

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
FAITH-BASED INSTITUTIONAL RESPONSE 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 Anaru Erueti
Ali'imuamua Sandra Alofivae
Paul Gibson

Counsel: Mr Simon Mount KC, Ms Kerryn Beaton KC, Ms Katherine Anderson, Ms Tania Sharkey, Mr Michael Thomas, Ms Kathy Basire and Ms Alisha Castle for the Royal Commission

Ms Rachael Schmidt-McCleave and Ms Julia White for the Crown

Ms Sally McKechnie and Ms Brooke Clifford for Te Rōpū Tautoko, the Catholic Bishops and Congregational Leaders

Mrs Fiona Guy-Kidd and Ms India Shores for the Anglican Church

Ms Maria Dew KC, Ms Kiri Harkess and Mr Lourenzo Fernandez for the Methodist Church and Wesley Faith

Mr Brian Henry, Mr Chris Shannon and Ms Sykes for Gloriavale

Ms Sarah Kuper and Mr Matthew Hague for the Presbyterian Church

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

Date: 19 October 2022

TRANSCRIPT OF PROCEEDINGS

INDEX

OPENING STATEMENT BY PRESBYTERIAN SUPPORT CENTRAL and PRESBYTERIAN SUPPORT OTAGO	239
NASEEM JOE ASGHAR and PATRICK WAITE	
Questioning by Ms Kuper	245
Questioning by Ms Castle	252
Questioning by Commissioners	274
JO O'NEILL	
Questioning by Mr Hider	277
Questioning by Ms Castle	281
Questioning by Commissioners	291
OPENING STATEMENT BY PRESBYTERIAN CHURCH OF AOTEAROA NEW ZEALAND	295
WAYNE MATHESON	
Questioning by Mr Hague	296
Questioning by Ms Castle	297
OPENING STATEMENT BY THE DILWORTH CLASS ACTION GROUP	327
OPENING STATEMENT BY DILWORTH SCHOOL and DILWORTH TRUST BOARD	331
DR MURRAY WILTON	
Questioning by Ms Anderson	337
Questioning by Commissioners	361

1 Today we have Naseem Joe Asghar, who would like to be referred to as Joe,
2 appearing via AVL on the television and with us in person today is Patrick David Waite
3 who would like to be referred to as Pat.

4 **CHAIR:** Thank you.

5 **MS KUPER:** Would you like to take the affirmation?

6 **CHAIR:** Yes. Welcome to both of you today, I don't think we've seen you before and I'm grateful
7 to you for coming forward, Pat. And Joe a particular greeting to you. We admire your
8 fortitude and your determination to appear in spite of what has happened to you and we
9 really respect that, and if at any time you feel you need to take a break or anything, either of
10 you, of course, please feel free to do that, won't you, we will not be offended in the
11 slightest.

12 So I'll start with an affirmation for both of you.

13 **NASEEM JOE ASGHAR and PATRICK WAITE (Affirmed)**

14 **QUESTIONING BY MS KUPER:** Mōrena Joe, you can hear us clearly?

15 **MR ASGHAR:** I can indeed, thank you.

16 **MS KUPER:** Would you like to start by introducing yourself Joe including giving a visual
17 description of yourself?

18 **MR ASGHAR:** Certainly. Tēnā koutou, tēnā koutou, tēnā koutou katoa. Ko Joe Asghar tōku
19 ingoa. Thank you very much for that introduction, Sarah. As you've said I'm the Chief
20 Executive of Presbyterian Support Central, I've been there for some 18 months. It really is
21 truly a privilege to come and speak to the Commission and to contribute to the very
22 important work that we're doing. And importantly I want to again, Madam Chair, thank
23 you for accommodating my needs this morning and apologise for the challenges that this
24 has caused the Commission.

25 I suppose I would describe, in terms of describing myself, a Scottish Pakistani with
26 fair skin, probably built like the side of a house or a tight-head rugby prop but without the
27 ears. I'm about 5 foot 10 but if you ask my wife she will say 5 foot 8. I have grey hair,
28 grey shirt, a pink tie and a black waistcoat. I'm not wearing any glasses and I'm a
29 non-disabled person and I would -- I think that's probably enough about how I would look.
30 Kia ora.

31 **MS KUPER:** We'll turn to Pat now thank you.

32 **MR WAITE:** My name is Pat Waite, I would think I'm quite young but in actual fact I'm 75, and
33 I'm about the same height as Joe, so whichever measure you want to make of that at all. I'm

1 a New Zealand Pākehā, I was born in New Zealand and spent my time in this country. So
2 I'm wearing a blazer and a blue tie and pleased to be here today.

3 **CHAIR:** Thank you both.

4 **MS KUPER:** Pat, you're a former CEO of PSC, what role do you continue on in the organisation?

5 **MR WAITE:** I've retired as Chief Executive from PSC about 18 months ago and Joe took over
6 my role and the board retained me to be responsible for -- in relation with survivors and
7 also to continue this work. So my full-time job is actually this particular Royal
8 Commission responsibility and dealing with survivors, which I do virtually on a daily basis.

9 **MS KUPER:** And you also provide reports back to the board on those interactions?

10 **MR WAITE:** Part of my responsibility is to report to the board independently of the management
11 each month which I report through to a subcommittee of the board who then report on to
12 the board. So that's the relationship I have.

13 **CHAIR:** Can I just remind everybody, including myself and counsel, that we have a stenographer
14 who's taking down every word you're saying, just please be mindful of her needs to be
15 accurate, thank you.

16 **MS KUPER:** So perhaps speak slowly at the top.

17 Turning back to you, Joe, as Madam Chair has acknowledged, you've made
18 significant efforts to be here this morning, despite a serious medical event late last night.
19 But I know the primary reason you want to be here is to speak to survivors and there's some
20 introductory remarks you'd like to make.

21 **MR ASGHAR:** Yes, I would, and I've already said that I'm terribly sorry that I'm not there in
22 person, please accept my humble apologies. But I do want to share some of the reflections
23 and the insights that the organisation, Pat and I have gained through our connections or
24 interactions, and really our conversations with survivors who lived at our former
25 Berhampore Children's Home that I'll just refer to as "the home".

26 We've listened to survivors' stories, we've had time to reflect on those stories which
27 are inherently complex, harrowing and challenging, and in that looked at our past mistakes
28 and how we can learn from them.

29 In saying that, in saying what I'm going to say, I would like all the survivors
30 listening to know that what I say here is out of respect for you, for the trauma, the upset and
31 the lost childhoods that you have suffered while in our home. I would like to very much
32 acknowledge and thank those who have found the courage to come forward and also for
33 those who have not yet.

1 So beginning the statement by acknowledging the harm that was suffered in the
2 home, not just at that particular time, but the long-term impact, not only on the survivors,
3 but their whānau. I've really been quite horrified and shocked at the way that some children
4 were treated in the home. Their mistreatment is to our absolute and great shame as an
5 organisation.

6 On behalf of Presbyterian Support Central, I offer a deep, profound and unreserved
7 apology to survivors and their whānau for both the harm that they suffered as an individual
8 and as children while in their care, and the harm that they might -- and the harm that many
9 actually are continuing to suffer as a direct result of their experiences in our care.

10 I'm very aware that while apologies were made in 2007 to a large group of
11 Berhampore survivors, and to those others that have come forward since, I want to reiterate
12 again unreservedly that we are truly sorry and that I am truly sorry.

13 We can never undo the harm that's been caused, but I hope that our
14 acknowledgment and the apology that we give can help survivors on their path to healing.
15 And as Sarah said earlier, although we no longer provide direct care to children, young
16 persons or vulnerable adults, I also want to let survivors know that I personally am
17 committed to ensuring that we do our part to right any wrongs that have occurred in the
18 past, and to work and engage with them if that is something they would like to do on their
19 terms.

20 **MS KUPER:** Thank you -- sorry, no carry on.

21 **MR ASGHAR:** I was going to say in terms of how we are looking to work with survivors,
22 I suppose over the years as abuse at the home came to light and people have courageously
23 stepped out and told their stories to us, we've endeavoured and really tried to have a policy
24 of listening, saying sorry, responding to the individual and to their needs to help them heal
25 the suffering of them. It has to be tailored.

26 We've tried to be survivor-focused and -centric in our approach, and I have to say
27 that as an organisation we truly and really regret any instances where that hasn't happened.
28 And we know that that hasn't happened and where we've not responded as best as we could.

29 I really want to again acknowledge and apologise for the additional harm to
30 survivors when PSC did not respond as quickly as possible, nor in what would be
31 considered to be best practice today, but I'm glad that we've moved on, we've learned,
32 we've listened, and I hope that we continue to do so. That's certainly my aim, but I do want
33 to apologise for that.

