

**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

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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
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AUCKLAND

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TRANSCRIPT OF PROCEEDINGS

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19 **CHAIR:** Thank you very much.

20 I'll now invite you, Mr Barker, for your opening statement, thank you.

21 **OPENING STATEMENT BY DILWORTH SCHOOL and**
22 **DILWORTH TRUST BOARD**

23 **MR BARKER:** Tēnā koutou e ngā Kaiwhakawā. As I said earlier, my name is Andrew Barker,
24 I'm appearing with Ms Lanham on behalf of Dilworth School and the Dilworth Board of
25 Trustees.

26 I am a 52 year- -old Pākehā male, approximately 6'2", wearing a grey suit white tie
27 and a check,- sorry, a white shirt and a -checkered tie of predominantly pink colour.

28 I filed this morning with the registry an opening statement; do the Commissioners
29 have that?

30 **CHAIR:** We have that, thank you very much for doing that.

31 **MR BARKER:** Obviously, I won't be able to go through that in detail, I was just intending to
32 focus on a few points, summarise a few others and, unfortunately, have to ignore other
33 points in their entirety.

1 **CHAIR:** Because you filed it earlier we've been able to go through it, it will be published and
2 we're grateful for it, but if you'd like to summarise, it's a good thing too and we have read it,
3 thank you.

4 **MR BARKER:** Thank you. At paragraph 3, I just wanted to start there and just emphasise this
5 point.

6 The need to confront the history of abuse at Dilworth School has been one of the
7 greatest challenges this school has faced in its history.

8 The school was established to give disadvantaged young men opportunities in life
9 that they may not otherwise have had. The fact that so many of their students suffered
10 abuse while they were in their care reflects a failure of Dilworth in its core mission to
11 provide them with a safe and supportive environment in which they can thrive.

12 I want to acknowledge the bravery of those who have come forward to this
13 Commission and in other contexts and recognise the harm that has been done to them. That
14 is an acknowledgment that comes from me as counsel, but it is not -- it is appropriate that it
15 is one that is made by the school directly, and Mr Snodgrass will be doing that tomorrow
16 when he gives evidence to this Commission.

17 In terms of the evidence that the Commission will hear, the Commission indicated
18 earlier on that it wished to hear from those persons who had direct knowledge as to what
19 abuse happened in the past, and for that reason it approached the former headmasters
20 Mr Wilton and Mr MacLean and the former chair Mr Firth directly to seek their evidence
21 for this Commission, so I simply note that they are witnesses being called by the
22 Commission, and Dilworth has not briefed them or instructed them in respect of their
23 appearances today.

24 The evidence on behalf of Dilworth will come from Mr Snodgrass who is the
25 current chair of the Board of Trustees and he's going to focus on three key parts, really
26 trying to describe and inform the Commission of the response that Dilworth has made to
27 this history that has emerged.

28 And I'll briefly overview those, but in summary they are what it has done to ensure
29 the safety of its current student body and its student body going forward; what it has done
30 to understand its past and the causes for that; and what it has done in respect of redress.

31 In my opening statement at paragraph 12 and onwards I talk a little about the
32 background, I won't go through it but I think there are probably three factors that the
33 Commissioners just need to bear in mind which may be distinguishing factors for Dilworth
34 as opposed to other schools that you have encountered.

1 The first is that Dilworth School was established by the will of James Dilworth, so
2 as part of his will he directed that his estate would be applied to form a school to educate
3 disadvantaged youth going forward and that is the origin of so much that happens at
4 Dilworth, the will, it guides everything that the school does and is actually the foundational
5 document for it. So that's something that's in slight distinction, I think, to any other
6 schools.

7 The second is that Dilworth is a solely boarding school, I think it's the largest
8 boarding school in the Southern Hemisphere, so all of the students who attended Dilworth
9 to date have been boarders on site.

10 And the third point is that they have all had their fees and all costs met by the trust
11 established by James Dilworth in his will. So fully paid for care at the school.

12 I've noted there, just so the Commission has the background, the break-down, the
13 break-down of the current school's make-up, that is something that has changed over time,
14 and also the three campuses through which it operates.

