

**IN THE ROYAL COMMISSION OF INQUIRY INTO  
HISTORIAL ABUSE IN STATE CARE**

**UNDER**

The Inquiries Act 2013

**AND**

**IN THE MATTER OF**

To inquire into and report upon responses by institutions to instances and allegations of Historical Abuse in State Care between 1950 and 2000.

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**AFFIDAVIT OF KERRY JOHNSON**

**Dated: February 2020**

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## AFFIDAVIT OF KERRY JOHNSON

I, **Kerry Johnson**, solemnly and sincerely affirm:

1. I was born in 1972. At a young age, I was assessed as having an intellectual disability.<sup>1</sup> I had behavioural problems at school.
2. I can't read very well. This affidavit has been read out to me and I confirm its contents are true and correct to the best of my knowledge.

*Marylands School, Christchurch ("Marylands")*

3. When I was 7 years old, in January 1980, I was enrolled at Marylands. Marylands was run by the Australian Catholic Order of St John of God ("SJOG"). I stayed there until February 1981. I suffered serious sexual abuse from two of the staff members there, as well as physical and psychological abuse from the staff and other boys.

*Campbell Park School ("Campbell Park")*

4. In March 1981, I was admitted to Campbell Park. I stayed there for six years. For most of the time I lived at Campbell Park, I did not have any legal status with Social Welfare. However, near the end of my time at Campbell Park, I was made a State Ward.
5. While I was at Campbell Park, I was regularly and seriously physically assaulted by several different staff members. I was kicked, hit and beaten with planks of wood and with the buckle end of a belt.
6. When I was returned to Campbell Park after running away, staff members beat me by hitting and punching me to teach me a lesson about trying to report the abuse I was suffering. I also got put in the Pound, which was a little locked unit at Campbell Park. While I was there, I was assaulted by staff members and other boys. Sometimes the boys would assault me as a group, when staff members watched.
7. I was sexually abused at Campbell Park, by two different staff members. I have been able to describe these staff members and I remember their nicknames. I was also sexually abused by other boys.
8. There was a lot of psychological abuse at Campbell Park too, like bullying and threatening from staff members and other boys. I could hear boys screaming at night while they were being sexually abused. We were never allowed to talk about it, which meant that even as an adult, I didn't disclose a lot of the things that had happened to me.

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<sup>1</sup> Psychological Services Report on Kerry Johnson, 18 February 1981

9. I am aware that my records from Campbell Park talk about me being hit by other boys and about sexual behaviour between the boys. My records show that I had a lot of behavioural problems, including wetting myself. My records said that my education was not going very well and that I had attempted suicide at Campbell Park.

#### *Social Welfare Care*

10. As I have said, I was a State Ward for some of the time I was at Campbell Park. In April 1987, I was admitted to Stanmore Road, a Boys' Home in Christchurch. I was put in the Secure Unit a lot and, when the staff weren't around, I was involved in a lot of fights with other boys. I had access to drugs, alcohol and cigarettes.
11. The next year, in July 1988, I was admitted to Kingslea. Again, I spent a lot of time locked up in solitary confinement. I had access to drugs and alcohol, and staff members gave me cigarettes. Later, Social Welfare placed me with family members. I moved around a lot and did a lot of alcohol and drugs. I was also physically assaulted by some of my caregivers during this time. When I was sentenced to Corrective Training, Social Welfare closed its file on me.

#### *Templeton Hospital*

12. I was admitted to Templeton Hospital on 29 December 1986 under section 12 of the Disabled Persons Community Welfare Act 1975. I was only 14 years old. I understand this law allowed Social Welfare to put me in Templeton for up to four weeks to give my parents a break. I remember being the only young person in the ward at Templeton. There wasn't much supervision, and I was verbally abused and sexually propositioned by adults.

#### *Sunnyside Hospital*

13. In January 1987, I was admitted to Sunnyside Hospital under section 21 of the Mental Health Act 1969. My records show that I was involved in violence with other patients. I was verbally abused by staff members and I saw a lot of violence there as well. I was dragged by staff into a padded room, where they gave me injections. At other times, I was tied to a bed, sometimes for a couple of hours.
14. I went back to Stanmore Road after I left Sunnyside.