1 Again, as we no longer provide direct care to children, young persons or vulnerable
2 adults, we are committed to doing the best we can to help survivors heal. With our
3 involvement with the Royal Commission and, more importantly, with each survivor who
4 comes forward, there's a real opportunity for us to further reflect, improve how we do
5 things, not only to the reports that are published, but also safeguarding and protecting those
6 in our care today.

7 And we very much come here in the spirit of transparency and openness holding
8 ourselves accountable to survivors. We want to continue to listen, learn and be responsible
9 for all that we do. We realise that survivor experiences are all different, and in fact those
10 are experiences that we can never truly and fully understand.

11 And also as different is the way that survivors want to engage, and I have to and we
12 will respect that, if they chose to do so.

13 With the complete support of the board, I'm committed to hearing from all survivors
14 and would like to note, as Sarah has already mentioned, the page on our website with the
15 approach and the contact details describing a process that is survivor-led and works, as I've
16 said, on the terms that they wish to.

17 Kind of just as a final point, I'd like to say that first contact is, we've learned from
18 David and others, that it's scary and terrifying for the survivors across so many different
19 lenses to come forward as it is for us to meet. And we want to acknowledge that it's a
20 journey together and that we will be respectful, kind and ensure that your environment is
21 safe.

22 Kia ora. Pat.

23 **MS KUPER:** Pat, I know you've had significant interaction, even more than Joe, with survivors
24 over the last several years, and you want to share -- conscious of time, so we'll try and keep
25 it brief, but want to share a bit about PSC's approach with survivors and really the
26 relationships and the key points you'd like to make sure the survivors and the Commission
27 hear about those interactions.

28 **MR WAITE:** Thank you. Yes, I'll join Joe in acknowledging those who are watching today,
29 those survivors who are watching here today. I know there are two that do, David, you
30 mentioned before, Madam Chair, and GRO-B who's also one of the other survivors who's
31 been working with us as well.

32 I actually see the relationships that I have formed through these meetings and
33 discussions with survivors as being a gift, a gift that I haven't had before and in my long life

1 I haven't experienced these relationships. And they're becoming quite binding relationships
2 now that we're realising in actual fact we can't just sort of say "I'm sorry", we've got to
3 continue on building those ongoing, working with them.

4 So over the last two years I've had many meetings and shared meals with survivors,
5 and also travelled parts of the country to visit the survivors in their homes, along with my
6 wife, to meet them and understand their family, and to find out their story. And people
7 have said, again and again, can we just tell you our story. And for whatever reason we
8 haven't given people that opportunity before to tell their story. And their stories are
9 harrowing, and I think about my own children, my grandchildren.

10 So actually in the last two years, or maybe in the past year particularly, I have now
11 established relationships or connections with 30 former residents or survivors from our
12 home. Some of them are deeper than others, some are just superficially discussions over
13 the phone or internet.

14 I've been able provide files and copies of files for most of those people now, and we
15 still have another 10 or so, we are still waiting to hear back from them as to how they want
16 their files delivered.

17 We have just on 1,000 children's files which we have collected together, all our files
18 have been kept --

19 **CHAIR:** Slow down, please just a little bit.

20 **MR WAITE:** Sorry, I'm excited.

21 So we have about 1,000 files and what I have offered to anyone who would like
22 their file is to give them a copy when people contact us.

23 We've also collected a lot of copies of photos. I've gathered every photo we can
24 find in the organisation of children who are in our care and allowing people to actually go
25 through those photos and we copy them for them as well.

26 In one case one man said that was the only photo of him as a child that his family
27 has. So it's quite a gratifying experience.

28 We've opened up ourselves to those survivors and we understand the complexity
29 and depth of what they've been through and the harm that they've been through, but also
30 more particularly their whānau, their family, which we've heard in quite detail, particularly
31 from David, who we've got to know particularly well, his family, about the impact it has on
32 the wider connections that they have.

1 And so the other thing we've also learned in actual fact is that we can't exit, so we're
2 here for life, pretty much. Our relationships are building to the stage where we want to
3 continue being part of their whānau as much as they want us to be there with them.

4 I said before, historically we've provided apologies and we've helped with
5 counselling support where needed and we've provided some form of redress, some financial
6 redress. In 2007 we held ceremony at the site of the former children's home, blessings and
7 prayers took place. The house in which the abuse happened was bulldozed in front of the
8 people so they can see it actually being demolished, and a memorial was installed at the
9 site.

10 We have that memorial and we will reinstate it again when the property has been
11 rebuilt. That land is empty at the moment.

12 **CHAIR:** Did you say 2007?

13 **MR WAITE:** 2007.

14 **CHAIR:** Okay, thank you.

15 **MR WAITE:** I want to just talk about those who have been in the home over that time, 1,000. I
16 had a call from a lady who's trying to get a family tree, her family were there in 1923, her
17 great grandmother and family, and I found 300 pages from their file. So that's not only
18 survivors, current survivors, but historically the family connections, we can play a big role
19 in helping them understand that as well.

20 We also recognise that each person is an individual and as I talk to people I
21 understand better that they have to be understood as individuals rather than sort of
22 survivors. So what we're finding is that one man who I spoke to at some length, two or
23 three hours, all he wanted to do was "tell my story", his story.

24 Another one I spoke to wanted to actually tell me about the friendships he's formed
25 through his association through the other survivors and also then to explore with me his
26 file.

27 So everyone is an individual and we're working very hard to create an atmosphere
28 where they can be treated as individuals and have a, not -- I know they are survivors, we
29 don't have a brand for people, if that makes sense.

30 I've talked about the question about exiting, we won't exit, we will stay in contact
31 with them. I think there's been some mistakes made in the past, lots of mistakes.

32 And dealing with claims of abuse can be quite challenging for organisations, for
33 staff of organisations. And, you know, despite those challenges, it's imperative we work
34 with people and not just avoid them.

1 I had a phone call yesterday from a man who said he was abused and I listened to
2 his conversation and I'll follow up with that when I get back to Wellington.

3 So this is an ongoing issue. My name is listed on the website as being the person to
4 call and they can call me.

5 We've reflected on the way the investigation into abuse in the home was run in the
6 early 2000s. I think it was appreciated -- I think we appreciated at that time it was best
7 practice, supposedly best practice of how we went about investigating. But if it was to
8 happen today, if the investigation was to happen today, we'd be doing it very differently
9 than what was done by the late Dr Barton QC who investigated the complaints on our
10 behalf.

11 It was very much a legalistic approach rather than a survivor-centric approach
12 which is what we would be doing, which we do now.

13 So we have a very different approach, we would want to continue that way of
14 thinking about people as survivor-centric rather than a legalistic point of view. That's my
15 point.

16 **MS KUPER:** Thank you, Pat.

17 Joe, again, conscious of time, but I do know you just wanted to make a couple of
18 small remarks specifically to David who you've had very close relationships with recently
19 and his whānau and he's watching today, so if you want to make those quickly that would
20 be fantastic.

21 **MR ASGHAR:** Lovely thank you. Yes, I would -- kia ora, David, kia ora, other members of
22 David's family, I don't want to name you all. We've had the absolute privilege of working
23 together with David as he unfolded with us the layers of, layers of trauma. We gave
24 him -- I hope we gave him the time and the respect to manage his emotions, and the grief as
25 he worked through that information. Because we were the custodians of that young boy's
26 life story, and he was overwhelmed and to some degree we were overwhelmed to receive
27 the photos and the packs of information on his life.

28 We didn't have as much as we should have had, but as Pat has alluded to, we had
29 more than he had. And that's his life. We hold his life in our records and it's our obligation
30 to share that with those survivors and those individuals.

31 On a very personal level, David, I want to acknowledge you and your whānau. As
32 we've told David, it's been really, really difficult to hear what he's gone through. It's also
33 been incredibly enriching for us to be welcomed into David's whānau and to be able to

1 walk a really small part of his journey with him. We have learned so very much and I hope
2 that we continue to.

3 In fact our Family Works social services arm, David has offered to come and speak
4 to our social workers and our counsellors about dealing with agencies, as I think Helen
5 referred to, so that we can do it better, because the whole point about this is not allowing it
6 to happen again and to understand where the clues are, where the learnings are, where the
7 growth is for organisations to be safe places for children and rangatahi to come and feel
8 listened to and to feel safe.

9 David has emphasised, I mean, in talking to him before we came here today, his key
10 point was there's not one way to deal with survivors because everyone's got different needs.
11 He's also taught us with absolute kindness, unreserved kindness that there cannot be that
12 entry and exit that Pat talked about or that one size of a shoe fits all.

