one week ago. The loss of his accommodation placement at independent house recently and the ambivalence contained within the relationship between himself and his mother, bearing in mind her recent loss".

**Q.**And importantly under plan number 1, what was the decision about medication?

A.That no psychotropic medication to be prescribed at this stage.

**Q.**Do you recall how soon after his admission this assessment occurred?

A.I think it was in the first day or so. Immediately he was admitted.

**Q.**And James talks about his experience at Sunnyside. Are you able to read please paragraphs 3.2 to 3.3?

A."I was visually misdiagnosed with schizophrenia and medicated accordingly. At no time was an interpreter used to ask me how I felt and what was happening to me. There was no support in terms of information and discussions with family at all. During this time, I was heavily medicated with a cocktail of antipsychotic drugs which left me crawling on the floor unable to walk. It took over two years before I was correctly diagnosed with Asperger's Syndrome. We had to bring in a clinician from Australia who was internationally recognised for his work in autism. The clinicians at Sunnyside Psychiatric Hospital did not recognise this diagnosis and continued to medicate me for schizophrenia.

At Sunnyside Hospital I was physically assaulted, punched by the staff and pulled out of bed by other patients. On one occasion my brother and my mother also saw me being punched and pushed up against a wall. I was also locked in an isolation room by myself and medicated as punishment when I used sign language because staff said they had to know what I was saying at all times. I was restrained and given lots of medication, including injections without any explanation as to what it was for. The side effects this had on my body included a slack jaw, constant dribbling and a loose arm". James has recently been diagnosed with having dyskinesia as a result of all the antipsychotic cocktails of drugs he had".

**Q.**Given James was known to be profoundly deaf, what was your experience about access to sign language services either for himself or for you as the family?

A.There was absolutely none. They would not have an interpreter go into the hospital. We had access to an international consultant psychiatrist who worked for the Deaf Mental Health Service in London who came to New Zealand at our request and they were not allowed entry into the hospital. We had other people that were conversant with deaf, working with deaf and mental health and they were not allowed into the hospital. And this went on for many years.

**Q.**And was there an opportunity to complain or seek assistance, and if so, what was the response?

A.To get support from clinicians, absolutely, we worked with many people that were knowledgeable and experienced in this area, but Sunnyside Psychiatric Hospital was just a closed order.

**Q.** So paragraph 4.5 of James' evidence he talks about what was done to try and help him. Can you just read that please, or summarise 4.5 following?

**A.** "I sought help from many people in relation to my abuse at Sunnyside. For years we tried to get answers from the hospital staff. We even went to other clinicians all to no avail. Finally, the only option was to use political channels. My mother talked to the local member of Parliament as she was the only person who we felt we could turn to. Initially this was really good. She was the only one that listened to me apart from my doctor. But no proper outcome resulted and we eventually became frustrated. It was like we were going around and round in circles".

**Q.** What did you do then?

**A.** We wrote a letter to the then Prime Minister, Jenny Shipley, seeking answers. We didn't get a response. This was disheartening as I felt like the Prime Minister and therefore the Government who was supposed to look after us couldn't care less. We had to use this to our advantage so my mother approached a senior member of Parliament at that time and she raised the matter in Parliament bringing some attention to our issues of abuse".

**Q.** And did that help at all?

**A.** Yes, we got a call from Sunnyside Hospital at 6.45 in the morning to see if we wanted to talk. It didn't go any further.

**Q.** And then you also tried legal avenues, at paragraph 4.8 of James' evidence he talks about that. No, that's Kelston. You went to different lawyers this time for the Crown Health and Finance Authority claim. Do you recall that? It talks about Johnston?

**A.** Yes, we did go to the lawyers. It was just quite difficult to explain, because it was just so frustrating. It was in a world that we didn't know and it was really difficult to know where to go and what to do.

**Q.** Eventually the claim was made and if we can go to Exhibit 3 page 23, this is the Memorandum of Settlement and Release. Can you talk through the process as you recall it of making the claim and then come into this settlement?

**A.** Yes, we did make a claim. It was a wellness payment.

**Q.** So if we can call out paragraph 3?

**A.** Mmmhmm. So the sum of \$18,000 as a wellness payment was made in acknowledgment of James' experiences in the psychiatric hospital care and the costs he incurred in seeking wellness in the period since his treatment.

**Q.** And if we can then call out paragraph 4?

**A.** It was by way of contributions to costs required by the LAS to release the claimant from any indebtedness to the LAS.

**Q.** And then there was also at paragraph 5?

**A.** It was a letter came from the CHFA acknowledging and apologising for the distress caused by the claimant's experiences while in psychiatric care.

**Q.** And given it was in very similar terms to the memorandum from the Ministry of Education, how did you and James feel about the acknowledgment that you were receiving?

**A.** James was never sick before he went to Sunnyside Hospital. He was visually misdiagnosed and medicated with antipsychotic drugs. No interpreter was ever used. Whānau were never involved. And James is not well now, so many years later, so I mean getting a wellness payment was a bit of a misnomer for us.

**Q.**And in terms of that wellness payment of 18,000, what has it actually meant for the family in terms of trying to seek to remedy what happened to James at Sunnyside?

**A.**Absolutely nothing. I mean I spent \$450 last week on medication for James, \$250 the week before. I live on a pension, \$18,000 was nothing.

**Q.**And are there other costs that you have put towards looking after James?

**A.**About the time James went to Sunnyside Hospital I had an inheritance of \$75,000. That was gone within a year trying to keep James alive. He nearly died twice in Sunnyside Hospital from them overmedicating him. He was taken into general hospital to keep him alive. \$18,000 didn't mean a thing.

**Q.**And in terms of the apology, was that what you felt did that help in any way?

**A.**Well, it was a statement. I think it probably was a big step at the time to get an apology, but in reality, we appreciated it, but it didn't really make changes for us.

**Q.**And on page 3 of this agreement, if we can call out paragraph 7?

**A.**So the CHFA's agreement to enter into the settlement is made without any admission of legal liability, but I wasn't surprised about that because the reality for me was there's confidentiality requirements, they might have a place but as far as I'm concerned, keep it private, keep it a secret, just perpetuates the why there's so much abuse because it's not talked about.

**Q.**And James in his evidence talks about being grateful that he is able to have that confidentiality waiver waived so he can talk about...

**A.**Absolutely.

**Q.**As a result of this settlement, were there any other services that were offered to James, whether in terms of counselling or rehabilitation or placements or employment, is there anything else that was offered as part of the settlement?

**A.**Yes, he did he was offered counselling but it's very difficult finding somebody experienced that can work with an interpreter and then through to James, and the essence can be lost, and frankly James was in no fit state to have counselling. It's been 30 years and we're just looking at maybe getting him counselling now.

**Q.**And James, we've seen in both of the settlement agreements that there have been contributions to legal aid. James talks at paragraph 5.1 to 5.3 about legal aid issues. Can you read those paragraphs please?

**A.**"Another difficulty with the process has been no certainty. No certainty if our claim was going to be legally aided or if a lawyer would take our claim. We were lucky to have Sonja and her team at Cooper Legal to take us on. But it seemed like our lawyers had to constantly justify why this claim was important or worthy of spending public money on. It is like the Government was trying to make us feel guilty when our lawyers work really hard to make progress. We don't suppose that the Ministry has to obtain legal aid so to us the power imbalance feels unfair. There needs to be a better way of funding and handling these claims".

**Q.**And James then goes on to list what he thinks could be improvements. Could the Commissioners hear in his words what he thought?

**A.**"There needs to be big improvements to the processing of claims for historic abuse. Trying to get recognition should never be this hard. It has never been clear who we should or could speak to to get answers. There was no useful publicly available information. This made the processes so hard to understand, to know what was required, and what outcomes were possible in redress. We knew nothing about eligibility of claims, how they were being

assessed and by whom, or what sort of compensation was available. There have been so many delays and no clarity around timeframes. I would like to say that this has never been about the money for us. Money doesn't even come into it. It is about getting recognition and being believed. This is family and whānau and they know who these people are". But we were never included.