#### *Effects of my time in care*

15. The abuse I have suffered has affected my ability to have intimate relationships. My relationships with women do not last long, because as soon as they ask a question I can't answer, I have to leave.

16. I do not sleep well, because I have nightmares. The nightmares all relate to the things that happened to me as a child. Those things make me so angry, and I have trouble trusting people, especially people in authority, because of it.
17. I first tried to commit suicide when I was in Campbell Park. The staff stopped me but didn't give me any help. I have tried to kill myself several times since then.
18. For most of my life, I could not read or write very well. I had a lot of trouble with the legal forms.
19. I started ACC counselling in 2013/2014, but I had long periods of time when I did not do any counselling. I have recently had a really good counsellor, and I have been on medication, which has been helpful for me. I have been diagnosed with Post-Traumatic Stress Disorder.
20. I have trouble living in the community. When I stopped my medication and used marijuana instead, things start to spin out of control, and I came back to prison. I am not very good with other people, and I don't like being around crowds.

#### *Instructing Cooper Legal*

21. I heard about the work Sonja Cooper was doing in 2004. I contacted her in November 2004.
22. I know that Cooper Legal requested my Social Welfare records in February 2005.<sup>2</sup> I know they did not receive them until November 2005.<sup>3</sup>
23. I was interviewed by a lawyer from Cooper Legal in February 2005. That was the first time I had really talked about a lot of my experiences. There were some things I did not feel able to talk about.
24. I know that in 2006, Cooper Legal was trying to get MSD to enter into settlement discussions about my claim, and other claims like mine. Cooper Legal prepared a statement of evidence for me to help with that. It took me until 2 November 2007 to complete that with Cooper Legal. My reading and writing wasn't very good, so it took a long time.
25. In October 2007, Cooper Legal agreed to help me with a claim against SJOG. I know that in February 2008, Cooper Legal wrote to SJOG's

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<sup>2</sup> Letter from Cooper Legal to MSD, 28 February 2005.

<sup>3</sup> Letter from MSD enclosing records, 9 November 2005.

New Zealand-based lawyers. I know that there was lots of correspondence over the next few months about that.<sup>4</sup>

26. I know that there was a big trial in 2007 for two people who had been in Social Welfare care. The next year, in 2008, I know that a statement of claim was filed in the High Court for me.<sup>5</sup> This was a claim against the Ministry of Social Development, and it included details about my time in Campbell Park and the psychiatric hospitals.
27. I know that in March 2008, SJOG's lawyers wrote to Cooper Legal saying that all allegations of abuse about Marylands would be dealt with under the Australian Catholic Church's settlement process. A man called John Jamieson, who was a former police officer, was appointed as the investigator.<sup>6</sup>
28. A signed Statement of Complaint was sent to the Professional Standards Office for my Marylands claim. I know that the interview between me and the investigator was delayed for a few months because of problems with legal aid.
29. I understand that on 7 April 2008, Legal Aid wrote to Cooper Legal to say that it wanted to withdraw my legal aid for my Social Welfare claim.<sup>7</sup> I know that Cooper Legal asked for a reconsideration of the decision to withdraw my legal aid on 29 March 2008.<sup>8</sup> I know that Cooper Legal applied to be able to file an affidavit in support of my application to let my claim continue under the Limitation Act, but Legal Aid initially did not want to approve it.<sup>9</sup> I understand that Legal Aid wrote back to Cooper Legal, saying that legal aid would only be granted for essential tasks.<sup>10</sup>
30. I know from my file that on 7 July 2008 Cooper Legal requested further records from the Ministry of Education (MOE) about my time at Campbell Park. I also know that this was part of a wider discovery process that Cooper Legal was doing, to gather in records for me. I know that Cooper Legal got records about Campbell Park from MOE in February 2009.

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<sup>4</sup> Letter from Cooper Legal to Saunders Robinson, 7 February 2008; Letter from Saunders Robinson to Cooper Legal 12 February 2008; Letter from Cooper Legal to Saunders Robinson, 19 February 2008.

<sup>5</sup> CIV-2008-485-566 *Johnson v Attorney-General* Statement of Claim, 14 March 2008.

<sup>6</sup> Letter from Michael Salmon, Professional Standards Office, to Cooper Legal, 3 March 2008; Email from Cooper Legal to Michael Salmon, 7 March 2008; Letter from Michael Salmon to Cooper Legal, 1 April 2008.