13 Many survivors need more than an apology or a payment. Their healing does take
14 considerable time and that is very much individual, and David has taught us all this. And
15 importantly, that we keep contact open at the survivor's behest, not ours, to make sure that
16 whatever we do doesn't re-traumatise. And for that, David, and for your kindness and your
17 aroha, I thank you very much, as you know.

18 **MS KUPER:** In the interests of time I don't think we'll go there, but I know you wanted to speak
19 to some of the lessons PSC has learned, but those are all set out in your witness statement
20 and the documents we've filed, and I'm sure you'll get the opportunity as the questions
21 arrive from Ms Castle to put some of those learnings. But we'll just point the
22 Commissioners to Joe's witness statement which sets out some of these learnings and
23 maybe he'll have the opportunity to refer to them today, but I'm conscious of the time -- if
24 that's okay, Joe, unless there was any burning comments?

25 **MR ASGHAR:** I was just going to say, if I very quickly summarise them, and say they're key
26 learnings.

27 **CHAIR:** I'm sorry to stop you. I'm sure it will be canvassed shortly. We do have your brief of
28 evidence which we're grateful for, it will go on the website, and I'm not wanting to stop
29 you, I just want to give Ms Castle an opportunity to ask questions and in the course of that
30 I'm sure you'll be able to refer to them. Thank you.

31 **MS KUPER:** Ms Castle has just said she's going to explore that with Joe.

32 **CHAIR:** The same for you, Pat, there will be things you will want to say and I'm sure they'll come
33 up shortly. Thank you, Ms Kuper.

34 Yes, Ms Castle.

1 **QUESTIONING BY MS CASTLE:** Thank you, ma'am, before I commence questioning I just
2 want to briefly acknowledge mana whenua for hosting us, survivors who are here and who
3 are watching online, in particular survivors of abuse in the care of the Presbyterian Church
4 and Presbyterian affiliated institutions, and all of those who are here today.

5 Tēnā koe, Joe. I acknowledge the circumstances in which you're appearing before
6 us today and I want to echo the sentiments of our chair, and tēnā koe Pat, thank you for
7 being here today.

8 I'm going to get straight into it because we're running out of time. And your counsel
9 referred to the historical relationship between the organisation and the Church and touched
10 on it being a Church-founded organisation.

11 You say in the response to our Notice to Produce 528:

12 "Initially the governance board was comprised largely of ministers from parishes
13 across the Presbyterian Church."

14 That's right?

15 **MR WAITE:** That's right.

16 **MR ASGHAR:** Correct.

17 **MS CASTLE:** And that structure was in place until the early 1980s?

18 **MR WAITE:** Correct.

19 **MS CASTLE:** And did that change in 1983 when the National Council of Presbyterian Support
20 Services was formed, and prior to that it was under a committee sitting with the General
21 Assembly of the Church, that's right?

22 **MR WAITE:** That's as I understand it.

23 **MS CASTLE:** And in terms of the contemporary relationship, just picking up on the question that
24 you asked, Commissioner Erueti, the constitution provides, doesn't it, that the majority of
25 PSC's board members are to be members of the Presbyterian Church?

26 **MR ASGHAR:** No.

27 **MR WAITE:** No.

28 **MR ASGHAR:** No.

29 **MR WAITE:** Not the current constitution.

30 **MR ASGHAR:** Not the current constitution. We have nine, if I may, Alisha, tēnā koe, we have
31 up to nine board members of whom three can be appointed by the Presbyterian Church.
32 The others are appointed by our paid members as a charitable organisation. We have a
33 member appointed by Te Aka Puaho, who's the Māori Synod, and we have independent
34 members.

1 So, and I think as was said earlier, whilst the Church has the opportunity to appoint
2 members, certainly in PSC's experience they rarely have done so. And when they sit on the
3 board they're sitting as independent members, not representing the Church.

4 **MS CASTLE:** Can I just confirm the year of your most recent amendment?

5 **MR ASGHAR:** Our most recent constitution dates from 2016, as I recall.

6 **MS CASTLE:** Okay.

7 **MR ASGHAR:** But I'm not sure when -- I can't be sure as to when the nine board member
8 platform was established.

9 **MS CASTLE:** Okay, we don't have time to bring it up on the screen, but just for your reference,
10 the majority board member comment comes from clause 5.1 of that 2016 amendment.

11 Clause 18 of the constitution says that PSC has a reporting obligation to Presbytery
12 Central, is that right? PSC is to report to --

13 **MR ASGHAR:** That's correct, yes, to the General Assembly, but not in a governance way, we
14 provide a report or may provide a report, yeah.

15 **MS CASTLE:** And in the case that PSC is liquidated, any property remaining after debts and
16 liabilities are paid is to be transferred to the Church, that's under clause 22.3; is that
17 correct?

18 **MR WAITE:** As I understand it, yeah.

19 **MS CASTLE:** Thank you. You referred earlier to one of the board members being appointed by
20 the Māori Synod of the Church and you said in your evidence that PSC experiences
21 difficulty in attracting and retaining Māori in that position. Are you able to briefly
22 summarise why you think that is?

23 **MR ASGHAR:** I think there are many reasons for it, but first and foremost I'd say that there are
24 many demands on tāngata whenua, they are being asked to contribute to many boards and
25 organisations. We've had conversations with iwi, Māori organisations and whilst there's a
26 willingness and a heart to work with us, because we work with many of their whānau
27 locally, they just don't have the capacity.

28 And also the requirements and expectations of board members now, as you'll be
29 aware, have increased substantially with changes to rules around directorships and their
30 obligations. So part of it is the increased accountability, responsibility, part of it is just
31 capacity and demand for the skills and insights, and knowledge that mana whenua bring to
32 boards such as ours.

33 But we constantly are working to try and fulfil our obligations there.

1 **MS CASTLE:** Thank you. I understand that the Church has a Pacific Presbytery. Does PSC have
2 any Pacific representation on its governance structure?

3 **MR WAITE:** Yes.

4 **MR ASGHAR:** Not through the Presbytery, but we do have Pacific representation on our board.

5 **MS CASTLE:** Your counsel talked about the establishment of Berhampore Home and I
6 understand that there were 390 children and young people in the care of that home during
7 our terms of reference period. Is that right?

8 **MR WAITE:** Correct.

9 **MS CASTLE:** Were those placements largely by family members?

10 **MR WAITE:** From when I go back, when I go back through the records, many of them were
11 from Social Welfare provided by -- directed to us from Social Welfare who paid for their
12 board and keep and then some from the family members, particularly where there was a
13 deceased partner.

14 **MS CASTLE:** Thank you. In terms of the records of the ethnicities of those children that were in
15 the care of Berhampore Home, if I can call up document PSC0000435, at page 9 this is
16 your response to our first Notice to Produce.

17 **CHAIR:** Just for those watching here today, this document won't be shown on the livestream, I'm
18 sure you all heard that before, but for those who haven't, nor on the website, but counsel
19 will read out those parts that she's referring to, won't you, counsel?

20 **MS CASTLE:** Yes, that's right. So at paragraph 40(g) on that page, there's a list of ethnicities
21 there. We have Australian, British, Danish, English, Italian, Estonian, Greek, Romanian,
22 New Zealand, Russian and Ukrainian. Māori and Pacific ethnicities aren't included in that
23 list, are they?

24 **MR WAITE:** No.

25 **MS CASTLE:** So they weren't recorded at that time.

26 **MR WAITE:** No, correct.

27 **MS CASTLE:** You've talked about your relationship and work with David and of course his story
28 is how important it was to him in finding out from his records he wasn't of Māori descent,
29 he was in fact of Samoan descent.

30 **MR WAITE:** That's correct.

31 **MS CASTLE:** Do you accept this lack of recording of Māori and Pacific ethnicities as a failing
32 by PSC at that time?

33 **MR ASGHAR:** Yes.

34 **MR WAITE:** I do absolutely, it's a poor part of our service.