**Q.6.4** please?

A."At one point we became so disillusioned and frustrated by the constant delays that we reached out to Paul Gibson, the then Disability Commissioner at the Health and Disability Commission, in the hope that he could do something.

The focus of the redress process should be on the survivors. It should be made as easy to engage with us as possible, given it is already dealing with vulnerable, traumatised people. It takes a lot of courage to challenge the system and speak up about what happened. Allegations about abuse are not made lightly because they come at a huge personal cost.

We need to have our voice heard. There should be a designated team in Government whose job it is to help us get answers, rather than defend itself against claims. The process of investigation needs to be independent and not carried out by a Ministry that is interested in protecting its conduct and reputation and those of the teachers. It feels to us like there is a conflict and so impossible for claimants to truly feel the process is fair and impartial.

The process also needs to be funded and handled better so that we can all have certainty about what the process means and move on with our lives".

**Q.**And is there anything that you as a family would like to add to that?

A.Do you want to say something, Rich, or make things better? The process for us as a family has been that for 30 years we've watched James be medicated. Today he is still on the remnants of medication from Sunnyside and we're still working to have that decreased. But he does have, as I noted, dyskinesia, which means he has involuntary movements and that's really awkward when he's in the community. To have access to a neuropsychiatrist who has an understanding of what James has been through, we have that, we have like an hour meeting every six months. We need somebody on call. We need somebody available that's knowledgeable and can listen, is inclusive with family so or support people that are supporting the person, because they're on the coal front, they know what's happening and we need to be able to access that any time, so we can get information to get the best result for James.

James has a safe house now, he has his own house that we've built. That's come at huge expense, but he needs to be safe. We basically live on the breadline to make sure James is okay. But James still puts, he still puts clothes against his door to stop the brutal teacher coming in to attack him. He's nearly 50 years old. He still has nightmares.

Yeah, people need to listen and hear, not only listen but hear what people are saying. We know our family members and they need to be open to taking out information from other people. It doesn't matter where the information comes from. We had top international experts in that field that could have stopped it on day one, but somebody made a decision to medicate James with four antipsychotics and two other drugs for side effects, which left him crawling around the floor. We did have help, but Sunnyside wouldn't open its doors. This could have been stopped before it started. It didn't need to happen.

**Q.** Cheryl, on that, heartbreaking as it is and I know this is difficult, but when you came to get the correct diagnosis, how did that come about and how quickly did it happen when it did happen?

**A.** Well, James had been in Sunnyside for years. We knew he didn't have a mental illness and we brought Tony Atwood, internationally recognised in the field of autism, from Australia. We had a private meeting. The first thing he did was bring in an interpreter who spoke with James. He diagnosed James in an hour. James was sent back to Sunnyside Hospital. They wouldn't listen to Tony Atwood and James was medicated again. I took my GP into a meeting in Sunnyside Hospital. James was crawling around the floor dribbling to the floor. She attempted to address the situation. We were told if we didn't take James out of the hospital right then, they would put him in a room, isolate him in a room and inject him with medication. That was the answer we got from taking a GP into a meeting.

**Q.** What eventually made a difference?

**A.** Sorry?

**Q.** What eventually made a difference?

**A.** James had been taken to hospital twice because he nearly died. We had to move him out of Sunnyside. We had community support that would have taken him but Sunnyside wouldn't let him go. So we removed James, heavily medicated, to Waikato. He wanted to go home where his grandparents had lived. And sorry, yeah. So we took him to Waikato Hospital and there there were clinicians and a very forward-thinking clinical psychologist and they decreased his medication in half immediately and from there we worked to getting James into community care and then into his own home. Yeah.

**Q.** Finally, as we conclude the evidence for you and James, before any questions are asked of you, what does the prognosis in future look like for James and for you and the whānau?

**A.** Yeah, James lives by us, he has his own house, he has excellent support people and he has family around him. It's still quite challenging, but he's safe and he has a healthy lifestyle. Yeah.

**Q.** Thank you very much for giving your evidence. If the Commissioners had any questions, before doing so though I would note that the entire statement is taken as read, it will be available on the website, most of it has been covered but we have moved through it?

**CHAIR:** Thank you, I'm just checking. Cheryl, we have no questions for you, but may I, on behalf of the Commissioners, thank you very much for your evidence. Can I also thank our silent supporter here, Richard, who sat by your mother, thank you for coming and supporting her. And please would you convey the thanks of the Commission to James of course.

**A.** I'd just like to thank you for giving us this opportunity. It is going to change lives.

**Q.** We very much hope so, thank you so much.

**A.** Thank you.

**MS JANES:** Thank you ma'am, and Cheryl you can step down.

**CHAIR:** You're free to go now, you don't have to stay there for the rest of the day.

**A.** Thank you.

**MS JANES:** Ma'am, the next witness to be called it is Mr Keith Wiffin and he will be led by Simon Mount QC.

**CHAIR:** Do you wish to start that evidence now or would you like to take a break? It's up to you and up to Mr Wiffin.

**MR MOUNT:** I think the appointed time is 2.15 and there are a couple of technical things for us to sort out, so it's probably best to stick with that if we may.

**CHAIR:** We'll effectively take the lunch adjournment now, it will be a very long lunch, but we will come back at 2.15 for Mr Wiffin's evidence. Thank you very much.

**Lunch adjournment from 12.19 pm to 2.15 pm**

**CHAIR:** Afternoon Mr Mount.

**MR MOUNT:** Good afternoon Commissioners. The next witness is Mr Keith Wiffin.

**KEITH WIFFIN**

**CHAIR:** I think I'm going to call you Keith. Would that be acceptable to you?

A.It certainly would.

**Q.**Keith, I need to ask you to read the affirmation which reads "do you solemnly, sincerely and truly declare and affirm that the evidence you will give before this Commission will be the truth, the whole truth and nothing but the truth?"

A.I do.

**Q.**Thank you. Yes Mr Mount.

**QUESTIONING BY MR MOUNT:**

**Q.**Good afternoon Mr Wiffin

A.Good afternoon.

**Q.**I understand that you're suffering from some fatigue this afternoon. Please be assured the process can move as slowly as you need it to move and if you need a break at any stage just let us know.

A.Thanks, and just for the assembled, I am suffering a little bit of sleep deprivation at the moment due to noise associated with accommodation, so I may at some point need to take a bit of a break. So that sleep loss has been over a three-day period now so it's affecting me.

**CHAIR:** Please let us know the moment you need to take a break, please.

A.Thanks for that.

**QUESTIONING BY MR MOUNT CONTINUED:**

**Q.**I think you have with you a copy of the statement dated 12 February this year?

A.Correct.

**Q.**Just for our record, can you confirm that the statement is true and correct to the best of your knowledge and belief?

A.That is the case to the best of my knowledge, it is true and correct.

**Q.**What we will do is read much of the statement so that people can hear it from you and at certain points I understand there are things you'd like to add and we'll just pause and let you add to those as we go.

A.Understood.

**Q.**Perhaps if we start at paragraph 3 where you talk about the purpose of the statement and the purpose of your evidence.

A."The purpose of this evidence is to detail my experiences of seeking redress for those abuses, the fundamental flaws in the process I experienced and the way I believe things should be done in the future".

**Q.**When you talk about those abuses, of course you gave evidence at our hearing last year and talked about the abuse you suffered at Epuni Boys' Home and at a family home, is that right?

A.That's correct.

