

**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'imuumua 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, Mr Jeremy Johnston 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

Ms Helen Smith and Ms Sarah Kuper for Presbyterian Support Central

Mr Sam Hider for Presbyterian Support Otago

Mr Andrew Barker and Ms Honor Lanham for Dilworth School and Dilworth Trust Board

Mr Karl van der Plas, Mr Jaiden Gosha, Ms Rachael Reed and Ms Ali van Ammers for the Dilworth Class Action Group

Venue: Level 2
Abuse in Care Royal Commission of Inquiry
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1 **Hearing opens with waiata Purea Nei and karakia tīmatanga by Ngāti Whātua Ōrākei**

2 **[9.08 am]**

3 **CHAIR:** Raurangatira mā tēnā koutou, tēnā koutou, arā, tēnā rā tātou katoa. Ms Anderson, before
4 we begin I'm conscious that we have a new grouping of people in our public hearing and no
5 doubt watching online who have not had the introduction of the Commissioners so I'm
6 going to take this opportunity, briefly, again, to describe ourselves and introduce ourselves
7 for those who don't know who we are.

8 So, good morning, everybody who is present today and watching on the livestream.
9 For your information, my name is Coral Shaw, I am the Chair of the Royal Commission.
10 I describe myself for those who cannot see as being an elderly Pākehā woman, I have short
11 white hair. Today I'm wearing a navy jacket and grey top, and apart from wearing glasses I
12 don't have a disability.

13 I'll now introduce my fellow Commissioners, Dr Erueti, to start with, thank you.

14 **COMMISSIONER ERUETI:** Tēnā koe Chair, tēnā koutou katoa, nau mai haere mai koutou. Ko
15 Anaru Erueti tōku ingoa, nō Taranaki, ko Taranaki te maunga, ko Ngāruahinerangi te iwi.
16 I'm Anaru Erueti, and I'm a middle-aged Māori male with a polka dot tie and a blue suit and
17 white shirt.

18 **CHAIR:** Kia ora. Paul.

19 **COMMISSIONER GIBSON:** Kia ora. Paul Gibson, I'm a middle-aged- Pākehā male with
20 greying hair. I am wearing a dark suit, white shirt, a pounamu, and I wear, -I use
21 headphones over one ear, I'm blind with some peripheral vision and listen to documents via
22 the headphones. Kia ora-.

23 **CHAIR:** And Ali'imua Sandra Alofivae.

24 **COMMISSIONER ALOFIVAE:** Thank you. Tēnā koutou katoa. Faatalofa atu i le pa'ia ma le
25 mamalu ua mafai na faatasi mai i lenei aso. (Greetings distinguished guests who could
26 make it today). I am Pacific, I'm of Samoan and Chinese descent and I too will claim the
27 middle-aged bracket for the first time, I think, in all of the hearings. I have shoulder length
28 quite curly wild hair which I have to wear up every now and again, I wear glasses, and
29 today I'm wearing a dark teal dress with red flowers on it. Thank you.

30 **CHAIR:** We've had an ageist break-through today and we salute you, Sandra, for your bravery.

31 **COMMISSIONER ALOFIVAE:** I might need a bit of counselling after this but we'll see.

32 **CHAIR:** All right. On that happy note, we now invite you, Ms Anderson, to commence the
33 proceedings for the day thank you.

34 **MS ANDERSON:** Tēnā koutou katoa. For those listening, I am a further addition to the middle-

1 aged female category, relatively short, I've got shoulder length blondish hair, I'm wearing a
2 batik print dress with a white jacket over the top and a shell necklace today.

3 We're just about to hear from Mr Derek Firth, the previous chair, trustee and chair
4 of Dilworth School, so perhaps Madam Chair, I'll invite you to administer the affirmation
5 and then Mr Firth has prepared a statement that he would like to commence with.

6 **CHAIR:** Good morning, Mr Firth, and a warm welcome to the Commission. Thank you for your
7 appearance today.

8 **DEREK FIRTH (Affirmed)**

9 **CHAIR:** Just something for you and for any other witnesses who are appearing, it's a matter of
10 timing, we have a stenographer taking every word down, we have two signers, and we need
11 everybody to be mindful of speed. So if you get stopped, I hope you don't take that as a
12 challenge, it is really just out of deference to our stenographers. Thank you.

13 **QUESTIONING BY MS ANDERSON:** Thank you. Derek, are you happy for me to refer to you
14 as Derek as we have this exchange of questions?

15 **MR FIRTH:** Yes, absolutely.

16 **MS ANDERSON:** And you you've provided a detailed written statement of your own, and you
17 and Mr Wilton have provided a short two-page summary document, but you've also
18 prepared just a short statement that brings those threads together and the key messages you
19 wish to commence with and that's what you're going to start with at the moment.

20 **MR FIRTH:** Yes, if I may.

21 **MS ANDERSON:** Yes, I'll hand over to you.

22 **MR FIRTH:** Thank you. Madam Chair and Commissioners, I mean no disrespect if I go straight
23 to my statement, but I'll spare you my poor pronunciation. My description, I feel that
24 saying I'm elderly is inadequate having heard others say the same, but I am an elderly male
25 of European ethnicity, 1.8 metres in height, wearing a dark suit and tie and glasses.