- 1 **MR ASGHAR:** It's not acknowledging their heritage and their culture which we're very aware has
2 caused so much trauma to individuals in terms of their identity and we learned that from
3 David, clearly, as clear as being hit with a spade.
- 4 **MS CASTLE:** I think it may be over the page, paragraph 40(i), that refers to disability status, it
5 says there:
6 "PSC has been unable to identify any information relevant to disability status."
7 It wasn't a priority at the time to understand how to better deliver care to people
8 who lived with disabilities?
- 9 **MR WAITE:** Correct.
- 10 **MR ASGHAR:** Correct.
- 11 **MS CASTLE:** You would accept that as a failing at that time as well.
- 12 **MR WAITE:** Yes, I agree. We're talking about an era that's 50 years ago.
- 13 **CHAIR:** That's what I wanted to ask, Pat, these figures, we don't have a date on this. When were
14 the figures compiled -- sorry, when were the figures referred to, what time did that relate
15 to?
- 16 **MR WAITE:** From 1950 to 1984. So in the last 10 years of its life the home had about six or
17 seven children. So the majority of that would have been in the earlier 50s and 60s.
- 18 **CHAIR:** Just to give us a sense.
19 And Ms Castle, just slow down a little.
- 20 **MS CASTLE:** Thank you, ma'am.
21 So these are the records held about children that were cared for in Berhampore
22 Home.
- 23 **MR WAITE:** Yes.
- 24 **MR ASGHAR:** Correct.
- 25 **MS CASTLE:** You acknowledge in your response to notice 524 that there would not have been
26 robust recruitment and vetting processes while the home was operating.
- 27 **MR WAITE:** That's quite a transparent --
- 28 **MR ASGHAR:** That's correct.
- 29 **MR WAITE:** Yes.
- 30 **MS CASTLE:** Your evidence says further that you are unable to locate any evidence of training
31 for staff at the home around safeguarding.
- 32 **MR WAITE:** Correct.
- 33 **MR ASGHAR:** Correct.
- 34 **MS CASTLE:** Are you aware of any supervision of staff working at the home?

1 **MR WAITE:** If I can respond, there was a manager or director of the home who had overview of
2 the home, but in that period in the 1950s, the organisation started to build aged care
3 services too. So the role that that particular person covered widened quite considerably, an
4 opportunity shop, the home and then the aged care facilities being built around the country.

5 **MS CASTLE:** The manager of the home you refer to, that was the late Walter Lake?

6 **MR WAITE:** Correct.

7 **MS CASTLE:** And he is the subject of the majority of the allegations of abuse made?

8 **MR WAITE:** Correct.

9 **MR ASGHAR:** Correct.

10 **MS CASTLE:** There were no records of a complaints process at the time that the home was open,
11 was there?

12 **MR ASGHAR:** Not to my knowledge.

13 **MR WAITE:** No. I've been through years and years of minutes and reports and there's not one
14 report anywhere.

15 **MR ASGHAR:** There's no.

16 **MS CASTLE:** And I believe you've acknowledged that there was no reporting system in place for
17 the board or management to monitor the children's care.

18 **MR WAITE:** No.

19 **MR ASGHAR:** No, not that we can find.

20 **MS CASTLE:** There was no monitoring at the time by the Church that you're aware of?

21 **MR WAITE:** Not that we're aware of, although up until the early 80s of there were a number of
22 ministers of Presbyterian Church on the board, so I guess there were some connection with
23 them as well, but all the board reports I've read through and the board minutes are very
24 much around financial, not really around real issues we're dealing with today.

25 **MS CASTLE:** Yes, I believe the evidence says:

26 "As with most social service providers the focus appears to have been on
27 maintaining the financial viability of the home rather than considering the possibility of
28 abuse."

29 **MR WAITE:** Correct.

30 **MR ASGHAR:** Yes, that's correct.

31 **MS CASTLE:** You would agree that had there been oversight, safeguarding, supervision, the
32 appropriate training, some of this abuse could have been prevented?

33 **MR ASGHAR:** Absolutely.

1 **MR WAITE:** You would imagine that if there was proper supervision, as we would expect today,
2 we would identify this issue. I would have thought.

3 **MR ASGHAR:** And I think some of the activities, as Pat has said, that we have consistently in
4 place, will, you know, would have been amazingly advantageous back then.

5 **MS CASTLE:** You referred earlier to many of the children at the home being State wards. Are
6 you aware of any monitoring or oversight by the State?

7 **MR WAITE:** I haven't seen any of that in the papers that I've looked at. There certainly was
8 reports from the director of the home to the State agencies about the people. A lot of that
9 was actually around collecting the money, so it wasn't necessarily about the health.
10 Although there was a lot of records about a number of those children being able to go and
11 have holidays, and also start thinking about trades. So the director was quite keen to get
12 people to have a position to go to after they left the home.

13 **MS CASTLE:** So nothing to indicate that the Department of Social Welfare were making sure
14 that those State wards were safe in the care of Berhampore.

15 **MR WAITE:** I couldn't see anything.

16 **MR ASGHAR:** No.

17 **MS CASTLE:** Now in terms of early complaints during the time that the home was open, you say
18 at paragraphs 5 to 6, this is pages 2 to 3 of the response to notice 524:

19 "Looking over our records it appears as if some staff members at the home
20 persuaded the board at the time that the allegations made were untrue and the complaints
21 related to a new form of discipline that Mr Lake had brought into the home. There is also
22 evidence that those staff members who had reported unusual behaviour by Mr Lake were
23 not believed. In one case it appears that the board asked a staff member who had made
24 accusations about Lake to resign. It appears the board believed the assurances of Mr Lake."

25 **MR WAITE:** Correct.

26 **MS CASTLE:** So that's your understanding of the approach taken to the complaints.

27 **MR WAITE:** Reading all the reports, that's what I can see quite clearly, that the director had quite
28 an influence over the board.

29 **MS CASTLE:** Right, and explanations for what was being complained about weren't questioned
30 or investigated as they should have been?

31 **MR WAITE:** I think he was describing it as discipline rather than sort of behaviour. So clearly
32 some staff were very concerned, and did complain or report to the board, and the board
33 obviously took the view, the voice of the Director.

34 **MS CASTLE:** And the response appears to normalise the behaviour of the time.

1 **MR WAITE:** Correct.

2 **MS CASTLE:** So PSC is aware of 22 children who have alleged abuse in the care of Berhampore
3 home?

4 **MR WAITE:** Yes.

5 **MS CASTLE:** And PSC became aware of those reports involving Mr Lake in 1990 following a
6 reunion held for the home, that's right?

7 **MR WAITE:** Correct.

8 **MR ASGHAR:** Correct.

9 **MR WAITE:** I haven't found any record prior to that of anyone becoming aware of complaints.
10 And there may have been, but I couldn't find a record. 1990 was the instigator of the
11 complaints when one of the senior staff members from the organisation overheard a
12 conversation with two or three of the people who were at the reunion about what had
13 happened to them and that started that inquiry through there, and encouraged them to come
14 forward.

15 **MS CASTLE:** We talked earlier about staff raising concerns while the home was open, but of
16 course they weren't considered formal complaints because there was no formal complaints
17 process?

18 **MR WAITE:** No.

19 **MR ASGHAR:** That's right.

20 **MS CASTLE:** In 2001 the first substantive complaint was made to the Church?

21 **MR WAITE:** Yes.

22 **MS CASTLE:** So that person making a complaint about PSC thought the appropriate place to
23 make that complaint was the Presbyterian Church?

24 **MR ASGHAR:** Yeah.

25 **MR WAITE:** Correct.

26 **MS CASTLE:** And in I understand approximately 2004, the main complainant took her complaint
27 to a TV show. I just want to quickly play a short clip from the Sunday programme that
28 aired in 2005, that story was titled "The Monster of Berhampore." You'll be aware of it.
29 For licensing licence this cannot be livestreamed. As I say it's only very short, 1 minute,
30 but I will explain what the clip is when it has finished, if we can play that now.

31 **[Video played]**

32 If we can recommence the livestream and for the benefit of those watching, that was
33 a clip of PSC spokesperson Trevor Roberts at the time in relation to complaints of abuse at
34 Berhampore. So as I say, this was aired in 2005. By that time Lake had died, the Police

1 had decided to charge him, but of course couldn't pursue that once he had passed.

2 Mr Roberts said:

3 "There are avenues open to them -- referring to the survivors -- which they should
4 pursue. It's now gone too far to indulge in warm fuzzy meetings."

5 Is that reference to "warm fuzzy meetings" reflective of how PSC viewed
6 engagement with survivors at the time?

7 **MR WAITE:** From reading the history and looking at what I can see now, they were very
8 definitive, the organisation was quite defensive, and Mr Roberts didn't continue that
9 leadership of that particular thing, he was removed from the board from carrying on,
10 because that is not how the organisation wanted to be seen as. It's not a very practical way
11 of dealing with issues.

12 **MR ASGHAR:** Yeah, I would also, if I may, I would also add to that that it's not who we are
13 today, because our focus is firstly -- well, there are a number of things. One, apologising
14 for the wrongs that we've done, we accept that and we'd believe the survivors. That
15 certainly appears not to have been the stance in the early 2000s as you've just shown. It's
16 about us listening, being kind, having compassion and importantly allowing survivors to
17 feel that they can be safe in talking to us; all of the things that you didn't hear on that clip.