**Q.**I'd just like to keep going from the heading "Background: [Your] experience of state care", so from paragraph 4?



A."My father died suddenly on his 39th birthday when I was eight years old, leaving my mother trying to care for four children with very little income or support. The loss of my father had a huge impact on me and I carried a lot of grief. My mother found it very difficult to cope and when I was 10 years old she approached Child Welfare to ask for help in looking after me".  
If I could just expand a little bit. There were some minor behavioural difficulties with myself related to grieving for my father, but in good faith my mother signed the document which made me a ward of the state, thinking that I'd be cared and nurtured for. The complete opposite happened.

**Q.**Keep going from paragraph 5?

A."In November 1970 I was admitted to State care at Epuni Boys' Home. I was 11 years old. I didn't have frequent contact with my mother after that". And also, to expand, none of my other family as well.

"The culture of Epuni Boys' Home was violent and abusive. Fights and bullying were routine. I personally had broken bones and required medical treatment, including stitches as a result of fights. The records of this are in Hutt Hospital. In many cases fights were overseen by staff and staff also perpetuated violence. Many of the house masters were violent themselves".

My introduction to that violent culture happened in the van on the way out there on my first day. And it continued, that violent culture, from my first day as a State ward to my last day.

"At Epuni I was also sexually abused by one of the house masters, Alan David Moncreif-Wright. I was 10 or 11 the first time just to expand I was 11 when he found me an excuse to send me to my room and then later followed me in and abused me. He abused me on a number of occasions. I didn't tell anyone about this at the time because I was terrified of Moncreif Wright". To expand again, that abuse happened on a number of occasions, also over a prolonged period of time.

"I kept quiet about the sexual abuse that I suffered for most of my life. Many decades later I made a police statement about what Moncreif-Wright did. He pleaded guilty in 2011 and was convicted of eight sexual offences in the Wellington District Court, including five against me. The complainants were me and two other boys at Epuni in the 1970s.

It turns out that Moncreif-Wright had previously been convicted of three charges of indecent assault on boys under the age of 16 and two charges of attempted indecent assault in 1972. Just over six months after I was discharged from Epuni and while I was still in State care I now know that his offending was against boys who were also at Epuni and that Moncreif-Wright left Epuni around the time of these convictions. As far as I know there was no attempt to find out whether any of the others had been abused by him at the time. Certainly, I was never asked. In 1988 Moncreif-Wright was also convicted of serious sexual offending and he was sentenced to four years jail.

I was at Epuni for about seven and a half months before moving to a family home. The family home was also violent and I was physically abused by the carers' it says here. I would like to amend that and say the male guardian.

**Q.**Just pause there Mr Wiffin. Some people may not understand the context of a family home. Would you like to just explain that for us?

A.All right. So I would describe the family home so Epuni Boys' Home and their like, there was something like 28 or 29. They're up here. The family home structure lied one tier below it. Below that again was foster care. So there was all a crossover often between those who

had been in the boys' home and the girls' homes becoming part of the family home population.

And the culture wasn't a lot different in terms of violence, and I can give you an anecdote around that. On my first day in the family home at Titahi Bay, Porirua I was sitting in the lounge on my first day and waiting to meet my new family, if you like, and a boy came down while I was sitting on the floor and punched me in the face as hard as he could.

Now I'd never met him before in my life and I'd just come from Epuni Boys' Home where that was pretty much stock standard stuff. And I reacted and would be fair to say on this occasion he came off a bit worse. And I was punished on my first day there and then I said to him later on, the boy, "Why did you do that? I've never met you, I've never done anything to you". He said that "The kingpin told me to come down and try you out"; the exact same culture that I'd just left at Epuni Boys' Home. So whilst they were better, some of the same conditions existed, same culture.

I don't know whether that explains it, but yeah.

**Q.**Some people might hear the phrase "family home" and think of a mum, dad and two or three kids, something like that. But actually how many children from State care might be in a family home at a particular time?

**A.**Looking back probably about ten and they had their own children. So they had two of their own, a boy and a girl, and there were clear demarcation lines between their own children and the wards of the State. And so, for example, when you walked into the lounge you did not sit in that furniture. If you went on a car trip, you did not sit in the front seat, that was reserved for them, they had different food and so on. So they had their own kids, but they were also paid guardians by the State of us.

**Q.**So in terms of that three tier system you talked about, I take it a family home was better than being somewhere like Epuni but not as good as being in a foster home in general?

**A.**That's right, the jewel in the crown was to find yourself in a foster home.

**Q.**I think you were up to the phrase "later when I was 14"?

**A.**Right. "I did a second period at Epuni of about three to four months. I distinctly remember feeling relieved once I found out that Moncreif-Wright was no longer there. But the culture was still the same. I wasn't sexually abused in the second stage but I was aware that there were other kids that were being sexually abused".

If I can just give an anecdote of my arrival on the first day back at Epuni, and I remember it. I said to one of the boys, "Is Moncreif-Wright working here?" And he said no, and he knew who he was, but he said as part of his reply "Make sure your light's out at night and you'll have a better chance". And I knew exactly what he was referring to. So even though Moncreif-Wright wasn't there, there were other house masters abusing in the same vein.

Paragraph 11.

**Q.**Yes?

**A.**"State care and the abuse by Moncreif-Wright had a devastating effect on me. The impact has continued through my life. I dealt with things in different ways. At time alcohol abuse was a problem. I was in denial for much of the time as a form of self-defense protection mechanism. As I got older it started to become a real problem for me. Depression, nightmares, often featuring Alan Moncreif-Wright and back in Epuni Boys' Home were part of my life. It was enough for me to try to get through life and pay the bills day-by-day. As it got worse I realised I had to do something to address the past.

Sometime around 2000 I toyed with the idea of making an approach to MSD, but I decided against it because I didn't have the trust that they would treat me reasonably, or that they would listen to me or believe me". Special emphasis on the last word, "believe me".

"This was the same department that had been responsible for my care when I was abused at Epuni and the family homes. And who had employed Moncreif-Wright". There was a fundamental, expanding on it, lack of trust on my behalf.

"In around 2003 I remember seeing media coverage about a case that Sonja Cooper argued on behalf of an abuse survivor. I decided Sonja might be someone I could trust. I contacted her and met with her in November 2003.

After I first went to Ms Cooper, there was a long process to establish whether I had a claim. I had interviews with lawyers from Ms Cooper's office and with psychologists. As I've said before, it was a robust, rigorous and searching process to determine whether I had a meritorious claim. I doubt any false claim would make it through the process".

And just to expand, it really was rigorous. I remember it well. I probably had three two-hour interviews, one with Sonja herself, one with one of her junior partners, and one with a contractor there to take my statement. And they would come back around points of clarification. They wanted to be sure, that's the impression I got. So yeah, it was very robust and rigorous, and taxing, emotionally confronting.

"We made requests to the Government for my records and we had to go through all the documents and apply for legal aid. I found the whole process difficult, even after my lawyer received my records it took me some time before I was up to looking at them".

**Q.**Just pause there for a second. We have here with us today a specialist in records.

**A.**Yes.

**Q.**I think you wanted to expand on the topic of records if that's all right?

**A.**Yes, well, I distinctly remember the day sitting in Sonja Cooper's office by myself looking at those records and just how confronting that was. It was a very lonely, painful experience reading those records by myself. Records are a very big part of our lives obviously. It's the first time that you sit down there and read them and you're reading about your life. And sometimes that can take a long, long time to come about.

That is because in part, in great part, the authorities do not make it easy for you. The deletions, the redactions and the destruction of records is a complete and utter obscenity. It is designed as a tool to obstruct justice, obstruct us getting the acknowledgment and to limit the Crown's liability.

Records for me also can form a very important part of redress. And that's what this hearing's about essentially. I think you know the person you're alluding to who's here and I have been working with people around records. And so they have developed models and prototypes, which can be mainstream if there's a will to do so, that will see things done much, much better; and in the interests of victims, not in the interests of the agencies' agenda.

So that means things like how they're written up, accessibility and support mechanisms being put in place for those who read their records. Very, very important, and for me an integral thing in redress. Paragraph 16.