26 This is a supplementary statement to my principal 17 pages of 12 July and the joint
27 two-page statement of Dr Wilton and myself of 10 October. And may I start by saying, it is
28 obvious, it probably doesn't need to be said, but it is obvious that the sexual abuse at
29 Dilworth was horrible, unforgivable and caused irreparable harm. I unreservedly join and
30 support the apologies to the victims and, indeed, I listened on the livestream to Dr Wilton
31 yesterday afternoon and his opening comments could well have been mine.

32 Now, nothing which follows, because I do get into areas that are a tad controversial,
33 but nothing which follows must in any way detract from what I've just said. Unfortunately,
34 a number of victims have stated that known abusers were permitted to remain on the staff

1 and that there was a sinister cover-up of sexual abuse within the school. These views may
2 be genuinely held. But they are wrong.

3 No known abuser was ever permitted to remain on the staff and there was never any
4 sinister cover-up within the school as alleged.

5 There has also been criticism to the effect that known abusers were not reported to
6 the Police. Now, you will see from the first page of the two-page statement that's been
7 referred to, and I've mentioned the witness page there, I don't know if it's appropriate to put
8 that on the screen or not, but anyway, I'll just refer to it, but you'll notice the first page,
9 which is in tabular form, sets out the known abusers at the time this statement was made on
10 10 October.

11 Now, I should interpolate to say that since then I have seen a couple of victim
12 statements that have been sent to me, and I think even one or two other staff members have
13 popped up, sadly. But these are the 12 who were known to us, or me, at the time of the
14 statement. And you'll see that I've listed them down, the years of their abuse, who was the
15 head and chair in each of those periods, when the abuse was reported to the head, the action
16 taken, when it was reported to the Police and by whom, and when it was reported to the
17 Teaching Council.

18 So this one page, this one page captures all of that information, and this information
19 is correct and is drawn from that information that I carry on.

20 The true position is that throughout the whole of the approximately 40-plus-year
21 period, only one known sexual abuser was not immediately reported to the Police at the
22 time.

23 **MS ANDERSON:** Can I just pause you there, Derek, that 40-year period you're referring to, that's
24 from the period when you first become involved as a trustee through to the period in 2015
25 when you left your role as chair.

26 **MR FIRTH:** Yes, mid-70s to 2015, yes.

27 That was over 40 years ago and it was a decision taken on my advice as the new
28 trustee. At the time the known abuse was of inappropriate touching and the abuser said he
29 was determined to fight the allegations in court.

30 **MS ANDERSON:** Here, Derek, we're referring to the first chaplain.

31 **MR FIRTH:** Yes, the first chaplain.

32 **MS ANDERSON:** That's how we'll refer to that person.

33 **MR FIRTH:** Yes, can I use his name?

34 **MS ANDERSON:** No.

1 **MR FIRTH:** But the first chaplain, yes. When he was confronted by the chair, the then principal,
2 and myself, the three of us, he denied it and said he was determined to fight it in court. I
3 was concerned, having conducted a number of sexual abuse cases as counsel in court, that
4 there was a reasonable possibility that the young victims would not be believed by a Jury
5 and this would be more harmful to them than what they were then reporting, I emphasise
6 the "what they were then reporting".

7 It has since transpired that his degree of abuse was greater than was reported to us at
8 that time.

9 Now, under headmaster Peter Parr, that was the only reported case of sexual abuse
10 of which I am aware and the only one known to trustees.

11 **MS ANDERSON:** And Peter Parr was the headmaster immediately before Mr Wilton.

12 **MR FIRTH:** Dr Wilton, yes, that's right. And that first chaplain abuser was later reported to the
13 Police by others and prosecuted.

14 Now, under headmaster Murray Wilton there were only two reported cases of
15 sexual abuse and only two known to trustees in his 18 years. Now, can I take the rest of
16 that paragraph as read because Dr Wilton covered that in his evidence yesterday afternoon.
17 There seems to be no need to repeat it.

18 **CHAIR:** No, you're right, thank you.

19 **MR FIRTH:** But it's the way we pull back to only two in 18 years who were reported.

20 **MS ANDERSON:** We'll come back in later questioning about what's properly characterised as
21 sexual abuse, because from the discussion with Murray Wilton yesterday you'll appreciate
22 that there's --

23 **MR FIRTH:** Yes.

24 **MS ANDERSON:** -- there's a difference of view about whether what was reported --

25 **MR FIRTH:** Yes, can I address that --

26 **MS ANDERSON:** -- should have been characterised as sexual abuse.

27 **MR FIRTH:** Can I address that now because I think one of the Commissioners asked Dr Wilton
28 whether or not the showering naked with boys by a housemaster was a form of sexual
29 abuse. Of course, today it would seem to be without a doubt. Back in the 70s it was
30 obviously totally unacceptable conduct, it was not seen to be criminal abuse and I think
31 Dr Wilton was advised by the Police and two other Heads that it was not criminal abuse,
32 but to all of us here of course it was. But that's not how it was perceived at the time, in '79
33 that was.

34 **MS ANDERSON:** Although the criminal offence of indecent exposure would have existed at that

1 time.