18 **MS CASTLE:** And we will absolutely come to the lessons learned, we're working through how
19 the approach taken by PSC has developed over time.

20 **MR ASGHAR:** I understand.

21 **MS CASTLE:** Mr Roberts, he was effectively encouraging complainants to take the issue to
22 court, wasn't he?

23 **MR ASGHAR:** Correct.

24 **MS CASTLE:** He said it's about the management of risk and finding the truth of the matter?

25 **MR WAITE:** Right.

26 **MS CASTLE:** He also called into question the credibility of complainants?

27 **MR ASGHAR:** Yeah.

28 **MS CASTLE:** This was aired on national TV in 2005. You'd accept that for a survivor watching
29 that, they might not feel very comfortable coming forward from PSC to make a complaint.

30 **MR ASGHAR:** No, completely.

31 **MS CASTLE:** In I believe opening your evidence-in-chief, there was a reference made to the
32 appointment of Dr George Barton QC to investigate the complaints. Was this appointment
33 subsequent to that show being aired?

1 **MR WAITE:** I think it was following that, yeah, following that time the board made the
2 appointment to investigate, and appointed Dr Barton at that time to do the investigation.

3 **MR ASGHAR:** That's right, yes.

4 **MS CASTLE:** His terms of reference refer to him being engaged as an independent and impartial
5 reviewer?

6 **MR WAITE:** Yes.

7 **MR ASGHAR:** Correct.

8 **MS CASTLE:** If I can call up, it's a transcript of a survivor interview PSC0000281 pages 4 to 5.
9 It says there about halfway down the page -- so this is during the course of the investigation
10 and we'll talk more about that, but the survivor that Dr Barton was meeting with said:

11 "Well, if I Google you then you know you're awash with the Presbyterians." Barton
12 responds "Well my father was a Presbyterian minister."

13 And if we flip over the page there's a bit of an exchange about that and the reference
14 to independent and impartial in his engagement. It says on the following page, the survivor
15 says, "You can't be fair if you're not independent."

16 Do you think that Dr Barton was truly independent given his position and
17 connection to the Presbyterian Church?

18 **MR WAITE:** I couldn't comment actually because he was a barrister, he's a well-respected
19 barrister operating in Wellington, had done a number of investigations, so I see, from areas.
20 So I didn't know him actually at all, I have never met him. But from what I've seen from
21 the records he actually said he was impartial. I'm not sure the interview that we're seeing
22 showed that impartiality, but he was seen to be in that light.

23 **MS CASTLE:** Do you think it may have been because of his connection with the Presbyterian
24 Church that he was given that appointment?

25 **MR WAITE:** I wouldn't think -- I don't know, I'm sorry, I wasn't around at that time. But there's
26 no records showing that --

27 **MR ASGHAR:** Yeah, I don't know, no records.

28 **MR WAITE:** -- that was important coming through.

29 **MS CASTLE:** It was a paid engagement wasn't it?

30 **MR WAITE:** Yes, correct.

31 **MR ASGHAR:** It was.

32 **MS CASTLE:** If I can call up document PSC0000450.

33 **CHAIR:** Just a moment, yes Ms Kuper.

1 **MS KUPER:** Can I ask one question? Do you recall who Mr Barton QC was appointed by, was it
2 by PSC only or...

3 **MR WAITE:** No, it was appointed by the survivors, the legal representative of the survivors as
4 well as the organisation. So the survivors also a part of that selection for him.

5 **MR ASGHAR:** Yes.

6 **CHAIR:** Thanks Ms Kuper.

7 **MS CASTLE:** Were all survivors that were involved in that investigation process part of the
8 employment process to your knowledge.

9 **MR WAITE:** The lawyer who represented those -- the majority of the complainants was the
10 person who signed that document, so he would have consulted, I'm sure, with the survivors.

11 **MS CASTLE:** The document I had just referred to that has been brought up on the screen is Dr
12 Barton's terms of reference.

13 **MR WAITE:** Yes.

14 **MR CASTLE:** So it says --

15 **CHAIR:** Perhaps you can call out the part because it's very small.

16 **MS CASTLE:** Yes, sure. It says on page 2:

17 "His role was to Support Presbyterian, Support Central, and the complainants
18 request you to report to both of them as a result of your investigations and inquiries with
19 your view on whether or not the allegations, accusations, or complaints, individually or as a
20 whole, are likely to be factually correct."

21 And if we look at a letter that Dr Barton sent to the survivors that were engaged in
22 that process on 22 March 2006, that's PSC0000449, at page 2 Dr Barton is assuring the
23 survivors:

24 "The questions will not be like a cross-examination in court. I am not like a judge.
25 My job is so far as possible to reach conclusions of a factual nature. I know that reliving
26 your years at Berhampore may very well be stressful for you. I quite understand that. I
27 will do my best to minimise the strain and the stress for you."

28 There's a lot of documents, I'm sorry, because, thankfully for our purposes, there
29 were a lot of records kept about this process. If I can call up PSC0000059 at page 5. One
30 survivor in a statement of response provided in respect of her interview recalled that:

31 "Dr Barton asked me if I thought that it was strange to be told to take my clothes off
32 to play a game and why didn't I run out of the room."

33 She goes on to say:

1 "Dr Barton asked me whether I opened my own legs or if Walter Lake opened them.
2 How was this relevant? It is certainly a question totally devoid of any sensitivity or
3 understanding."

4 And another document, I won't call it up because it might take a little bit more time.
5 When Dr Barton was interviewing a survivor for the first time about how she was sexually
6 assaulted in Walter Lake's car while parked at a beach, he repeatedly questioned her about
7 the details of the front seat of the car, at what point her underwear was on or off, and he
8 appeared to be effectively searching for factual inconsistencies and then expresses his
9 scepticism about whether it actually happened. He said things like "Normally in a motor
10 car things like that are a little bit difficult to organise if you're going to have a sexual
11 encounter. Not always but sometimes".

12 **CHAIR:** Ms Castle, just before we go on, just to be fair to the witnesses, Pat and Joe, have you
13 seen these documents?

14 **MR WAITE:** Yes.

15 **CHAIR:** So you are familiar with the questions?

16 **MR ASGHAR:** Yes, we are.

17 **CHAIR:** Thank you.

18 **MR ASGHAR:** Thank you Madam Chair.

19 **MS CASTLE:** Just wanting to -- I've just been exploring the kind of exchanges that Dr Barton
20 had with the survivors engaged in that process, because when we look at the assurances that
21 he made in the letter sent at the outset, you would accept that, although he acknowledged
22 that this might be a stressful process for them, that ultimately did cause harm to them, it
23 was a harmful process, wasn't it?

24 **MR WAITE:** I would totally agree, it horrifies me --

25 **MR ASGHAR:** Yes.

26 **MR WAITE:** -- that level of questioning. It's not how we would do it. And when we took it from
27 a survivor centric point of view we changed, the whole organisation changed and we then
28 didn't continue with his research.

29 **MR ASGHAR:** And I think as we referred to previously, Alisha, you know, it's about the survivor
30 working through those layers of trauma and working with us and sharing when they feel
31 ready, but that wasn't the approach that Dr Barton took.

32 **MR WAITE:** I think also when I think about the age of those little children at that time that they
33 went through that horrific experience, it amazes me how he could expect anyone to

1 remember, or why ask those questions, because they were traumatising questions. I would
2 hate to think my children were put to that subject, or even me.

3 **MS CASTLE:** If we look at document PSC0000380, these are board meeting minutes dated 7
4 September 2006. At the bottom of the page there under the headings "Berhampore" it
5 refers to Dr Barton having had distributed his draft reports. It says:

6 "Of the 16 complainants Dr Barton could find no basis for a complaint for one
7 complainant. Three males alleged physical abuse, one alleging a sexual assault. In these
8 three cases Dr Barton concluded the physical abuse probably did happen but was not
9 consequential in context with the standards of discipline acceptable at the time."

10 If we go over the page, the minutes go on to say at the top there:

11 "There were 12 additional complainants, nine girls and three boys, all alleging
12 sexual assault, five of whom also alleged rape. The ages were generally between 5 and 10
13 years but there was one 14 year old girl and one girl 17 years old."

14 Bullet pointed there it says:

15 "Some lacked credibility, some alleged circumstances were improbable, ie
16 occurring in the house that he lived in while his own children were in the house, and there
17 was no complaint at the time."

18 So this is summarising the outcome of Dr Barton's investigation.

19 **MR WAITE:** Correct.

20 **MS CASTLE:** And the bullet points there you'd agree were largely the reason for Dr Barton's
21 findings that the alleged abuse was unlikely to have happened?

22 **MR WAITE:** [Nods]. As recorded in the minutes, board minutes, correct.