**Q.**Yes?

**A.**"My claim was filed in the High Court in April 2006. I didn't see a court case as the best option or first preference, but I didn't think I had a choice. There was nowhere else to go except directly to MSD and the Crown, the very people who were representing the perpetrators",

which is a very important point. That's part of the lack of fundamental trust. And as things played out, I think I was very vindicated in the levels of mistrust I had.

"In September 2006 I attended a meeting with managers from MSD at Sonja Cooper's office. I understand they were trying to get feedback from claimants in order to develop an alternative process to respond to claims. As I recall, there was no discussion about MSD taking responsibility for what happened to me. The suggestions seemed to be just to make token services available, for example the removal of tattoos, which was a service already open to many people at the time. They sent me some general reading material after the meeting but did not suggest any concrete way to resolve my claim. My overall feeling about the meeting was that this was the Crown trying to find ways to make claims go away with services that were already available. This was in keeping with what seemed to be the Crown's general approach of trying to avoid paying any monetary compensation and minimise its civil liability at all costs. In layman's terms and I actually said this at the meeting I think it felt like they were trying to buy us off with muskets and blankets.

In late 2006 I made an official information request to MSD. In response, the Chief Executive, the then Chief Executive Peter Hughes wrote to me and assured me that MSD treats any allegations of abuse or neglect seriously and works to investigate all claims lodged by former wards of the State. He said MSD was bound to deal fairly with every claim and to seek to settle with claimants where it was fair to do so, and that he would investigate the issues people raise around their past care and seek to respond fairly, regardless of the forum people chose to raise these issues they have with the care they received. In reality, the way things played out, these statements proved to be pure rhetoric and hollow in the extreme".

For me the investigation wasn't taken seriously. Once again, as things panned out, it came down to them wanting to protect and defend their own agenda rather than ascertaining the merits of what happened.

**Q.**The next topic is about a case called the *White* case. As Ms Janes explained this morning, we're going to hear from one of the plaintiffs in that case, Mr White during this hearing, but I think you had some possible involvement in that case, which you talk about from 19?

**A.**Mmm. "Through most of 2007 there was no progress with my case. However, the *White* case of two brothers who had spent time at Epuni was going to trial in 2007. I understood from my lawyers that it was the first case bringing complaints against a resident and that the result might impact on all our cases, so I agreed to give evidence about my experience at Epuni for the trial. We prepared a brief, but in the end I didn't give evidence as I was having a really difficult time at that point in my life, revisiting the details of my time at Epuni and the stress of the upcoming trial triggered an episode where I became very depressed, agitated. I felt suicidal, was unable to get out of bed in the mornings, and I was referred to a therapist through ACC who gradually helped me improve. Due to ill health, together with the death of my mother, which coincided with that trial, I was unable to give evidence in the trial.

The *White* decision came out in late November 2007. Although the court found that there had been some abuses, including sexual abuse by a staff member at a residence, the case was dismissed on the grounds of a Limitation Act and the ACC Bar. This was really disappointing to me as it seemed to me that the Crown were relying on technical defences to avoid taking responsibility for what had happened. The Crown's approach that brought an end to the *White* case may well have applied equally to me and many others, which in all probability is why the Crown spent so much time and money on the case".

This was seen as a test case, if you like. A sense that I got from it in terms of the Crown and their legal team was it was some sort of interesting game for them, new and different. For us, it was about our lives.

"Towards the end of 2007 I was told my case was going to be one of the next ones to go to trial. My lawyer started doing some preparation for my case, including tracking down information about Moncreif-Wright. For example, in November 2007 they wrote to Crown Law asking staff records and any information MSD held about Alan Moncreif-Wright. In February 2008 Garth Young – and Garth Young was the then National Manager of Historic Claims Unit – replied noting that there is nothing contained in Moncreif-Wright's staff file that relates to Mr Wiffin. Nor is there any information relating to allegations of physical or sexual abuse against Moncreif-Wright. There was no mention of Moncreif-Wright's prior criminal convictions for sexual abuse during the time he was at Epuni".

**Q.**Just pausing there for a moment. You said in the start of your statement that Mr Moncrief-Wright had been convicted back in the 1970s for sexual abuse against boys at Epuni?

**A.**Yeah.

**Q.**I take it you didn't know about that at the time?

**A.**Absolutely not. I knew from my own experience what Alan Moncreif-Wright was like. But I had no idea at all, and it wasn't until sometime later that he was actually a convicted paedophile. Not only that, some of those convictions stemmed from Epuni Boys' Home at the exact same time I was there. This information wasn't forthcoming. And to me that was withholding evidence to obstruct the course of justice.

"At the time the result of the *White* case weighed heavily with me. I did not want my case to be thrown out on the Limitation Act. Same thing that happened in the *White* case, the preparation for the *White* case had also taken a serious toll on me and I was worried about facing a trial, particularly if the Crown would not be held accountable because of the Limitation Act".

I did not want to lose that case for any reason and it was the Limitation Act that looked like the most likely reason why I was going to lose. And I looked at it not only in terms of my case, but the ramifications it may have for others.

It is an obscenity that the Crown uses such legal technicalities to hide the abuse of children. I'm hoping with the passage of time that that particular technicality will come under very close scrutiny, because we are supposed to be looking at this through the lens of morality and humanity not legal technicalities.

"I had a meeting with MSD on 24 July 2008. At the meeting there were three people in the room, one from MSD and two from Crown Law" and I do remember this well. "One of the two people from Crown Law started the meeting by saying 'I'm only here because someone else was sick'. That was his total contribution to proceedings. The other person didn't say anything at all. She just sat there with a disapproving, dismissive look on her face. Garth Young was the only one that spoke to me. I was sceptical but I had some hope that he was genuine. In hindsight the meeting lacked substance, although at the time I was optimistic and the meeting raised my hopes" and I probably shouldn't have allowed that to happen because it was certainly a false dawn.

"The following day I received a letter from Mr Young. It acknowledged that it would not have been easy to talk about the personal and hurtful matters I told him about. Mr Young

offered to help arrange a visit to Epuni, which I requested. The letter said that MSD would get back to me with a response as soon as they had further considered my claim".

In fairness to Garth Young, he did try and arrange that trip to Epuni. In fact he's done it on more than one occasion. I still have not made that trip to Epuni, which I still want to do, because it has been obstructed by other officials.

"The letter gave me grounds for optimism, the letter said MSD would get back to me with a response as soon as they had further, the letter gave me some grounds for optimism that MSD listened to me and I might get a fair response. I wrote a letter in response and tried to be positive with a view to getting an outcome to settle my claim and a visit to Epuni Boys' Home, even though I thought the process was fundamentally flawed. With my hopes raised by the meeting, I tried to remain positive and I had expectations that the claim would be settled and I could visit Epuni.

However, I didn't hear anything else from MSD for many months after that letter. The inordinate amount of time that passed by caused me a lot of anxiety. As we got closer to going to trial, my mental health again began to deteriorate. I had difficulty sleeping, was distracted at work and had flashbacks to specific events and nightmares centred around my time at Epuni.

Over the next ten months there were exchanges between my lawyer and the Crown about things like expert psychological reports on me and my complaint to the police about Moncreif-Wright. As part of that the Crown said that if I proceeded with the criminal process, they might be unable to speak to Moncreif-Wright or otherwise investigate the allegations against me.

This led me to believe that the Crown wanted to speak with Moncreif-Wright and would do that as part of their investigation unless I proceeded with a criminal complaint. My lawyer responded a week later and said I would not be proceeding with a criminal complaint at this stage. From my perspective, this cleared the way for Crown Law to speak to Moncreif-Wright. I fully expected them to do that". Which didn't happen.

It's probably an opportune time just to remind some people who may be watching that I have done a restorative justice meeting with Moncreif-Wright and it was quite clear to me that nobody from the Crown had ever been anywhere near him in relation to his time as a house master at either Epuni Boys' Home or Hamilton Boys' Home.