<sup>7</sup> Letter from Legal Services Agency to Kerry Johnson, 7 April 2008.

<sup>8</sup> Reconsideration form, Kerry Johnson, 29 May 2008.

<sup>9</sup> Letter from Cooper Legal to Legal Services Agency, 29 May 2008.

<sup>10</sup> Letter from Legal Aid to Cooper Legal, 24 June 2008.

31. I got a letter on 8 September 2008 from Legal Aid, saying that it had asked my lawyers for more information, and my legal aid was carrying on in the meantime.<sup>11</sup>
32. On 9 September 2008 I met with John Jamieson and a lawyer from Cooper Legal. I got distressed and angry at the meeting, which did not last long. I know that Cooper Legal completed the formal parts of the documents for me at that meeting. I know that in December 2008, Cooper Legal met with representatives from SJOG to talk about the claims process. That included my claim.
33. In December 2008, I know that John Jamieson provided his assessment report for me.<sup>12</sup> He said that because I hadn't given much information, and the Brothers had denied the allegations, he could not say that the allegations were true.
34. Cooper Legal talked to me about what I wanted to do. By then, I had a counsellor and I was a bit more stable. I wanted them to pay for what they had done to me.
35. I know that between February and October 2009, Cooper Legal had a long negotiation with SJOG about my experiences at Marylands. A confidential settlement was reached in October 2009. I know that SJOG has waived confidentiality for the purposes of the Royal Commission, so I am allowed to say that I received \$28,500 from SJOG at that point.<sup>13</sup> I know that \$3,600 of that was paid back to Legal Aid.
36. I know that in February 2009, MSD found more records about me and gave them to Cooper Legal.<sup>14</sup>
37. I know that in 2009-2010, Cooper Legal had quite a lot of problems with Legal Aid. I also know that there was a lot of discussion about the Limitation Act, and whether it would affect my claim against MSD. In July 2009, Cooper Legal wrote to me about completing an affidavit that talked about why I had not taken a claim earlier. I understand this was something the High Court had ordered Cooper Legal to do.
38. On 20 September 2010, Legal Aid advised that it was going to withdraw funding on my claim and told Cooper Legal to withdraw as my lawyers from the formal Court proceedings.<sup>15</sup> I know that Cooper Legal challenged this.

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<sup>11</sup> Letter from Legal Aid to Kerry Johnson, 8 September 2008.

<sup>12</sup> Report of John Jamieson for SJOG, 22 December 2008

<sup>13</sup> First settlement agreement between SJOG and Kerry Johnson.

<sup>14</sup> Letter from MSD to Cooper Legal, 20 January 2009, received 23 February 2009.

<sup>15</sup> Letter from Legal Aid to Cooper Legal, 20 September 2010.

39. The affidavit was sent to me again in early 2010, but by then I had been released from prison and I didn't get it. When it was re-sent to me, I sent the drafts back without answering any of the questions. As I have said, my reading and writing were not very good. I was also struggling to live outside of prison.
40. On 26 May 2011, Legal Aid withdrew funding on my Social Welfare claim.<sup>16</sup> I know that in late 2011, Cooper Legal had agreed a way to try to resolve the claims out of Court with MSD. Cooper Legal wrote to Legal Aid, seeking funding to do this.<sup>17</sup> This mainly involved writing a letter of offer for me to cover my Social Welfare experiences.
41. I know that, in November 2011, Legal Aid refused to fund some work by Cooper Legal which would relate to what Campbell Park was like. It was only funding work for each individual's claim, without anything that addressed the institutions as a whole.<sup>18</sup>
42. I know that, by December 2011, MSD was no longer wanting the affidavits by individual claimants about the Limitation Act. This meant that work on my affidavit was never completed.
43. I know that Cooper Legal continued to have problems with Legal Aid throughout this time. I am also aware that MSD and Cooper Legal were talking about doing work on a Campbell Park group of claims to try to settle them. I know that Cooper Legal sent a letter about this to MSD, on 15 September 2011.<sup>19</sup> To help settle a Campbell Park group, Cooper Legal asked for records that did not have blacked out parts about Campbell Park for lots of people, including me. I know that these were provided by MSD to Cooper Legal on 6 October 2011.<sup>20</sup>
44. I fell out of contact for a while, and I know that Cooper Legal wrote to me in February 2012, asking if I wanted to continue to try to settle my Social Welfare claim. I responded that I did want Cooper Legal to carry on. I misunderstood the forms, and had trouble completing them.
45. By February 2013, Cooper Legal were working on preparing a settlement offer for me, to be sent to MSD. I was back in prison by that time. I was able to talk to Cooper Legal about some of the details of my experiences and a final copy of my letter of offer was sent to Crown Law on 18 February 2013.<sup>21</sup> I know that, not long after that, details of my experiences were also provided to the Ministry of