2 **MR FIRTH:** Yes, yes, of course. Yes, that's true, yes.

3 **MS ANDERSON:** I'll let you continue with your opening statement.

4 **MR FIRTH:** Coming down to the next paragraph, under Headmaster Donald McLean, there was
5 only one reported case in his 21 years and the only one known to trustees. And that was of
6 sexual abuse by a young overseas tutor over 10 years ago. He was summarily dismissed
7 and reported to the Police, Chaplain Ross Browne was made to resign in March 2006 for
8 inappropriately encouraging boys to masturbate in class and before any sexual abuse, and I
9 emphasise the next bit, involving direct physical contact was known.

10 Now, in my more detailed statement of course I cover that in more detail.

11 Now, if as requested by me on several occasions, Dr Wilton and I had been briefed
12 by the Dilworth advisors immediately when the extent of abuse was first known, all of this
13 evidence could have been made known to them in December 2019 or early 2020. This
14 would have enabled Dilworth to confidently rebut immediately the false statements to the
15 media about cover-up and about retaining known abusers. And as a result of refusing to
16 comment, the current trustees have, I believe, caused harm to many victims by permitting
17 their wrong assumptions to fester without question. I think that was an awful thing to have
18 happened. There may have been good reasons which will be explained in due course, but
19 I cannot think of them.

20 Now, that's the end of my prepared opening statement. I don't know if I'm still
21 within a flexible 10 minute period or not, but may I comment on one or two things that
22 transpired yesterday afternoon?

23 **MS ANDERSON:** Yes, please do.

24 **MR FIRTH:** Mr van der Plas representing a group of, a large group of victims touched on the
25 redress proposed by Dilworth at the moment and the delay with that happening. I totally
26 agree with him that the current proposed redress should have been offered earlier, I think
27 it's caused victims a lot of grief for it not to have been offered earlier, but in fairness to
28 Dilworth, I understand that there were negotiations with the victims group and that may
29 have protracted the finalisation of that.

30 So it may not be entirely at Dilworth's door that there was that delay.

31 Mr van der Plas made what I respectfully suggest was an excellent point when he
32 asked how many victims might have been spared if these early matters had been acted on
33 more appropriately. I think that's the nub of the matter, Madam Chair, you touched on this
34 at the end of the day yesterday, and I think that will end up being the nub of the matter.

1 And I totally agree with Dr Wilton that with those very early cases of offending by the first
2 chaplain and Rex McIntosh, that if we had made a more detailed inquiry, detailed inquiry
3 of the victims, we may have discovered more and we may have been able to prevent a lot of
4 the subsequent abuse.

5 Now, when I say "we", I did not think then and I do not think now that it was
6 appropriate for trustees to interview boys. I think that would have been absolutely wrong.
7 But we could have insisted and required the head and any outside people to come in and
8 better talk with the boys and perhaps get from them details, more details of the abuse,
9 which seems to have been worse than was reported, and of other victims. So I totally agree
10 with that point.

11 In Mr Barker's statement he referred to what the Dilworth Trust Board has now
12 done, and I wish to applaud that to the extent I can, having been approved, the school
13 having been approved through a rigorous Child Wise programme, having a full-time safety
14 officer, rewriting policies, having an advisory group and providing for anonymity of
15 reporting, and I'm sure there will be more about that later in the day, but I just want to say
16 that that seems to be absolutely, absolutely right.

17 I don't know whether it's appropriate to comment on Commissioner Erueti's
18 comment or whether he might ask me the same question later, but I have a comment on a
19 couple of those points if it's appropriate now.

20 **MS ANDERSON:** Why don't we commence with the questioning --

21 **MR FIRTH:** Yes.

22 **MS ANDERSON:** -- and then these aspects might come out and then at the end if there's anything
23 that you haven't covered through the questioning that you think you may wish to, then there
24 will be an opportunity.

25 **MR FIRTH:** That would be wonderful, thank you very much.

26 **MS ANDERSON:** Derek, you've in fact been very keen to have your opportunity to present at the
27 Royal Commission and to have your witness statements, including your long and the
28 two-page short-form publicly available, haven't you?

29 **MR FIRTH:** Yes, I have.

30 **MS ANDERSON:** And you've expressed in that documentation perhaps one of your driving
31 concerns is that you felt a bit shut out of what the current Trust Board process is and that
32 you don't feel that they've put the right messages into the public domain. Is that accurate?

33 **MR FIRTH:** Only in the two issues that I've referred to. I think everything else has been
34 excellent. But on those two issues of -- well, on the issue of just staying silent when the

1 victims were festering and I think in my statement I say like an unlanced boil, they were
2 allowed to fester over these things that were not correct and they were not being corrected,
3 so they just got greater entrenched in their minds.

4 So for the last year, 18 months or even more, the victims have been unnecessarily
5 stirred up over a lack of reaction to those allegations, and I'm not suggesting that the
6 victims should agree with me or agree with what we did, I'm not suggesting they will think
7 what we did was right. But what they were yearning for was some explanation and they
8 never got it, and that annoyed me.

9 **MS ANDERSON:** I think that comes across quite clearly in your statement.