"In March 2009 I still not had a response to my meeting with MSD so my lawyers made an offer in an attempt to settle the claim, because(sic) my case went to trial. My lawyers pointed out that much of the claim related to the period before the ACC Act and the main perpetrator Moncreif-Wright had convictions for sexually abusing boys during the relevant timeframe. In addition, the staff members who physically abused me at Epuni had been the subject of negative findings in the High Court in the *White* trial.

Crown Law responded saying they were still investigating. Garth Young also emailed to say that a considerable amount of work had been done on my file since the meeting and Crown Law should be in touch very soon on a settlement offer.

On April 1, 2009 Crown Law sent my lawyer a copy of Moncreif-Wright's previous criminal convictions. The letter said the Crown was not required to provide these to me but MSD was happy to provide the information. The conviction list showed Moncreif-Wright's conviction for sexually abusing young boys around the time he abused me as described above. Victims of those offences had been at Epuni at the time. I still do not know why the

Crown had not provided Moncreif-Wright's previous convictions to my lawyer earlier. For example, when she asked for any information held about Mr Moncrief-Wright in 2007".

**Q.**Just pausing there Mr Wiffin. For your information, we will have an opportunity to ask Mr Young of MSD about that later in this hearing when he comes to give evidence.

**A.**Right. Well, the bottom line here for me is that they knew about him. They tried to keep it from me and they should have helped me along with all the other victims known and unknown to investigate his time. This is a person who is a very serious abuser, who has created many victims, some of whom are only just starting to come forward now. And I met one recently who, like me, is 60 and in the last six, seven months he's spoken of the abuse for the first time. He reached out to me. He has suffered very serious abuse and he is suicidal at the age of 60.

Moncrief was allowed to get away with these things because of the serious systemic flaws and values in the system that allowed it to happen. You just cannot get away with the scale of abuse that has happened at his hand without there being serious problems with the system itself.

**Q.**Just pausing there, Mr Wiffin. Am I right that you had particular concerns about the earlier phase of Mr Moncrief-Wright's employment with the education system and that you have a particular hope of what the Royal Commission might do?

**A.**I do have concerns. I have certain information, bearing in mind I have spoken to Alan Moncreif-Wright that he was offending before he arrived at Epuni Boys' Home in a similar institution in Hamilton. It's my belief that he was allowed to quietly slip away, reoffend and create victims because of the reckless and negligent conduct of the administration at the time.

It is my further hope that the Commission will look at these things thoroughly and get to the bottom of them. There's a perception out there that maybe this is the only sort of stuff that happens in the Catholic church maybe in far off lands. It's not the case. It's a misconception. It's happened here.

"The following week on 9 April 2009 almost nine months after my meeting with MSD, I received a letter from the Crown. It said that the Ministry didn't believe my account of the physical assaults I received and would deny and defend them. It said that the Ministry accepted responsibility, sorry, the Ministry acted responsibly and that it gave my case close and diligent attention over many years. They made an offer to acknowledge that my time in care was difficult and to contribute to counselling costs not covered by ACC. There was no explanation for the conclusion that my account was false. There was no acknowledgment of the sexual abuse I suffered, only a statement that even if it did occur as I said it did, I would face considerable legal hurdles in the form of the ACC Bar and Limitation Act. In essence, it was a rejection of my claim".

**Q.**Just pause there Mr Wiffin. We have a copy of that letter on the screen. If we could zoom in on paragraph 3 please. You'll see the statement about the allegations of physical assault?

**A.**Correct, yeah.

**Q.**Your reaction to that?

**A.**They happened. And what I would like to remind the Crown is I was there. The two house masters were notorious for assaulting kids at the home. They were to be feared, one in particular and I mentioned this just the other day to someone had the worst temper I've ever seen on any individual anywhere. A small, angry man who, when he lost his temper, just lashed out. And I'm talking fists, no problem to him.

And I remember, I remember well giving an example of what happened to me by this person, that I was a very small boy and I was trying to control in the hallway an industrial polishing machine. And I don't know whether any of you have used any of those, but they're not the most easy thing to control at the best of times. I lost control a bit and I put a hole in a wall. GRO-B-1 saw this and he attacked me. It's something I will never ever forget.

These were the people for me personally who were the most violent. Interestingly enough, I asked Alan Moncreif-Wright, I spoke to him, I said "In your opinion who was the most violent and abusive of the house masters at Epuni Boys' Home when you were there?" And he did not name either of those two. He named someone by the name of GRO-B-2.

**Q.** We're going to take a brief pause if we may, Mr Wiffin. There's nothing you've done wrong at all, but we're just going to take a brief pause in the evidence if that's all right?

A. Sure.

**MR MOUNT:** Can we have a short adjournment please?

**CHAIR:** Yes, certainly.

### **Adjournment from 3.03 pm to 3.38 pm**

**CHAIR:** Yes Mr Mount.

**MR MOUNT:** Commissioners, Madam Chair, thank you for that adjournment. I emphasise to Mr Wiffin it's absolutely nothing at all that he has done wrong, but we were taken by surprise by the mentioning of two names. In fairness to those two individuals who hadn't given any prior notice that their names might be mentioned in this public forum.

What I will do is seek and order under section 15 of the Inquiries Act to prohibit the publication of the names "GRO-B-1" and "GRO-B-2" in connection with Mr Wiffin's evidence today. In the transcript those names will simply be removed and perhaps replaced by a random letter, something like that. But I seek that order, I don't anticipate there'll be any opposition from anybody in the room, but I'll be grateful for that order.

**CHAIR:** Ms Aldred, did you wish to make any submissions in relation to that?

**MS ALDRED:** No Your Honour.

**CHAIR:** I'll use the wording of the Inquiries Act. Under section 15 I make an order forbidding the publication of the names and any identifying details of people called "GRO-B-1" and "GRO-B-2" in connection with the evidence given by Keith Wiffin.

**MR MOUNT:** As the Inquiry pleases, thank you very much Madam Chair.

**CHAIR:** Mr Mount.

**MR MOUNT:** Again just for the benefit of those in the room, we paused the live stream while we dealt with that technical matter. The live stream is now free to resume.

### **QUESTIONING BY MR MOUNT CONTINUED:**

**Q.** Mr Wiffin, we were looking at the letter dated 9 April 2009 which was a response on behalf of MSD to your settlement offer. And we were talking a moment ago about the paragraph that dealt with physical assaults. We now have on the screen paragraph 4 which responded to sexual assault allegations. You'll see the reference to "considerable legal hurdles that you would face". Your response to that and particularly the reference to the legal hurdles that the Crown said you would face?

A. To me this was very, very hurtful and very insulting. And it just seemed to me that here was the Crown implicating a senior Crown lawyer implying, rather, not implicating, implying that in all likelihood Mr Wiffin did suffer sexual abuse at the hands of this person, but also there is



an implication there for me personally, not only would I face considerable hurdles but they would be happy to use them.

So for me, simply put, this was protecting and defending one of New Zealand's worst child abuses in the name of their own agenda. The agenda is about one thing, limiting at every step possible the Crown's perceived civil liability and to try to deny meaningful compensation to victims. That was the imperative. It had nothing to do with morality, humanity or ethics.

**Q.**If you go to paragraph 32 of your statement, you've already made some of the points that you spell out in 32. Perhaps if you just check if there's anything else you want to say on that before moving on to 33?

**A.**Just a small thing, I suppose, that the ACC Bar. I don't necessarily think would have applied, because the abuse that I suffered was pre-74, before that Act came into power. That's the only thing.

**Q.**Would you like to pick it up from 33?

**A.**And I do remember this well, "I don't remember another point in my entire life when I have been that angry. I was so angry I couldn't respond for some time. I felt like the whole process was a waste of time and completely justified my suspicion of the Ministry of Social Development. I rejected the offer which in essence was no offer at all. In substance, no more than a dismissal of the claim. I decided to withdraw my case and wait for a day where something would be put in place to hear my claim in a fair and just manner".