23 **MS CASTLE:** Survivors who were engaged in the process were provided a copy of Dr Barton's
24 draft report and allowed an opportunity to respond, that's right?

25 **MR WAITE:** Yes.

26 **MS CASTLE:** Many expressed upset at the nature of Dr Barton's findings as well as the process?

27 **MR WAITE:** Yeah.

28 **MR ASGHAR:** Yes.

29 **MS CASTLE:** The reports provided by Dr Barton, they were in draft form at the time that PSC
30 ultimately settled with the survivor group, that's right?

31 **MR WAITE:** Yes.

32 **MS CASTLE:** And am I right that this process involved a meeting with survivors, a meeting
33 between the survivors and PSC reps directly?

34 **MR WAITE:** Correct.

1 **MS CASTLE:** And Dr Barton wasn't involved in that meeting?

2 **MR WAITE:** No, he was told not to continue his work.

3 **MR ASGHAR:** Yes.

4 **MS CASTLE:** If I can call up document PSC0000095 at page 2. These are minutes from a
5 special board meeting that was held on 24 January 2007 and -- sorry, that's still just coming
6 up, but number 4 on the agenda of that meeting you'll see was the Berhampore resolution.
7 If we go over to page 2. So paragraph 5 talks about how:

8 "...while it would have been desirable to have the final Barton reports prior to any
9 resolution meeting, it was the view of advisors that the final report was unlikely to
10 significantly change the conclusions in the report."

11 Paragraph 6, if we move down describes the Barton draft report as having been a
12 valuable process, establishing a platform in which both parties are able to focus on a
13 resolution. Paragraph 7 says the report in general concludes that the specific events
14 portrayed by the complainants in respect of sexual and physical abuse were possible but
15 unlikely. Paragraph 8:

16 "From the point of view of PSC, the draft report leads to the conclusion that any
17 settlement based on damages for past event cannot be justified -- and this straddles the
18 pages but it says -- nevertheless, PSC still had to deal with complainants and their concerns
19 because it is clear that they believe they have suffered and this matter will not be resolved
20 in their minds until some resolution is reached with PSC."

21 Do you agree that we can take it from those meeting minutes that the findings of Dr
22 Barton were still relied on in the settlement process?

23 **MR WAITE:** I can't read into what the minutes record at that time, but from talking to the current
24 Chief Executive who was there, Mark Woodard, it's clear to me that they had lost all faith
25 in Dr Barton's report, and the board minutes may say that, but they decided to meet with
26 claimants, irrespective of Dr Barton, and negotiate a settlement with them.

27 **MS CASTLE:** In terms of the reference to there not being any justification for a damages-based
28 settlement and PSC still having to deal with complainants, basically because they won't go
29 away until it's resolved.

30 **MR ASGHAR:** That may be one interpretation, if I may. I think again, Pat's point was that there
31 was a recognition that there was more to this than a very factual and overly inquisitive and
32 uncaring approach to the survivors. I think this was, from our perspective, a bit of a time of
33 change for the organisation to recognise that the approach it took was not the right
34 approach.

1 **MS CASTLE:** If we move to page 5 of that document there is a list of the recommendations, and
2 the first recommendation at (a) talks about a figure being offered to each complainant as a
3 restorative payment to enable the complainants to move on with their lives. Do you accept
4 that the settlement was not an acknowledgment or acceptance of what had happened, but
5 rather, as it's referred to, a restorative payment, so a forward-looking payment to help
6 survivors move on?

7 **MR WAITE:** It's difficult for me to make that judgment.

8 **MR ASGHAR:** It's difficult to say.

9 **MR WAITE:** I don't know, but certainly talking to Mark Woodard, who was a key person
10 driving, he was the Chief Executive who worked through that process, it was clear in his
11 mind that he wanted to actually recognise the harm and that he did believe people. He sat
12 with everyone, he met every complainant and he did believe that they actually had been
13 physically and sexually abused.

14 **MS CASTLE:** In terms of what that settlement looked like, you talked about a ceremony at the
15 home, a memorial. There was also a financial component of the settlement, wasn't there?

16 **MR WAITE:** Correct.

17 **MS CASTLE:** If I can call up document PSC0000435, this is -- on page 18, para 82 -- PSC's
18 response to the first Notice to Produce. I won't read them out, but you can see there there's
19 a total cost for the settlement, and there's the total expenditure on legal costs for the
20 process?

21 **MR WAITE:** Right.

22 **MS CASTLE:** You would accept that the cost of the collective settlement with survivors, or the
23 money that the survivors received collectively is almost half of what had been paid in legal
24 costs by PSC?

25 **MR WAITE:** Correct.

26 **MS CASTLE:** Am I right that the complainants' counsel, Gordon Payne, that his fees were only a
27 very small proportion of the figure that's there?

28 **MR WAITE:** Less than 10%.

29 **MR CASTLE:** So the balance would have gone to Dr Barton and PSC's legal advisors?

30 **MR WAITE:** Correct.

31 **MR ASGHAR:** Correct.

32 **MS CASTLE:** Do you recognise the power imbalance there?

33 **MR WAITE:** Of course.

34 **MR ASGHAR:** Yes.

1 **MR WAITE:** I mean I'm horrified at what we spent for Dr Barton's investigation.

2 **MS CASTLE:** We've talked previously about how during the period -- so Berhampore was open
3 until 1985. We talked about how up until the early 1980s Presbyterian ministers were
4 running the board of governance. What role did the Church have in investigating the
5 complaints and responding to reports of abuse at Berhampore?

6 **MR WAITE:** I haven't found any evidence that they actually had investigated complaints. When
7 there was a complaint it was referred through from them to us to deal with.

8 **MS CASTLE:** Do you think they should have taken more of a role in investigating and
9 responding to those reports?

10 **MR WAITE:** I can't speak on behalf of the Church.

11 **MS CASTLE:** Did the Church contribute to the settlement costs at all, or was that met solely by
12 PSC?

13 **MR WAITE:** Solely from PSC.

14 **MR ASGHAR:** Solely PSC.

15 **MS CASTLE:** Can I call up document PSC0000376. This is a PSC board paper dated
16 29 September 2005, so this was right in the crux of when these issues were being raised.
17 And at paragraph 1.1 on page 1 there under the heading "Church Insurance Fund", it says:
18 "Discussions continue with representatives of the Presbyterian Church on both the
19 future structure of the fund going forward and the status of the fund in the past.
20 Presbyterian Support Central and the Church have similar views as to how to ring-fence the
21 fund in the future."

22 Do you know what this was talking about? Was it being explored whether PSC
23 could access the Church's insurance fund?

24 **MR WAITE:** No, as I understand it looking back through the records, and I've read through in
25 this detail, the Church and the Presbyterian Support organisations had a shared and
26 common insurance policy. So we had liability insurance covered from within a general
27 fund. This was the end of that arrangement we had. From then on we were on our own.
28 The insurance were not interested in supporting what happened to us. So we didn't get
29 much out of insurance companies.

30 **MS CASTLE:** Okay. So we referred earlier to the lessons -- you've talked a lot about it, Joe, the
31 lessons learned from the Barton investigation. And Joe, you say in your evidence.

32 "I know that if an investigation was to be run today it would be significantly
33 different to the way it was run by Dr Barton QC, particularly the way he interviewed
34 survivors and test the veracity of the allegations. I and PSC would require a very different

1 approach and would achieve this in part by making it clear in the terms of reference or
2 engagement that the investigator must adhere to our survivor-centric principles of
3 responding to complaints."

4 If I can call up another document, PSC0000092 and this will be a PSC board paper
5 in September 2007 titled "Berhampore Lessons Learned." That paper, you'll see the list
6 there, identifies in total 20 -- so there's several pages -- 20 improvement opportunities. I'm
7 summarising, but these included a lack of adequate complaints procedure, PSC adopting an
8 oppositional mode that meant complainants were not believed, those assumptions as to the
9 truthfulness of complainants prejudiced the process and relationships, treating survivors as
10 a group was seldom if ever appropriate; in fact they're a heterogeneous collection with a
11 different agenda and motivations. The issues driving the approach were legal and financial.
12 As a result, engagement with survivors became confrontational rather than collegial,
13 significant barriers to effective communication with survivors.

14 It's now been 15 years since these deficiencies in the response by PSC to survivors
15 of Berhampore were identified. This is the opportunity we talked about earlier, Joe. Do
16 you want to explain for the Commissioners how over these last 15 years these lessons
17 learned have been implemented by PSC?

18 **MR ASGHAR:** Yes, thank you for that, Alisha. I'd say that, you know, the principles or the
19 learnings that have been identified here have, I think, been in part evident by the way that
20 Pat and I have spoken this morning, and in fact I hope, through some of the interactions
21 you've had with survivors who have lived in our home.