15 I then move to just give the Commission some information about the extent of abuse
16 that has happened at Dilworth School. It is something that, unfortunately, Dilworth is in
17 the process of trying to understand the extent of abuse, because as is the nature of much of
18 this abuse, and Dilworth has to accept the culture of the school at the time, is that victims of
19 abuse were not able, did not feel able to come forward to the school and share their
20 experience. It is only as they find their voice now that they have been able to do so and
21 they are, understandably, choosing to share those experiences with other institutions than
22 the school such as the Commission itself, my friend Mr van der Plas' Class Action Group
23 and also the independent inquiry that's been experienced.

24 So this is something that Dilworth does not fully understand, is the reason why
25 we've established this, one of the reasons why this Inquiry has been established, so that the
26 school and its community can have a full understanding of what actually happened and why
27 it was able to happen.

28 But I have given you some information there to give you some understanding of the
29 extent of the abuse that occurred. I note that 11 men have been convicted of sexual
30 offences in respect of students at Dilworth School.

31 We have statements from the Police that have indicated that they received 139
32 complaints, those are statements we have taken from the press, they haven't been given
33 directly to us.

1 There are similar statements from the Dilworth Class Action Group of numbers in
2 around 130 people coming to them to register with their group. We have the listening
3 service that has had to -- that has dealt with over 100 people so far, so it's another source,
4 and I finally note that in respect of the redress programme that I'll come to it in a moment,
5 66 people have registered for redress with that programme to date.

6 So, as I said, we don't know the extent of it or understand the extent of it, but that is
7 giving the Commission some idea that it is significant and substantial.

8 **CHAIR:** I presume some of those numbers would overlap but we won't go into the detail of that at
9 this stage.

10 **MR BARKER:** Yes, that leads into the first part, really what I want to just focus on is the three
11 responses of Dilworth to this, the first being that inquiry and really at the heart of this
12 inquiry is trying to understand what was the extent of the abuse and how was it able to
13 happen. And you'll have seen from the documents that Dame Silvia Cartwright and
14 Frances Joychild KC have been appointed as inquirers. They are undertaking their work. It
15 is not work that involves us. We receive information requests much in the way as the
16 Commission receives information requests and they are getting on with their task.

17 The point I did want to make, I'm sure you'll at some point -- two points. First, I
18 would encourage the Commissioners at some point to look at the website that they have
19 established because it does give a lot of the information about the work of the inquiry and a
20 similar comment relates to the redress programme. I've given the links in my written
21 submission.

22 But the second point on the inquiry is I do set out in the written opening the terms of
23 reference because they are broad and they are direct and they will be confronting. You'll
24 see that while there are matters of scope such as factors that may have caused abuse, so
25 purpose, when they go into the scope, they are being asked to look at issues such as was
26 abuse covered up, were the policies adequate, and so on and so forth. So the inquiry is
27 seeking to look at the hard questions that need to be asked and answered.

28 The second point I talk about really starts at paragraph 41 and Mr Snodgrass will be
29 able to talk to this as well, is: What has Dilworth done to ensure that the current student
30 body is safe? And he details the history of that, and it was a history, perhaps no different to
31 many other schools where these issues arose, where policies are changed, efforts are made
32 to educate and so forth, but certainly for Dilworth, in around 2019 it realised it had to do
33 something more than this, and that is the time it approached the Australian organisation,
34 Child Wise, which is an entity associated with the Save the Children organisation and has

1 done a lot of work off the back of the work of the Australian Royal Commission, to
2 re-design its school, re-design its structure, re-design its focuses such that children and
3 child safety become the focus of the school.

4 That has been a three year process and there are, perhaps if the Commissioners are
5 interested in that, one of the documents that Mr Snodgrass refers to is a PowerPoint slide
6 that the current headmaster has been asked to, --he's been asked to present to other schools
7 about the work on Child Wise. It's an easy way to understand the work that has been done.
8 There's also a more significant document in the bundle as well, but that would be quite a
9 helpful resource.