In summary, it wasn't about getting to the truth, it wasn't about assessing whether I'd been abused or not. It was about defeating me in the name of the Crown's agenda.

**Q.**The next topic you discuss is a 60 Minutes documentary I think you were asked to participate in?

**A.**Mmm, I remember that well as well. That was also a confronting thing. It was my first time in the media relating to this subject and it was quite a big deal. It was a 60 Minutes documentary. The narrator was a guy called Rod Vaughan.

"The interviewer interviewed myself, Mr Moncrief-Wright as well as Garth Young, the then National Manager of Historic Claims who had been responsible for my claim at MSD. Through the process, I learned that MSD had not even interviewed Moncreif-Wright in its investigation into my claim.

I was shattered to learn that MSD's investigation of my case had been so incomplete. The Crown's letter in September 2008 had led me to believe they would be interviewing Moncreif-Wright and I could only speculate as to MSD's motives for failing to speak to Moncreif-Wright, particularly when they knew he had convictions for sexually abusing young boys in the same period as the abuse against me. I had made serious claims against Moncreif-Wright. Why did the Crown not speak to him? MSD and Crown Law gave me the clear impression that they had done a thorough investigation on the claim. As it turns out, the investigation was anything but thorough because they had failed to ask questions of Alan Moncreif-Wright, my principal perpetrator".

I remember the making of that documentary well. After the first programme, which was about the survivors, four of us, I ran into Rod Vaughan and he said "I'll be interviewing Garth Young next week" and he said to me "If there's one question you'd like to ask him, what would it be?" And I said "Ask him if he, or anybody else, went and spoke to Moncrief about my claims". He asked him that question, which never went to air, but I remember it well because he rang me up at work straight after the interview and said "I've asked him that question and he looked stunned. He paused for several seconds and at the end of it he said 'no, we did

not'." In response, Rod Vaughan said "How can your process have any integrity at all when you're not going to talk to him about these claims?" In response to that, Garth Young immediately said "We will reopen his case immediately".

If there's any doubt about that, because as I said it didn't go to air, I took the liberty earlier on this year of ringing Rod Vaughan and asking if he remembered it. And he remembered it well and he said to that "If you want me to come down to that Royal Commission of Inquiry and testify I will most definitely do that".

**Q.**And again, Mr Wiffin, Mr Young will have an opportunity to answer any questions about this when he comes to give evidence as part of the process coming up. I think we're up to 36 now.

**A.**As I alluded to just earlier, "I spoke to Moncreif-Wright in a three-hour restorative justice meeting around 2011. At that meeting the facilitator produced a 30-page document signed by Moncreif-Wright". Once again, "it was clear to me that no one at the Ministry or relevant Government agencies ever interviewed Alan Moncreif-Wright to find out the full extent of what he did and to whom, or to understand the systemic nature of the abuse at Epuni.

Moncreif died in June 2014 after being charged with further sexual abuse offences against children".

So I might just elaborate a bit on that if I can. Alan Moncrief-Wright had said to me, and signed to this in front of a witness, that he would ask further questions from me in the future; not only that, that if there was ever an investigation or an inquiry, he would come there and testify on our behalf.

I went back to Alan Moncreif-Wright through my facilitator in Tauranga on a particular day to ask him more questions. The facilitator got back to me and said "I have spoken to him and he said 'I agree to do that with him and I will'." And I gave him those questions.

On the very same day, unbeknownst to me, the police also went to him and laid a whole lot more charges against him. The one thing I definitely knew about him is that he was not keen at all to go back to prison where he'd been. And this time, if convicted, he would never see the light of day again, given his previous record.

GRO-B

GRO-B

That hit me hard. There was a variety of emotions from there. I've spoken to the police about that and the police were really good. They actually said to me, "Had we known you were going there we would have delayed by a day or two". And they offered for me to look at his file. But I have absolutely no doubt that he actually would have come here and testified.

**Q.**The next topic was the Confidential Listening and Assistance Service from 38.

**A.**"In around May 2010 I met with the Confidential Listening and Assistance Service, CLAS. I had initially been sceptical of CLAS because of its limited terms of reference, but I heard feedback from participants who had found the process respectful and beneficial".

I participated and I found that myself. It was very well run by empathetic, non-judgmental people who did so against the background of not being able to do much because of the very restrictive terms of reference it operated under.

Judge Henwood, who ran it, was, in my opinion, fantastic. And she was moved enough by my own presentation to write to the then Chief Executive, the Ministry of Social Development, Peter Hughes, and complained about the way I'd been treated in terms of trying to get a redress.

"I found the process much more respectful than the meeting I had with MSD. I felt that Judge Henwood and the panel cared about what I had gone through and wanted to help".

And as I've alluded to, "Judge Henwood asked for copies of the correspondence with MSD and said she would write to the Minister about my case".

Just on the Classified Listening Service, the Classified Listening Service

**Q.**The Confidential Listening Service?

**A.**Confidential, sorry, saw 1,100 victims over approximately seven years I think it was. Could have seen a lot more, but it was shut down. And the information gathered, unless you had a video copy, as I understand from reliable information, was destroyed.

That also hit me really hard, and because it was my hope and the hope of others that that evidence could be presented here by those who didn't want to tell their story yet again. In some cases that's no longer possible.

So I have a great deal of respect for all those people who ran that service and it was diametrically opposed to any other process run by a Crown agency.

**Q.**The next heading "A change in approach and a Crown offer". Would you like to pick it up from 41?

**A.**"In 2010 I got a letter from Garth Young from MSD saying that they were reviewing some files and making some further inquiries into my case. They wanted my permission to access some of my files held by a school I went to". That school was Mana College. "I refused. I was still furious about the dismissal of my claim and I had no confidence in the integrity of any MSD process. I did not think the Ministry was capable of conducting a fair, impartial or reasonable investigation of any kind".

**Q.**Just pause there, Mr Wiffin. You describe yourself as furious. I think we have a copy of the letter that you wrote out in your own handwriting in response to that request to access your school records. I think we'll be able to make that larger in the top half. If you're still able to read your handwriting, would you like to read that to the Commission?

**A.**Sure. And this, before I do, is the raw response of a very angry person. And it's addressed to Garth Young, National Manager Care and Claims. "In response to your letter dated 27/01/2010, firstly Garth, you haven't reopened old wounds because they have never been closed. I am primarily writing to you to tell you that you don't have my consent to approach Mana College about my records and I have gone to the extent of meeting with the principal to make sure it doesn't happen. In fact, you don't have my consent to do anything, and to be perfectly blunt I don't give a rat's arse about your review. It will just be another waste of tax payers' money and I'm sure you will find a way to come to the same ludicrous and insulting conclusions.

In my opinion it's my opinion that you have caused a lot of heartache and damage and in the eyes of many you and your unit are thoroughly, are a thoroughly discredited outfit. You will only ever be part of the problem, never the solution, and as my counsellor said to me when she saw you on TV, you're a man covered in mud and I couldn't agree more.

I'm sure one day there will be an independent body set up that will hear our claims with objectivity and integrity, two words not synonymous with your process. When this happens I will be able to present evidence of your appalling behaviour towards us.

So in summary, I find you to be a devious, untrustworthy careerist and if people like yourself had genuinely wanted to tackle and solve the problem it would have been done, it would have been resolved a long time ago. Because it's just not that hard.

So I have no desire to have anything to do with you or your unit again. I don't see the need for you to reply to this letter and that is my preference. If you do write at any stage, please send it care of my lawyer. She has a copy of your letter and you know who she is.

Yours sincerely, Keith Wiffin".