10 The one-page summary table document that you and Dr Wilton prepared, I'm not
11 calling it up, but I am just talking about the nature of it, is it accurate to describe that what
12 you've listed in there includes reports that were known to you through your role on the
13 Board? Is that right?

14 **MR FIRTH:** No. Some of this material I only learned when it came forward as a result of the
15 Police inquiry or this Inquiry.

16 **MS ANDERSON:** Right, but it includes -- you'd be able to identify from the list here those that
17 you were aware of at the relevant time.

18 **MR FIRTH:** Just going very quickly, I think -- yes, I've got the redacted version, just going
19 extremely quickly through them, Stephens back in '71, never heard about him until a week
20 or two ago.

21 **MS ANDERSON:** Let's go through them, the ones that you do. So that second one, Dixon, you
22 were aware of that during your time on the Board?

23 **MR FIRTH:** So from '75 on, the school chaplain would be the first from my time on the Board.

24 **MS ANDERSON:** The first for you?

25 **MR FIRTH:** And I knew within hours or a day of those complaints being received.

26 **MS ANDERSON:** And you knew about McIntosh?

27 **MR FIRTH:** Yes, in fact I think Dr Wilton said in his detailed statement that he and the chair,
28 who would have been Bill Cotter, confronted McIntosh. I'm quite sure it was Dr Wilton
29 and myself who confronted Rex McIntosh.

30 **MS ANDERSON:** But you recall involvement with that?

31 **MR FIRTH:** Absolutely.

32 **MS ANDERSON:** Clearly you were aware in terms of involvement with Ian Wilson in '96?

33 **MR FIRTH:** Yes.

34 **MS ANDERSON:** And with Mr Wynyard?

1 **MR FIRTH:** Cave -- oh, Wynyard, yes. Now, I'm not sure that I knew much about him. I think
2 it's the sort of thing that would have been reported to the Board and I must have known
3 about that at the time.

4 **MS ANDERSON:** And Cave, you would have known at the time.

5 **MR FIRTH:** The same, yes.

6 **MS ANDERSON:** And then the next person listed is the housemaster. Would that have been
7 something you knew about during your time on the Board?

8 **MR FIRTH:** I must have, I just need to look at the unredacted copy just to remind myself of who
9 it is.

10 **MS ANDERSON:** It relates to a 2018 report, so after your time on the Board so it --

11 **MR FIRTH:** Yes, I don't recall him being reported, but --

12 **MR ANDERSON:** The next one is the 1994 report, about a person --

13 **MR FIRTH:** Yes, I certainly --

14 **MS ANDERSON:** You knew about that.

15 **MR FIRTH:** -- remember that person.

16 **MS ANDERSON:** And the next one says "not reported until much later in time".

17 **MR FIRTH:** No, that's right.

18 **MS ANDERSON:** And then the second chaplain, Ross Browne, you clearly knew about that.

19 **MR FIRTH:** Yes. Yes, and picking up the point the Commissioner made about showering naked
20 with boys should perhaps be considered as sexual abuse, one might well say exactly the
21 same about encouraging boys to masturbate in class, I mean, it was appalling.

22 **MS ANDERSON:** Absolutely.

23 **MR FIRTH:** It was just appalling.

24 **MS ANDERSON:** Absolutely.

25 **MR FIRTH:** That's why I referred in my brief statement to the events that resulted in direct
26 physical sexual contact.

27 **MS ANDERSON:** Yes, and I think we'll come back to that, Derek, because I think there probably
28 has been an understanding in the decision-makers in the school that perhaps only if
29 something required -- had involved that physical contact that it was properly characterised
30 as sexual abuse.

31 **MR FIRTH:** Yes, I'm not sure it's as simple as that, because we regarded the showering naked
32 with boys as appalling, we regarded the encouragement of the activity in class as appalling.

33 **MS ANDERSON:** Yes, but still, not necessarily conceptualising of that activity as sexual abuse at
34 the time.

1 **MR FIRTH:** We probably did not see it as criminal sexual abuse.

2 **MS ANDERSON:** And that last tutor on that page, that would be somebody that you would have
3 been aware of.

4 **MR FIRTH:** Oh, yes. In fact I should make it clear that despite, despite a lot of press -- well, I'm
5 not blaming the press, but as a result of statements that have been made, my understanding,
6 and I think it's a fairly reliable one, is that this last young tutor, who's last on the list, was
7 the only offender who actually raped a boy. Now, if that had happened earlier, there was
8 no hint of it in any of what was reported to us. So I'm not saying it didn't happen, I'm
9 saying that if it did it was not reported to us, this was the only conduct amounting to rape
10 that was ever reported to us.

11 **MS ANDERSON:** In terms of the dynamic between the Board and the headmaster, so the
12 operational arm under the headmaster and the governance arm at the Board level, do you
13 agree that you'd be very reliant on what was escalated up to the Board in terms of what you
14 were told about reports of abuse at the school?

15 **MR FIRTH:** Yes, of course. I mean, the trustees didn't get involved with the house activity
16 routines or --

17 **MR ANDERSON:** No, no, but you'd expect to, and Mr Wilton was very clear that all reports of
18 abuse were advised to the Board.