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<sup>16</sup> Letter from Legal Aid to Cooper Legal, 26 May 2011.

<sup>17</sup> Letter from Cooper Legal to Legal Services Agency, 6 September 2011.

<sup>18</sup> Letter from Legal Aid to Cooper Legal, 17 November 2011.

<sup>19</sup> Letter from Cooper Legal to CCRT, MSD, 15 September 2011.

<sup>20</sup> Letter from MSD to Cooper Legal, enclosing unredacted copies of MSD's files, 6 October 2011.

<sup>21</sup> Letter from Cooper Legal to Crown Law, without prejudice except as to costs, 18 February 2013.

Education, because Cooper Legal was talking to the Ministry of Education about Campbell Park claims.

46. Nothing happened for ages after that. I called Cooper Legal every now and then, and they would say it would take at least another year for my Social Welfare claim to be settled. I got regular updates from Cooper Legal, explaining that my offer letter had been sent to MSD and Cooper Legal were waiting for a response.
47. In May 2015, Cooper Legal let me know that an expert report was being done for people like me who had been in Campbell Park. I know this was about the problems people like me have in giving evidence, remembering names and things like that.<sup>22</sup> Cooper Legal reported back to me about that in September 2015, talking about how people with intellectual or learning disabilities had high rates of emotional, physical and sexual abuse.
48. I know that the next thing that happened was the introduction of the Fast Track Process by MSD. Cooper Legal advised me about this in April 2016. I know that they had limited information to work from, but they advised me to see what they Fast Track Process offer was, to decide whether I wanted to take it. Cooper Legal outlined for me that there was a lot that they did not know about MSD's process, and how it would treat parts of my claim. Cooper Legal told me that I should accept an offer from MSD if it was around \$30,000. That covered everything to do with my Social Welfare claim and Campbell Park, but not Marylands.
49. I know that on 19 September 2016, MSD made me an offer under the Fast Track Process.<sup>23</sup>
50. The offer was only \$5,000. It excluded everything to do with Campbell Park, because MSD said that MOE ran it. This is very confusing, because MSD had been talking to Cooper Legal about settling my whole claim for years. I had also been a State Ward for some of the time I had been at Campbell Park.
51. I got Cooper Legal's advice about the offer in late September 2016. Cooper Legal advised me not to take the offer. However, I instructed Cooper Legal that I did want to accept the offer. I know that Cooper Legal rang me and made sure that I understood what I was doing. My Social Welfare claim settled in October 2016.<sup>24</sup> By this time, I had had enough of the whole thing. I wanted to finish it and get on with my life.

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<sup>22</sup> Advice regarding clients with an Intellectual Disability, August 2015, Donald Beazley Institute.

<sup>23</sup> Letter from Crown Law to Cooper Legal, without prejudice save as to costs, 19 September 2016.

<sup>24</sup> Memorandum of settlement and release between Kerry Johnson and the Attorney-General acting through the Ministry of Social Development, 28 November 2016; letter of apology from Chief Executive of MSD to Kerry Johnson, 1 December 2016, CIV-2008-485-0566 *Johnson v Attorney-General*, notice of discontinuance on behalf of the plaintiff, 12 December 2016.