**Q.** Again, we'll be able to check with Mr Young, but is it your understanding that the letter was sent to him?

A. That is my understanding.

**Q.** If we come back to para 42 of your statement?

A. "Then in August that year out of the blue I received another letter from MSD through my lawyers containing an apology and a cheque for an ex gratia payment of \$20,000. There was no explanation given for what had changed. I had not provided any further information or evidence but the Ministry had assessed my claim. There was no explanation for how the Crown had calculated the amount of payment offered or what part of my claim they now believed. I suspected then and I still suspect now and I do that the change of heart was driven by increased pressure on MSD as a result of the 60 Minutes documentary, letters from Judge Henwood, recent attention on the matter in general from the United Nations and the efforts of my lawyer Sonja Cooper.

The letters included apologies for what happened while you were in care, the abuse you suffered and for the handling of the claim. Despite my suspicions about the motives of the letter, at the time I appreciated the apologies which had a measure of sincerity about them. The apologies quelled some of the rage I had been feeling, my sleep improved, and I felt less of the sadness that had dominated my life for so long".

If I could just elaborate on a bit of that. It did. I'd had nothing up until that point but resistance. But it still left many unanswered questions and in terms of quelling my rage, it was something tantamount to taking two strong Panadol for a migraine. It took the edge off it, but it never entirely went away. Because the apologies didn't accept responsibility for me, because they didn't acknowledge the abuse of Moncreif-Wright and other things. And I've jumped ahead a bit there, but yeah.

"The letter still fell short directly of acknowledging what Moncreif-Wright and other Epuni staff members did to me, and they did not take over all responsibility. And the amount I received was much lower than the amount my lawyers had assessed as reasonable in the offer we made.

I would not have accepted this offer at all had I known what I have since heard about the extent of Moncreif-Wright's offending". I've alluded to this earlier. "I have strong suspicions that Moncreif-Wright offended at a boys' home in Hamilton and that the managers allowed him to leave the Hamilton home and work at Epuni in full knowledge of his offending and in order to move him on quietly without due care for the actual and potential victims of his offending.

In my mind today, I still have not received full and final settlement".

There is no doubt in my mind that that is what has happened. So I have unfinished business with MSD. I will be going back at some stage. But I have to say that when I do, it is most definitely not about money, it's about to get the acknowledgment of what happened.

**Q.** Over the page, the next topic is about your complaint to the police about Mr Moncrief-Wright.

A. "I had been considering making a police complaint for many years and initially spoke to police in 2008. I didn't make a formal complaint as I wasn't sure that I could secure a conviction. I had some lack of trust in the police and I knew that the criminal process can be difficult, unpredictable for sexual complaints. I didn't want to go through a police process unless there was a good prospect of a conviction. I was then approached by police in 2010 as a potential

witness after complaints were made by other people. The Detective put no pressure on me, but wanted me to participate. Initially I was reluctant, but eventually I gave a statement.

In contrast to MSD, the police were compassionate and respectful, and believed me. I felt supported by the police at every stage of the process. In the MSD process, conversely, I felt on the back foot from the beginning. I was looked at in their process in a disbelieving manner from the start. In the criminal process the police wanted Moncreif-Wright brought before the courts. That was reflected in the diligent and determined way they set out finding him".

And at the time it very much felt like he was on the run and hiding. He was trooping around camping grounds in the south island and they did a good job in locating him.

"In 2011 Moncreif-Wright pleaded guilty to sexually abusing me. He was convicted and sentenced. Unfortunately, the original intention of a court-ordered restorative justice process did not occur. But the police helped me to arrange a private restorative justice process, which worked well for me. And the police deserve credit for helping to arrange that and the way they handled the case in general.

My experience did not reflect well on the Crown Solicitor's office in my view. There is more I could say on that topic, but it is not directly relevant to the present statement. Unfortunately, it is consistent, though, with my overall experience of the Crown".

I am going to make one comment about that. The police were fantastic. At one stage I wanted to ask the Crown Solicitor whose side are you actually on? And I got the impression that maybe the police wanted to ask him the same question. And I'll leave it at that.

**Q.**We're on to the heading "Overall comments on the redress process" at 52?

**A.**"I really felt like the whole process lacked integrity and objectivity because of its lack of independence. MSD's starting point was to be suspicious and disbelieving of the claimants. I felt like we had a very high and unreasonable threshold put in place to prove our claims. At the same time, MSD seemed to be proactive protective, rather, of its own staff. Even those with criminal convictions for abusing children.

I tried to give the MSD process the benefit of the doubt, but my distrust was justified. While I was told that my claim was being investigated I saw nothing of the investigation, only the result that they would deny and defend the allegations I have made. There was nothing I could do to dispute their findings, except to go through with a trial".

So there was no appeal process and then I was faced with looking at that court situation again and those legal technicalities.

"I still struggle to believe that in the whole investigation no one spoke to Moncrief-Wright. Crown Law and MSD knew that Moncreif-Wright was a convicted paedophile. I believe that this was because they were worried about what else they might find out if they did talk to him, in particular whether he would corroborate my claim".

I also think that they believed in all likelihood other victims of him existed and that's another thing that they were always keen to protect is setting precedents.

"The way the Crown relied on the Limitation Act to win these cases, even against deserving claimants, seems to be a way of dodging responsibility. The idea behind the Limitation Act offence is that child abuse claimants should be expected to sue by the age of 22 or 26 years with leave from the court.

In my case that would have meant filing a suit in 1981 when I turned 22 years old. That idea to me is completely unreasonable. There is no way I could have considered bringing a claim at that time. At that age I didn't recognise the damage those actions had on me, ironically largely

because of the effects of the abuse itself. It took me until I was in my 40s before I could begin to process the effects of the abuse I suffered. Even then, there were times when I struggled to follow through on a claim, even though I really strongly believed that the Ministry should be held accountable for what happened to me.

What shone through in all my dealings with the Crown over redress was their focus on protecting the Crown's perceived civil liability, and their resistance to giving meaningful compensation to the victims. For me, the Crown reduced the issue to one of money, paying very little or no consideration to morality, ethics and humanity, and without any real genuine compassion for the victims. Anything that was given by the Crown was given begrudgingly. It had to be prised out of them even when there was compelling evidence to support the claim".

To elaborate, it's my strongly held view that if they could treat me in the same way as they treated me then in their dismissal of my original claim, they would do it again. They were caught out. There was no genuine empathy. And any so-called improvements would have been, would have occurred because of pressure brought to bear, in particular a campaign by Sonja Cooper law.

**Q.58?**

A."One of the great and sad ironies of all this is in the pursuit of that objective, not only was the Crown's conduct thoroughly disrespectful and contentious of the victims, it also needlessly cost the tax payers a fortune. If it had been dealt with constructively from the beginning, it would have cost a lot less and would have shown compassion and respect for the victims, something they thoroughly deserve. Today, because of the Crown's approach, we still substantially don't have resolution".

And as an anecdote to that, in 2003 I became a client of Sonja Cooper Law. At the time there was less than 50 of us. Fast forward to 2020, she has a client base approaching 1,500. What improvements? What have you done? You have had ample opportunity to do something about this. All those years later substantially we still have the problem on the table because of your contemptuous disrespectful approach. This approach continues today.

All right.

**Q.**We're on to your heading "The way forward".

A.Can I ask for a 5 minute break?

**Q.**Of course you can.

**CHAIR:** We'll just take a short break.

#### **Adjournment from 4.20 pm to 4.32 pm**

**CHAIR:** Are you ready to go again? You are, good, thank you. Yes, Mr Mount.

#### **QUESTIONING BY MR MOUNT CONTINUED:**

**Q.**Just before we move on to the final section of the statement, was there something else you wanted to say about the police process?