19 **MR FIRTH:** Yes, and I'm sure they were.

20 **MS ANDERSON:** And when you've come and made the statement that there was no cover-up,
21 you're really relying on what you as a Board member knew at the time and the actions you
22 say were taken as a consequence of that knowledge; is that right?

23 **MR FIRTH:** Yes, that is. And just -- in my whole career I tell witnesses never to try and think
24 where the questioning is going, but where that might well be leading to I think is this, that
25 there may well have been other students who covered up, so to speak, or who did not
26 mention it, and there may have been one or two junior staff members who did not mention
27 it when they should have. I understand that.

28 But yes, we relied on what the head reported to us because we did not have any
29 direct reporting line with any other staff member.

30 **MS ANDERSON:** That's right. So from a governance perspective, you need to know that your
31 systems and policies are appropriate and the right information is coming up to you.

32 **MR FIRTH:** Yes.

33 **MS ANDERSON:** And your risk management includes making sure that that happens.

34 **MR FIRTH:** Yes.

1 **MS ANDERSON:** Now, I think you're aware that a number of survivors say that they disclosed
2 reports of abuse to different staff members and sometimes to the head and that they weren't
3 believed, and in fact at times they were disciplined. You're aware that that's what some of
4 the survivors say?

5 **MR FIRTH:** Absolutely. In fact I understand two boys were caned for reporting abuse, which
6 is --

7 **MR ANDERSON:** Can you tell us about -- I think that's referred to as "the caning incident", isn't
8 it?

9 **MR FIRTH:** Well, I thought there might have been two, one or two.

10 **MS ANDERSON:** Can you tell us about those.

11 **MR FIRTH:** I don't really know much about them except that I heard that this had happened.

12 **MS ANDERSON:** At about what kind of era, 70s, 80s?

13 **MR FIRTH:** Back in the late 70s, because caning was abolished in the very early 80s, so it would
14 have been the late 70s or very early 80s, and the -- I'm not sure of his title, but he was, I
15 think, like the head of the junior school, a chap called Burnett, I think did that, I'm not sure
16 if anyone else did, and all I can say is it was appalling. But that reflected the view of that
17 staff member at the time.

18 **MS ANDERSON:** That's right, but also a systems failure because that information hasn't come up
19 to the Board, has it, that somebody's reported abuse, and simply because they actually
20 haven't been believed and they've been punished.

21 **MR FIRTH:** Well, that never reached the Board at the time. I would be reluctant to call it a
22 systems failure. But it never got to the Board, that's true.

23 **MS ANDERSON:** But your system is designed to make sure all reports of abuse come up to the
24 Board so you can take appropriate --

25 **MR FIRTH:** Absolutely, that was the intention.

26 **MS ANDERSON:** And if that system doesn't work as intended, that's a break-down of the system,
27 isn't it?

28 **MR FIRTH:** Yes. Yes, of course that's a break-down in the system, but whether it's a
29 break-down that one could easily guard against or not, I'm not sure.

30 **MS ANDERSON:** And so at the Board level there might be various of these incidents of boys
31 reporting abuse and getting a punitive response that the Board's just simply unaware of.

32 **MR FIRTH:** Yes, that's true. I'd like to think there were not too many.

33 **MS ANDERSON:** And do you accept that for those survivors who have come forward and said
34 that that was their experience, that they consider it can be fairly characterised as a cover-up,

1 because no action was actually taken to prevent the person they were saying was harming
2 them from going on to harm other people?

3 **MR FIRTH:** No, I think that where a complainant was not believed, even if wrongly not believed,
4 that's not correct to call that a cover-up. I think it could only be rightly called a cover-up if
5 it was known and accepted to have been abuse that was then concealed.

6 **MS ANDERSON:** That requires, doesn't it, quite a few steps, because that would require an
7 investigation into the allegation, wouldn't it?

8 **MR FIRTH:** Yes, but if a staff member receives a complaint and doesn't believe it and wrongly
9 doesn't believe it, that's not the sort of thing that would ever normally go further.

10 **MS ANDERSON:** We can agree that it wouldn't normally go further. I think the point we're
11 disagreeing on is that you don't accept that from a survivor's perspective that that's a
12 cover-up of the abuse that was occurring at the time.

13 **MR FIRTH:** Ah. Sorry, I'm a bit slow, I've got the point. Yes, I can certainly understand
14 survivors thinking that was a cover-up.

15 **MS ANDERSON:** And that perhaps that might have influenced -- knowledge of those sorts of
16 events might have influenced the school of not wanting to go out publicly and deny that
17 there had ever been any cover-up in the way that you and Dr Wilton have been quite keen
18 that the messaging should have been.

19 **MR FIRTH:** Yes, I'm not quite following the point, Ms Anderson.

20 **MS ANDERSON:** Your very strong point in your evidence is that there's no cover-up; that's right,
21 isn't it?

22 **MR FIRTH:** Correct.

23 **MS ANDERSON:** And you say the messaging from the current School Board should have been
24 publicly that there was no cover-up. That's what you say they should have gone out and
25 said and that that would have prevented further harm to the survivors.

26 **MR FIRTH:** Yes, had the position of myself and the current Board been reversed, I would have
27 insisted on it.