10 But I summarise some of the changes that has led to in the school in my opening,
11 just to highlight some factors, such as a full-time safety officer in the school now, on a
12 full-time basis with that being their sole focus. The rewriting of all policies that there are,
13 and rewriting them in conjunction with the students themselves, so that there is input from
14 the students in terms of their understanding and recognition of the interests that they have.

15 That leads to this entire idea of student empowerment that started to work through
16 the entire school and examples of that are given by Mr Snodgrass. The advisory groups
17 were Māori and Pasifika communities, and you'll see that certainly Dilworth now is very
18 strong, I think the student body is 50% Pasifika now, these are core parts of the school
19 itself.

20 Training and so forth. Perhaps one of the novel ones is the ability to report abuse
21 through an anonymous system, and I think I've called it an online portal, I actually think it's
22 an app on the kids' phones that they can use to report abuse anonymously.

23 That has led to Dilworth last month being accredited as a child-safe school by Child
24 Wise, it's the only school in New Zealand to hold that accreditation.

25 Finally, I just wanted to draw the Commissioner's attention to the redress
26 programme that has been established. Redress did start with the listening service that has
27 been well used by old boys and survivors, that was established in 2019 and has had over
28 100 people who have been referred to counselling through that. But more recently, in
29 August 2022, a substantive redress programme was launched, it is being -- I would, again,
30 refer the Commissioners to the terms of reference that are on, I suppose the website that
31 sets out a whole lot of the information about it.

32 But just a couple of words of overview, is that at its heart is the establishment of an
33 independent panel to provide redress in a way that has no connection to Dilworth, within
34 some broad guidance that they are given, and that panel, we are very fortunate to have been

1 able to appoint people of the highest calibre to that, we have Dame Judith Potter, Professor
2 Ian Lambie, who one of the leading clinical psychologists at the University, with a
3 speciality in this area, as well as Rukumoana Schaafhausen, who's a leader in the
4 community, in the Māori community in particular.

5 But at the heart of the programme is the discretion they are given to work out
6 redress that is appropriate for each individual student,- each individual survivor. That will
7 include apologies, it will include counselling and the like and it will also include substantial
8 financial redress, and I've set the limits out there. It is most-,- in most cases it will be
9 \$200,000, up to \$200,000, and for the most severe cases they have the discretion to increase
10 that to \$300,000, but they're given very-,- you'll be familiar with the way these systems
11 work, a lot of them are banded, this is just simply-,- there is a number, there is a cap, if you
12 like, but within that the discretion is entirely up to you as to how you choose to mould this
13 financial compensation.

14 I note also the application process is very informal, there's a low evidential standard,
15 the standard that the Commission has talked about in its report of a reasonable likelihood,
16 and there is also assistance for them to put together their application through redress
17 facilitators.

18 **CHAIR:** When you say report, are you referring to our Puretumu Torowhānui report?

19 **MR BARKER:** Yes, ma'am, I could go on to a lot of ideas --

20 **CHAIR:** No, I just needed to clarify which report you were talking to. It's that one, that's fine,
21 thank you.

22 **MR BARKER:** The only other issue to note is just with the Anglican Church, and I'll very briefly
23 comment because it might be, it's probably again another point of distinction for Dilworth
24 as opposed to some of the other faith based organisations that have come before you. It is
25 an Anglican school and the directive and the will is that students are to be educated in the
26 tenets of the Anglican Church, but beyond that being the school, the actual involvement of
27 the Anglican Church and its management is very limited and essentially it has no
28 governance role at all. Its role is limited to, I suppose, advice and consultation in respect of
29 a chaplain and there is also the process of an actual visitation which takes place, which is an
30 opportunity for the Bishop to come and look at the school and take it from there.

31 **CHAIR:** I think we are getting a little signal for you to speak into the microphone.

32 **MR BARKER:** Sorry. I can probably save the transcript there, because unless you had any
33 further questions that was all.

1 **CHAIR:** I think that's a comprehensive summary. Thank you very much again for your opening
2 statement, Mr Barker.