A.I did and I found this really interesting and it pointed to the humanity of this subject. During the course of the investigation at one point the Detective said to me, "Can I take my policewoman's hat off for a minute?" And I said "Yeah, of course you can". Bear in mind there were two others involved with me in terms of getting those convictions. She said, "I get it now. GRO-B-3 when he was a young fella, only ever wanted to be a captain in the army. But for going to that rotten institution, he probably would have been. Now, he is a gang member with a criminal record 15 pages long".

And that was it for me as well, and coming from the police it had quite significance because you can extrapolate that example out over hundreds if not thousands. Another example would be Arthur Taylor, who's well known, was in Epuni Boys' Home same time I was. You see the talents he has. He went there for some very minor infraction at school. But in Arthur's case, as in a lot of cases, a short stay at Epuni Boys' Home turned out to be a life sentence. There is a seamless transition between incarceration in those youth institutions into our adult prisons. It absolutely underpins our adult prison population.

The responsibility for that lies with the Crown. They have played a big development themselves in our gangs, our prison population and our welfare dependency by not looking after kids in care. The systemic faults and failures that led to the scale of this, overseen by the Crown of course, has had a massive impact on this nation. They got it so very wrong in the first place and now we reap what we've sown. That's all.

**Q.**We'll come back then to that final section starting from 59.

**A.**As you will have heard me here, I have been harsh on the officials around this. That's because I think they thoroughly deserve it. They've let us down, they've let the country down. But when I criticise, I do like to think that I can offer options as to how it can be done better. And there's no doubt in my mind that it can be.

"There needs to be a different approach to this from now on if there is to be resolution. This requires officials in the relevant Government agencies to engage with us constructively to put things in place that will deal with the historical element. Also giving those in care now better options for the future than we had".

A massive part of redress for victims of historical abuse, which they all have in common, no matter what the differences may be about what redress packages might look like, the one thing they all have in common, and is the most important thing, is that the generations of today and tomorrow don't suffer like we did. Nothing breaks my heart more to see the continued appalling rates of abuse coming out of those homes and institutions today. The historical and the now are inextricably linked. We have not learned from the past. To effect, to help effect better outcomes for those that are in care, you must recognise the historical.

"It is clear to me that this Government now wants a different approach and wants better outcomes for those affected. The recent Cabinet paper released by Minister of State Services Honourable Chris Hipkins indicates that. The general tenor of that document is to put forward different ways of seeking resolution. There seems to be a desire to take claims out of the courts and put in a fair and just claims process that victims can have faith in and to substantially speed up the process".

**Q.**Just on the screen, Mr Wiffin, there is an excerpt from the Cabinet Committee paper that you're referring to. You'll see in paragraph 8 reference to a change in terminology from a Crown litigation strategy to a Crown resolution strategy. What significance, if any, do you see in that language?

**A.**Well, it is the way forward. The sentiments expressed in that document are what needs to be put into practice. The problem I see at the moment is that those sentiments, and that will of Government, is not reflected in the actions of the relevant Government agencies. They are still travelling along in the same vein as far as I can see. Which will lead to no solution, because that is about a fight. And I know there is another court case set down for June next year, it could go as long as 16 weeks, and those terms of engagement are because of the resistance and the (inaudible) of the Crown.

This is not about a fight. That's what the courts are about. They are adversarial and they are about the Crown's agenda of wanting to protect their perceived civil liability. It needs to be taken out of that and an independent claims process needs to be put in place.

**Q.** Does that take us to 61?

**A.** It does and I've kind of covered it. Because there is a desperate need for officials in the relevant Government agencies to adopt a new and enlightened attitude. In essence, you still have the opportunity to cover yourselves in a bit of glory and I would urge you to take that by embracing that document.

"There are some key points that I think need to be taken into account when developing a system that survivors can have faith in.

The starting point has to be proper and full acknowledgment of the abuse that has occurred. It is very important that this happens because it would indicate a change of attitude on behalf of the relevant Government agencies and would make dialogue possible.

Secondly, and very importantly for me personally, any claims process must be independent of the Ministries and agencies who represent the perpetrators and who themselves are liable for the abuse. Otherwise the agencies are effectively investigating themselves. And I believe my experience shows that agencies cannot be trusted to do so objectively.

The independent claims process should have a victims' representative. It needs to have a mandate to fully investigate claims and make findings about what happened so that instances of abuse can be properly acknowledged and addressed. The Government agencies must be involved, but the final arbiters of what abuse we suffered and what the agencies should be liable for must be from outside agencies".

In our case in this country, Aotearoa, we have an opportunity because of what's happened in other jurisdictions around the world. They've had their inquiries, they've done similar things in terms of redress. So we have the opportunity to look at those things and bring it back to our own local conditions. A lot of the work's already been done. It just needs to be incorporated into our own conditions. In particular, for example, recognising Treaty of Waitangi imperatives.

"Thirdly and also a very important point for me further redress should not be reduced solely to the issue of monetary compensation. Redress means many different things to different people". And I alluded earlier to the most common and most important thing, that being we don't want to see what happened to us happen to future generations. "For me, redress is about restoring the wellbeing of those people affected. This means their health and their broader needs. Things like counselling, education, housing, an overall package needs to be developed to look at the wellbeing of those historical victims. The package could include mechanisms for accessing, as I spoke of before, personal records, and access to restorative justice type processes".

And I have just spoken about it. So I've jumped ahead a bit, about some of the things that have been done in overseas jurisdictions, but I'll read it again.

"There should be serious consideration of the redress models adopted in other similar countries, particularly Australia, Northern Ireland, Scotland and Canada. For example, Scotland has enacted what they call the advance payment scheme, for survivors of abuse in care who are over 70 or who have a terminal illness. This is something that needs to be instituted here. My starting point would be a bit lower than that, 60 or 65, in my strongly held view. Many



redress schemes in other countries also consider the wellbeing of the survivors in a broader sense than just money, as referred to above".

I've also mentioned in paragraph 68 the importance of restoring some peace of mind and closure to victims of historical offending, is having things put in place for those who are in care today".

It can't be emphasised enough. I recently met that victim of Alan Moncreif-Wright and when I told him of the appalling rates of abuse, he just broke down. And up until that point - and I met with him for two hours, he had remained composed. An injury to one is an injury to all of us, including today's children.

"That, once again, means having effective dialogue between those affected and the relevant Government agencies. Up until this point it has been difficult to have meaningful dialogue because of the lack of trust due to the approach that has been taken by the agencies so far". Thank you.

**Q.**Mr Wiffin, thank you very much. My suggestion, if you are willing, would be to invite the Commissioners to adjourn at this point and for us to return in the morning to check whether there are any points that you would like to come back to. I'm not suggesting there will be any that you've left out, but perhaps with a better night's sleep tonight there might be some further points you'd like to make?

**A.**Any sleep at all would be appreciated, and yes, I think that's a good idea.

**Q.**Certainly if you would prefer to leave it at that tonight that would be fine, but if you're willing to come back tomorrow and if that's your preference I'm sure the Commissioners would

**A.**More than happy and I would want to.

**MR MOUNT:** Madam Chair, would that be suitable to the Commission?

**CHAIR:** It certainly would, it's most appreciated, Keith. It means you have another night, but I do hope, as we all do, that you can have some rest and come with a clear brain in the morning. You're under no obligation to add anything unless you want to, so you'll be able to reflect on it overnight. Thank you very much. You can stand down for the moment, thank you.

Before we end today, I take it that's the end of today's proceedings?

**MR MOUNT:** It is, thank you Madam Chair.

**CHAIR:** Yes, can I just acknowledge, as I must, the immense work that's been going on silently by the stenographer and by our signers who have worked as an extraordinary team today. Also, thanks to the interpreter who appeared this morning. Apart from that, it's time to end the day and we will adjourn until tomorrow.

**Hearing closes with karakia mutunga and waiata by Ngāti Whātua Ōrākei**

**REGISTRAR:** This sitting is adjourned.

**Hearing adjourned at 4.52 pm to Tuesday,**

**22 September at 10 am**