28 **MS ANDERSON:** But can you see the danger of going out and saying there's no cover-up while
29 there may be instances, from a survivor's perspective, that they've reported abuse and been
30 disbelieved and that they consider that that is in fact a cover-up?

31 **MR FIRTH:** Yes, I can see it would have been helpful to have a bit of a clearer understanding of
32 what was or was not a cover-up. What I, and I believe Dr Wilton are saying, is that no
33 known abuse, no accepted or no believed abuse was ever covered up.

34 **MS ANDERSON:** That's right, but I think we can further confine that, can't we, to no abuse that

1 the Board was aware of. Because there seemed to be reports of abuse to various people in
2 the school environment over time that were never -- never came up to the Board because
3 the reaction was disbelief and punishment in some instances.

4 **MR FIRTH:** Yes, but every complaint had to be addressed in some way. I mean, there was at
5 least one case where a boy complained to the Police and then withdrew and said he'd been
6 lying. Now, you know, that's why the staff had to be careful and look into each complaint.
7 I'm not doubting for a minute what's been claimed by these survivors, it's just terrible. I'm
8 not doubting the accuracy of that for a moment. But I would fully support the staff
9 questioning it when it was raised, I mean they had to make sure they were being told the
10 truth, and in my case I was going a step further with the first chaplain and those complaints
11 and I was focusing on whether or not a Jury might accept their evidence if it was contested.

12 And incidentally, if I can add to that point, there's a respected lawyer in Auckland
13 whose name is prominent, Sonja Cooper, who specialises in this area, and some years later
14 Sonja Cooper wrote to the Board on behalf of a victim who had been -- whose abuser had
15 been reported to the Police, and Sonja Cooper, an expert in this area, complained to the
16 Board, I think while I was still on it, complained to the Board that it had complained to the
17 Police without the victim's consent, for the reason that it can be a terribly -- a terrible
18 process and can rebound against the victim.

19 They were Ms Cooper's reasons for writing to the Board about a totally unrelated
20 matter, and that reflected exactly my reason back in 1978 with the first chaplain.

21 **CHAIR:** Can I just -- Mr Firth, can I just take you back to the question of the staff receiving
22 complaints and not acting on them --

23 **MR FIRTH:** Yes.

24 **CHAIR:** -- because I think that's what we're aiming on here. Was it the Board's policy or the
25 school policy that a teacher who received any complaint of misbehaviour by other staff
26 should deal with it unilaterally on their own without reference to anybody else?

27 **MR FIRTH:** No, there would not have been a policy to that effect at the time.

28 **CHAIR:** So when you say that a staff member has received a complaint and hasn't done anything
29 because they didn't believe them, that is effectively a staff member acting unilaterally, isn't
30 it?

31 **MR FIRTH:** Yes, and that was wrong.

32 **CHAIR:** That's right, I think that's the point, that when boys brought complaints to staff members
33 and the staff member dismissed them out of hand or didn't believe them, however well
34 justified they felt, that that was not a proper action on the staff behaviour and it deprived

1 the Board of the opportunity to properly investigate.

2 **MR FIRTH:** Yes, absolutely. I would like to think that was a pretty rare sort of thing, but I agree
3 entirely.

4 **CHAIR:** I think that's probably where we get to, was it rare, did it happen, etc.

5 Thank you, Ms Anderson.

6 **MS ANDERSON:** Thank you, Madam Chair.

7 So turning to the first chaplain which is the example in which you say that there was
8 a thorough investigation carried out, and I think you also say --

9 **MR FIRTH:** I'm not sure about thorough, there was an investigation, Mr Parr was certainly asked
10 to inquire. I specifically asked Mr Parr if there were any allegations involving penetration
11 or oral sex and he specifically asked that, --well, he told me that he asked that of the
12 complainants and that there were none.

13 Now, the complainants may well have been more abused than they reported and I'm
14 not criticising that. All I'm saying is that that is what was reported back to Mr Parr on those
15 specific issues which I asked him to inquire about, and there were no complaints to him of
16 that degree of activity.

17 **MS ANDERSON:** And we don't have records of that investigation, do we, because it appears that
18 those, as you will have heard in the discussion with Mr Wilton yesterday, there's a
19 document recording --

20 **MR FIRTH:** Yes.

21 **MS ANDERSON:** -- that in '92 or '93 the documents were destroyed in a clean-out?

22 **MR FIRTH:** Yes, and I heard that and watched that yesterday and I was aware that that had
23 happened. And that was the last thing we would have wanted to have happened. When
24 eventually the Board caught up with the fact that these older documents had been
25 destroyed, we were annoyed, we had not wanted that, we did not want it, I wish they were
26 available, and that was a unilateral action by the then general manager who obviously
27 thought he was doing the right thing by having a clean-out. But it was not right, he should
28 not have.

29 **MS ANDERSON:** Not in accordance with any Board policy on document retention at the time?

30 **MR FIRTH:** No, in fact -- sorry, I'm very familiar with the concept of document retention, and
31 have advised a number of organisations on it, including the tobacco industry of all people.
32 So I'm very familiar with this notion of document retention policies.