22 The policy that we have now around historical abuse very much picks up on the vast
23 majority, if not all, of the items described there. Talking about how we will interact with
24 survivors, the fact that we will believe, the fact that the initial contact in itself can be
25 particularly traumatic and challenging, the way that we deal with and provide information
26 from the survivor, how we communicate with kindness and care the next steps and work
27 with the survivor at a pace that they want to work at, respecting their culture, respecting
28 where they want to meet so that they feel entirely safe. All of these things are absolutely
29 essential.

30 At the same time we need to recognise our obligations to Te Tiriti, we want to make
31 sure that if someone is from a Māori or Pasifika background that we reflect and respect
32 wishes, that we -- I'm kind of jumping all over the place there, but we get to the point of
33 redress, we talk about what is going to help that survivor, that individual with the healing
34 journey that they're on, so that we're not making an assumption. We don't set out the

1 runway or the path to healing, that's not our goal, it's not our aim; it's for the survivor to
2 work with us and for us to apologise for what we've done and to help them on that journey
3 to healing. Which might involve counselling, might involve other forms of support, may
4 involve their wider whānau, but we need to do that, and we need it peer-reviewed.

5 We constantly check and double-check with each other to make sure that we are
6 being caring and sensitive in how we respond to e-mails, how we respond to phone calls,
7 because this is traumatic. It's something that we can't, as I've said before, truly ever
8 understand and I would hate my children to go through it.

9 **CHAIR:** I think we agree with that, Joe. Joe, can I just ask this question. You talk about the
10 survivor-centric way in which you structure your -- not structure, but in which you convey
11 your support and acknowledgment of what they've been through. We heard yesterday from
12 the Methodist Church that they have tried to do more than just hand over a cheque and an
13 apology, which I think is what your approach is.

14 **MR ASGHAR:** Yes.

15 **CHAIR:** But they confronted a difficulty when they tried to -- I think it was when they tried to
16 quantify these other matters other than just paying out to measure the harm. When they
17 tried to make a pay-out, for example, for counselling, or for the person to get a new hearing
18 aid, or whatever it was that that survivor needed, they came up with some opposition within
19 their own ranks about the appropriateness of monetising the assistance.

20 So I'm just really interested if you can, and quite shortly given our time, we might
21 even ask you to give some more information after if you would, but just how do you deal
22 with that issue of not wanting to put a money value but giving the value to the survivor of
23 this holistic approach that you're referring to?

24 **MR ASGHAR:** We -- and again we've taken learnings from our experience with David, and again
25 I want to acknowledge David -- we've taken a learning from our interactions from other
26 survivors and from other entities and agencies who have found themselves in this position.
27 And the way I'd look at it is we've taken the best of the experiences and to try and describe
28 a framework, and we have a framework, that will be under constant evolution, because
29 there will be aspects --

30 **CHAIR:** I understand, sorry, we're going to -- sorry, I wanted just to bring you, if I can because of
31 time, just straight to the point. Do you, for example, if somebody says -- and it's entirely
32 hypothetical -- "one of the impacts of the abuse I suffered was that I suffer hearing loss,
33 I got hit around the head etc and I've never had proper hearing and I would really welcome
34 some hearing aids." Do you give the money for the hearing -- do you quantify that and say

1 go and get it, or do you get it for them, just practically? And I appreciate it's not one size
2 fits all, that's one example.

3 **MR ASGHAR:** No. So Madam Chair in specific, we have, as I've said, a framework, we take
4 into account the different forms of abuse. We haven't had the situation where we've been
5 specifically asked for, for example, a hearing aid. If we've been asked for counselling we
6 will give the counselling that that person needs. But it needs to be determined by them in
7 terms of who their counsellor is, it's their choice rather than us saying "this is what you
8 must have" because that's not then listening to the individual.

9 **CHAIR:** And do you pay the bill for --

10 **MR ASGHAR:** Yes.

11 **CHAIR:** Right, that's how it happens, so you don't give them \$1,000 for counselling?

12 **MR ASGHAR:** No.

13 **CHAIR:** You just say "go and get your counselling we'll pay the bill"?

14 **MR ASGHAR:** No, this is a relationship.

15 **CHAIR:** Exactly, so it's a relational matter, thank you for clarifying that. Sorry to intrude on your
16 valuable time, Ms Castle.

17 **MS CASTLE:** No worries ma'am. I've skipped through a lot of my material quite quickly so we
18 have a little bit of time before the morning adjournment.

19 I just want to turn to you, Pat, do you have anything you want to say in addition to
20 what Joe's expressed about the implementation of lessons learned?

21 **MR WAITE:** When I look through that list, clearly we were deficient when you look at that list,
22 they're the areas that they identified. It's clear to me that we actually took a very legalistic
23 approach to the interviews, Dr Barton had a legal perspective. And we're realising, reading
24 now those reports and reading the feedback that people gave, that it was very badly
25 founded.

26 And so now our approach is very much around I want to listen to people. This man
27 explained to me what happened to him. I can't judge whether it's true or not, why should I?
28 He felt it genuinely happened to him. He told me he was hit on the head with a hammer; I
29 believe him. I mean that's -- how can I say it didn't happen to him? And I'm not going to
30 ask any child, or any person now who's now grown up -- actually many of them are older
31 than I am or the same age as me -- to explain what happened to them when they're five
32 years old.

1 So that's a very different -- very much, and this the reason why we basically have
2 one point of contact, and that's me, and then beside me is Joe, our Chief Executive. So the
3 two of us handle all the inquiries and complaints.

4 **MS CASTLE:** You've said in your evidence, Joe, with reference to the redress process, that the
5 entry and exit point is critical, so you both are now those -- you said, Pat, on the website it
6 says that you're the person to call.

7 **MR WAITE:** Yeah.

8 **MS CASTLE:** Are you aware of survivors who have suffered abuse in the care of PSC who have
9 gone directly to the Church to make that report because in their mind they don't see the
10 distinction between the Church and the Support organisations?

11 **MR WAITE:** Certainly if you go back to prior to 2007, there is evidence from some of the
12 survivors who then went to the Church first and then were directed to us. And that's how
13 the process started from there, from 1990 onwards. But there was a perception, I suspect,
14 that they thought it was a Church.

15 **MS CASTLE:** Do you think that that perception was only at that time, or do you think that there
16 are survivors today who would still see the Support organisation as falling under the
17 umbrella of the Presbyterian Church?

18 **MR WAITE:** I actually think some people may still think that. The man who phoned me
19 yesterday was thinking that I was a Church, and explained to me as if I was a Church
20 Clergy, when in actual fact I had explained we're not the Church, we're a social arm which
21 we do independently of the Church. So his conception was he was complaining to the
22 Church. I think that's still there for those people, the 30 or so we're now engaging with, or
23 now 40 almost, know there's a difference. But there's another 900 and something people
24 who don't.

25 **MR CASTLE:** Yes, and of course people who might be watching this hearing and haven't
26 reported abuse who may have thought that the Support organisation came under the
27 Church.

28 In terms of that entry and exit point, we heard yesterday from the Methodist Church,
29 and that Church has a complex legal structure and had separate legal entities that ran care
30 homes much like what we see here. And the Methodist Church is coordinating the response
31 to reports of abuse, so survivors go directly to the Church.

32 **MR WAITE:** Right.

33 **MS CASTLE:** Do you see any merit in the Presbyterian Church doing that?

1 **MR WAITE:** I would hate to think we could put barriers in the way of people coming direct
2 to us. I think it would be more preferable if they came direct to us. We
3 understand -- otherwise you need to go through a whole range of people to get through to
4 me and I'm the person that they should be talking to. And I encourage the Church, and they
5 have referred people through to me if they get inquiries. But I don't think like that idea of
6 the Church being a barrier through to come to us.

7 **MS CASTLE:** Right, in the current circumstances if someone goes to the Church they refer them
8 to you?

9 **MR WAITE:** They refer to us, they refer to us.

10 **MR ASGHAR:** Correct, correct.

11 **MS CASTLE:** Are you familiar with Pūretumu Torowhānui, the Commission's redress report?

12 **MR ASGHAR:** Yes.

13 **MR CASTLE:** You will know that the Commission has recommended a single independent entity
14 to be established to be responsible for redress to survivors of State and faith-based care. Do
15 you support there being a single entity in place for this?

16 **MR WAITE:** I don't, I don't actually. I think that just purely from my experience now for two
17 years of dealing with people, I think we give a face to the entity that they experienced the
18 abuse from. We're the ones who are accountable. I'd hate to think we go through like an
19 ACC organisation where you basically go through a whole lot of people who don't have the
20 heart and the empathy that we should have.