52. At the same time as my Social Welfare claim came to an end, Cooper Legal opened a new file for me for a claim about Campbell Park against the Ministry of Education.
53. I know that Cooper Legal wrote to Crown Law in June 2017, complaining about the lack of any progress on MOE claims like mine. MOE had received the details of my claim in 2013. I know that the lawyers had also seen an affidavit filed in the Waitangi Tribunal about how MOE dealt with claims. I know that Cooper Legal complained that the process set out in MOE's affidavit did not match what had been done for me.<sup>25</sup>
54. Not much happened in 2017 for my MOE claim. I know that there was a lot of delay, because MOE had no clear process to deal with claims. In March 2018, I agreed for my claim to be placed on a trial track, because Cooper Legal wanted to send a group of Campbell Park claims to a trial.
55. A couple of months later, on 8 May 2018, Cooper Legal got back in contact with SJOG, asking it to review the settlement payment I had received, because other people had received much higher payments. SJOG agreed to this. I was now able to identify one of my abusers as Brother Bernard McGrath, who had been convicted of abusing boys. In November 2018, I received a top-up settlement from SJOG of \$25,000 plus some money towards my legal costs. I know that SJOG have waived confidentiality about settlements for the purposes of the Royal Commission.<sup>26</sup>
56. I know that one of the big problems with claims against MOE was the Limitation Act. I know that Cooper Legal spent a lot of time trying to get MOE to agree to something that would stop time running under the Limitation Act, which would mean my claim would not have to be filed. I know that this hasn't happened yet.
57. My claim against MOE was filed on 27 November 2018.<sup>27</sup> I know that MOE filed a statement of defence in June 2019.<sup>28</sup> I know that Cooper Legal kept filing Court documents for me, and we also went through the discovery process, when I swore a list of documents.<sup>29</sup>

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<sup>25</sup> Letter from Cooper Legal to Crown Law, without prejudice save as to costs, 1 June 2017.

<sup>26</sup> Second settlement agreement between Kerry Johnson and SJOG, October 2018.

<sup>27</sup> CIV-2018-485-922 *Johnson v Attorney-General, sued for and on behalf of the Ministry of Education*, Statement of Claim.

<sup>28</sup> CIV-2018-485-922 *Johnson v Attorney-General*, Statement of Defence.

<sup>29</sup> CIV-2018-485-922 *Johnson v Attorney-General* reply by plaintiff to statement of defence dated 8 August 2019; defendant's affidavit of documents dated 23 August 2019; plaintiff's affidavit of documents dated 9 January 2020.

58. Cooper Legal has also settled a claim against the Ministry of Health ("MOH") for me, about my time in Templeton and Sunnyside Hospitals. The details of my claim were sent to MOH in September 2019. They included:
- a) Inappropriate sexual behaviour by other patients at Templeton Hospital;
  - b) Verbal abuse by a staff member at Templeton Hospital;
  - c) Fights with other residents at Sunnyside Hospital;
  - d) Verbal and psychological abuse at Sunnyside;
  - e) Placement in seclusion at Sunnyside;
  - f) Being kept in my pyjamas as punishment at Sunnyside;
  - g) Multiple restraints by staff members, when I was dragged into a seclusion room and sedated, at Sunnyside;
  - h) Being handcuffed to railings and tied to my bed at Sunnyside.
59. That claim happened really quickly, but I only got \$6,000 for my experiences in those hospitals. I was told by Cooper Legal that settlements for all MOH claims were very low.

### *Conclusion*

60. My experiences in care, and the journey I have had to take to resolve my claims, have been a nightmare. I feel like my life is stuffed and that I'm stuck in a horror movie that will never end. I'm back in prison now because I have tried freedom, and freedom doesn't work. I just keep getting reminded off all the things that happened to me in my childhood and I can't deal with that.
61. Recently, I started talking about abuse I suffered when I was 5 or 6 years old. I had not talked about that before.
62. It has been over 15 years since I first came forward with my Campbell Park claim. I can't understand why my claim still hasn't ended, after all that time. It feels like the government just wants to sweep this all under the carpet and that it doesn't want to hear any of it.

63. It is hard for me to confront all this. Even so, I am providing this evidence because I know that I need to speak up for myself, and for my mates who didn't make it. It's time that the government finally owned up to what happened to us while we were in care. There isn't any chance of me being able to move on and put this all behind me, until that happens.

**Affirmed at** )  
by **Kerry Johnson** )  
this     day of February 2020 )  
before me: )

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**A Solicitor of the High Court of New Zealand/  
A Registrar of the High Court of New Zealand/  
Justice of the Peace**