33 But we had, as far as we were concerned, it was left to the discretion of the general
34 manager. We did not have a document retention policy in those days. That expression

1 "document retention" is, of course, sometimes euphemistic for a document destruction
2 policy, but we had no policy of any kind involving documents. It was left to the discretion
3 of the general manager. But I could not believe that he thought it inappropriate to keep
4 those documents or to destroy them.

5 **MS ANDERSON:** From your knowledge of the investigation, because from what we've seen it
6 doesn't appear that there was a great attempt to reach out to boys who -- because the
7 chaplain had contact with a wide range of boys --

8 **MR FIRTH:** Yes.

9 **MS ANDERSON:** -- at the school, to go very broadly to work out who might need to be
10 approached to see whether they had been harmed.

11 **MR FIRTH:** Absolutely, and that was a very, very unfortunate failure. We felt that we were
12 doing the right thing by asking the principal, the head to do what he did, but in view of the
13 way things have turned out and what we now know, that was absolutely wrong and
14 unfortunate. It looks quite clear now that if we had had either Mr Parr or an outside person
15 to give more comfort to the boys, that if we had had someone make more inquiry of the
16 boys that may well have led to more information of other victims and other kinds of
17 offending.

18 **MS ANDERSON:** And might have influenced actions taken in relation to activities of that
19 chaplain in the community after he departed Dilworth.

20 **MR FIRTH:** Yes, probably -- it possibly would have depending on what it had led to. In that
21 particular case we felt, rightly or wrongly at the time, that reporting him to the Bishop was
22 a pretty huge sanction. It seems to have not been the case.

23 **MS ANDERSON:** And in fact you later learned, didn't you, that the chaplain had -- there'd been a
24 glowing communication relating to the chaplain before he came to the school, but you later
25 found out that there'd been allegations that he'd abused others in a different place before he
26 came to Dilworth; do you recall that?

27 **MR FIRTH:** Yes, we're getting into second or third round of hearsay, which I presume is
28 permissible.

29 **CHAIR:** The sky's the limit in this Commission.

30 **MR FIRTH:** Yes, so on that basis, yes. It is hearsay, but Peter Parr, who was the head, made
31 inquiries of this chaplain's former employment, it was in a cathedral in the South Island and
32 he was told that this chaplain had abused choir boys in that cathedral.

33 **CHAIR:** Just a moment. Mrs Guy Kidd is on her feet.

34 Yes, Mrs Guy Kidd.

1 **MRS GUY KIDD:** Ma'am, if I could just indicate, just the factual matters that have been brought
2 out already show the risks of dealing with hearsay. This chaplain was never in a cathedral,
3 never worked in a cathedral.

4 **CHAIR:** That's a salutary reminder. Thank you, Mrs Guy Kidd.

5 **MR FIRTH:** I'm sorry, that's not right.

6 **CHAIR:** Mr Firth, we won't start a toing and froing. I think these are -- and because we are a
7 Commission, we can tidy these matters up afterwards and get to the bottom of it, but the
8 danger of course here is a reputation, natural justice issue that can't be answered in the
9 context.

10 **MR FIRTH:** Absolutely.

11 **CHAIR:** So for that reason -- this is not a cover-up but this is a protection for people who need an
12 opportunity to respond and they will get that. So I think, if we can just be very careful, you
13 can tell us what you heard but if you could just refrain from mentioning names, institutions,
14 organisations who might be negatively impacted and need an opportunity to respond. Does
15 that make sense to you?

16 **MR FIRTH:** Absolutely, Madam Chair if I can perhaps confine it to this which hopefully won't
17 cause too much disturbance.

18 **CHAIR:** Yes.

19 **MR FIRTH:** This chaplain came to us and his application form and his details set out that he had
20 been at a cathedral in the South Island.

21 **CHAIR:** Let's not repeat the thing, he'd been at other institutions, if we can just leave it at that
22 point.

23 **MR FIRTH:** All right, but if he wasn't then that was something false in his application.

24 **CHAIR:** Okay. All right.

25 **MR FIRTH:** Because, as I pointed out in my more detailed statement, the trustees of Dilworth
26 make only two direct appointments, the headmaster and the chaplain. They are the only
27 two direct appointments that the trustees ever make.

28 **MS ANDERSON:** Derek, in terms of a comment that you've made in an email in 2021 that you
29 provided professional counselling to the boys in relation to this complaint in relation to the
30 chaplain, and -- is it your recollection that was counselling to the two boys who'd come
31 forward? It's not to be interpreted as you provided counselling generally to boys who might
32 have been harmed by this chaplain at the school?

33 **MR FIRTH:** We asked Peter Parr to arrange counselling for boys who had been molested by this
34 chaplain.