21 **MR ASGHAR:** Correct.

22 **MR WAITE:** Those people who are responsible for those organisations should be facing that
23 responsibility.

24 **MS CASTLE:** Do you acknowledge --

25 **MR ASGHAR:** And if I may, David Crichton has said explicitly, without a connection there is no
26 correction. So I would reflect that back that if we have a centralised agency that lack of
27 empathy and caring and understanding is at risk.

28 **MR WAITE:** I think also each of us should be responsible for cleaning up our mess. This is us.
29 We can't move away from what happened in the past. Even though I was at school when a
30 lot of these things happened, we can't exclude ourselves from that, we should be made
31 responsible for cleaning it up. I think the idea of reporting to an agency is okay, but I think
32 the agency, we should be the ones dealing with those people.

33 **MR ASGHAR:** Yes.

1 **MS CASTLE:** Do you both acknowledge there may be survivors who don't want to return to the
2 entity under whose care caused them harm and for that reason an independent entity might
3 be preferable?

4 **MR ASGHAR:** Yes.

5 **MR WAITE:** I can appreciate that, yeah.

6 **CHAIR:** Can I just ask the question that I asked of the Methodist Church yesterday, are you
7 aware that as a result of our Puretumu Torowhānui report last year that the government is
8 starting the process of looking into setting up a redress system?

9 **MR WAITE:** I understand that, yes.

10 **CHAIR:** And that our recommendations were that it should not set it up unilaterally but in
11 consultation, more than that, in collaboration with survivors etc.

12 **MR WAITE:** Right.

13 **MR ASGHAR:** Correct.

14 **CHAIR:** My question is: That recommendation was made by us to encompass, and for them to
15 start formulating and planning, not just with the State agencies, but with the faith-based. So
16 my question is, has PSC, as a significant player in this game, have you been approached by
17 the Crown Response Unit --

18 **MR WAITE:** No.

19 **CHAIR:** -- at all?

20 **MR WAITE:** No, we haven't at all.

21 **MR ASGHAR:** No.

22 **CHAIR:** Not at all?

23 **MR WAITE:** No.

24 **CHAIR:** Would you like to contribute to the discussions they are having in their planning to
25 convey your views about these matters?

26 **MR WAITE:** I think it would be very helpful if we're able to contribute. We've got some certain,
27 as you can hear, some certain ideas.

28 **CHAIR:** And experience.

29 **MR WAITE:** And experience in dealing with it. So I think there are other parties who contribute
30 as well. So I'd like to be able to contribute if they were inviting us.

31 **CHAIR:** Good, thank you.

32 **MS CASTLE:** Ma'am, I've reached the end of my questions, thank you to you both. Before
33 I hand to the Commissioners for questioning it's just occurred to me that I didn't give a
34 visual description at the outset, particularly after encouraging other counsel so much to do

1 so. So for those who cannot see me I'm a female in my early 30s of Māori and Pākehā
2 descent, I'm wearing a white top, a black jacket and glasses.

3 **CHAIR:** Thank you Ms Castle. People will have to try and remember what you've said now.

4 Thank you. I'm conscious that I've asked questions, I'm going to invite, and I'm conscious I
5 have something at my side who would like to ask, so Dr Erueti you can ask away.

6 **COMMISSIONER ERUETI:** Yes, if I may, just following on the point about redress. It's not
7 only the independence of the redress scheme that we've suggested, but also the fact that it's
8 unitary. So the idea there is to ensure there's consistency and equity in the approach
9 towards addressing the needs of each survivor. So if we have this proliferation, which we
10 currently have, of redress schemes then that defeats that purpose.

11 But I recognise and acknowledge the passion that you have for wanting to provide a
12 connection and not just correction, as Mr Crichton puts it. I think we've heard that from all
13 the faiths. But what we've also consistently from survivors over the last three years that
14 we've been working on redress, is the significance of there being an independent body, not
15 a Crown agency, this would be something independent of the Crown and faiths, but an
16 independent body and also a single point of reference for survivors to approach that is
17 underpinned by values and principles that survivors want in a redress scheme.

18 So I just -- yeah, we had this discussion yesterday afternoon, I'm not sure if you saw
19 that, with the Methodist Church too and all the faiths say that, say that we want to engage
20 with survivors in this process. And we understand that, and there is a way in which the
21 faiths can do that through an apology, or provision of pastoral care if survivors want it.

22 But again, as we discussed with the Methodist Church yesterday, we're encouraging
23 the faiths to really engage with that report and these ideas, because they're really the voices
24 of survivors that have made their way into the report. Ultimately it's up to them to engage
25 with the Crown to determine what the content of the redress scheme will be, of course. But
26 again, that's driven by survivors. So yes, I know you've read the report, but again, implore
27 you to really engage with those ideas in it. Thank you.

28 **MR ASGHAR:** Thank you, ka pai.

29 **CHAIR:** I'll just give my other colleagues an opportunity. Sandra Alofivae.

30 **COMMISSIONER ALOFIVAE:** Talofa Joe, talofa Pat. Thank you, we understand your legal
31 structures, they're very clear, it's well set out what the links are and where there are no
32 links. But a question that we discussed yesterday also with the Methodists was really
33 around accountability and the moral accountability, whether or not the mother ship should
34 actually be standing together with the different entities, in this case PSC, around the

1 collective ownership of the harm that was caused, and whether or not you had a view on
2 that.

3 **MR WAITE:** Our name is Presbyterian, which gives an impression that therefore it is a
4 Presbyterian entity. So I can't speak on behalf of the Church, but we don't see ourselves as
5 Presbyterians, we see ourselves as an agency that's providing care for people. So that's a
6 matter for the Church to respond to. I wouldn't want to put that burden on them.

7 **MR ASGHAR:** No, no.

8 **COMMISSIONER ALOFIVAE:** Just so that I'm clear, you're quite prepared, and in one sense
9 happy to trade on the name of the Presbyterian which is recognised as a faith, as an
10 institution, but anything that happens contrary, which is what's happened here, the
11 significant abuse and the horrors that occurred, they shouldn't take responsibility, even
12 though they knew, they know that you're trading under their name?

13 **MR ASGHAR:** I think if I may, ma'am, one of the points that we made was that Enliven and
14 Family Works trade as Enliven and Family Works, and so all our -- going forward we
15 moved away from the Berhampore Home which was under the auspices of Presbyterian
16 Support, if that's the reference we make, so that that accountability for anything that
17 happens in the businesses that we've got is fairly and squarely in those businesses and not
18 on Presbyterian Support Central.

19 So we're all part of the same, I accept that these are paper walls, but we do very
20 much recognise our accountability and our responsibility. And I don't think, ma'am, that
21 we're trading off the Presbyterian name to further our business interests.

22 **COMMISSIONER ALOFIVAE:** Thank you for that, thank you.

23 **CHAIR:** Paul, do you have some questions?

24 **COMMISSIONER GIBSON:** Yes thanks. I'm aware that some providers whose core business is
25 aged care services also provide Disability Support Services, respite services for people
26 under 65. Does PSC or Enliven provide any of those services?

27 **MR ASGHAR:** Yes, we do have some clients under the age of 65, through those Disability
28 Support Services, and aged care services, but there are very few, we're talking handfuls of
29 people that may be in our care.

30 **COMMISSIONER GIBSON:** We would be interested in your experiences, we're aware they
31 have few options in life and what happens to them is of interest to the Inquiry.

32 **MR ASGHAR:** Kapai.

33 **CHAIR:** And just, because we're nearly at the end, you've provided us with a rich explanation of
34 the past, as far as you can, and the present. You will also be aware that we've probably got

1 a lot of other questions in our minds, and I'm just wondering would either of you gentlemen
2 be prepared, or both, to maybe receive further questioning from us after the event? Not in
3 public, obviously, but in writing, and would you be prepared to assist us further if we need
4 more information?

5 **MR WAITE:** Of course, we'd be very pleased.

6 **MR ASGHAR:** Without doubt, yes.

7 **CHAIR:** We would be very grateful for that and we are very, very grateful for you both taking the
8 time and trouble to prepare for this and to come to us today. And Joe, I just want to
9 acknowledge again, I think it's time you probably had a break, you've been through a lot
10 and we really, really appreciate the fortitude you've shown today, and your sympathy
11 towards the survivors. So tēnei te mihi mahana ki a kōrua and we wish you a safe journey
12 home and I hope you recover well soon, Joe.

13 **MR ASGHAR:** Kapai.

14 **CHAIR:** On that note we will take the morning adjournment and return at about 11.15 thank you.

15 **Adjournment from 11.01 am to 11.21 am**