- 1 **MS ANDERSON:** But you didn't have a wider investigation to find out how many, did you, so
2 you were just dealing with those that had come forward?
- 3 **MR FIRTH:** Yes, at the time he told us who the boys were but I cannot remember now how
4 many. So there would have been --
- 5 **MS ANDERSON:** Do you recall Neil Harding's evidence in the witness bundle that you've looked
6 at?
- 7 **MR FIRTH:** Yes, I've read his evidence twice.
- 8 **MS ANDERSON:** And of course he says that he was abused by the chaplain but no-one ever
9 approached him to find out whether he'd been abused by the chaplain.
- 10 **MR FIRTH:** Yes, and I don't doubt for a moment that would be true. If he was one who
11 complained to Peter Parr, then --
- 12 **MS ANDERSON:** That's my point of distinction, you know, were you dealing only with people
13 who proactively came forward and reported the abuse, or were you looking at, and I think
14 you've conceded that there should have been, but wasn't, a wider investigation into who
15 else might have been harmed by that chaplain.
- 16 **MR FIRTH:** Yes, we only spoke to Peter Parr about the boys he said he was aware of. Now, I've
17 agreed earlier that we should have asked Peter Parr or some outside person to come in and
18 see if there were more victims.
- 19 **MS ANDERSON:** I'm just going to move on to the second chaplain, Ross Browne, whose name
20 we can use. I'm going to take you to a document which is TGC0000514.
- 21 **MR FIRTH:** Is that popping up?
- 22 **MS ANDERSON:** It will come up on the screen. While it's coming up, Derek, I will just
23 orientate you to it. It's a New Zealand Police job sheet in 2001 and it relates to possible
24 possession of objectionable material. Do you see that in the middle of that first page?
- 25 **MR FIRTH:** Yes, I do.
- 26 **MS ANDERSON:** And we're going to turn over to page 2. Can we just enlarge it slightly for
27 Derek. You can see there's been an inquiry made at the school in February 2001 about the
28 Police having concerns that Ross Browne had been in possible possession of sexually
29 explicit material involving boys. The question's asked of the school had there been any
30 complaints made or concerns, so not limited to complaints, and the then GRO-C
31 GRO-C who came in after Mr Wilton, says that there'd been no complaints or concerns.
32 And the last bullet point there, he does not consider Browne to be a risk to any boys.
33 Do you see that there?

1 **MR FIRTH:** Yes, that's 2001?

2 **MS ANDERSON:** 2001.

3 **MR FIRTH:** Yes, I certainly was not aware of the allegation of having pornographic material
4 until he was charged before the court.

5 **MS ANDERSON:** So just in terms of the system, the GRO-C has clearly known that Police
6 are looking at this, but it's not something that's been elevated to the Board. Is that a fair
7 characterisation?

8 **MR FIRTH:** That's right. This was certainly not drawn to our attention.

9 **MS ANDERSON:** And as a Board member, do you think it should have been? Isn't that the kind
10 of information you'd want to know?

11 **MR FIRTH:** Yes, I think that's the sort of thing that I would have wanted to have known, yes.

12 **MS ANDERSON:** Just coming on to another document, which is a couple of years later in June
13 2003, ANG0019385.

14 Just while that's coming up, Derek, you see it's a letter from the Bishop to an
15 unidentified Dilworth School parent in June 2003 and says -- the Bishop doesn't know the
16 parents' name but he says:

17 "I've been made aware by the principal of Dilworth School of the details of your
18 recent formal complaint to him involving your son and a group of boys at the school in
19 relation to an incident caused by the school chaplain."

20 He goes on to say that he's taking the matter very seriously and he's going to be
21 requiring the priest involved to come and talk to him and that he's advising the parent that
22 both the principal and he are acting on this complaint.

23 **MR FIRTH:** Yes, I was certainly not aware of that at the time, but I'm fairly certain, as I learned
24 subsequently, like after he was being met with to leave, I'm fairly certain this was an
25 incident where he told a foul joke to a group of boys and that led to this complaint.

26 **MS ANDERSON:** So by "foul" you mean a sexually explicit joke?

27 **MR FIRTH:** Oh, it was -- I can't remember it and wouldn't want to, it was absolutely awful.

28 **MS ANDERSON:** Again, an incident of -- it would have been of concern but you're saying the
29 Board didn't know about this at the time, is that what you're saying?

30 **MR FIRTH:** Yes, that's correct, yes.

31 **MS ANDERSON:** So again, it looks like the system is just not working properly, is it, that
32 things that are significant enough to write to the Bishop about are not coming to the Board.

33 **MR FIRTH:** Yes, I'm slightly resisting but -- I don't want to be defensive about it. But I'm

1 slightly resisting this regular reference to "systems". The particular rule, as I mentioned in
2 my detailed evidence, was that both principals, they were well aware that the Board
3 expected no surprises, and that was a very simple way of saying we did not want to be
4 taken by surprise ever.

5 One of our trustees during part of this period was a director of the owner of The
6 Herald and he often used to say to us, "Whatever we do or don't do we've got to assume it
7 might end up on the front page of The Herald." He was a flipping director of the
8 publication and we were constantly vigilant to avoid that sort of thing.

9 So the two principals were under very strict instructions that we did not ever want to
10 be taken by surprise.

11 **MS ANDERSON:** So those expectations were very clear, weren't they?

12 **MR FIRTH:** They were clear, but I really, if I may, Madam Chair, follow this with a very quick
13 comment because things could get out of proportion. Dr Wilton and Mr MacLean were
14 exemplary headmasters, in my view, and I'm very unhappy at their reputations being
15 tarnished in this way when they were almost -- when they were unquestionably doing what
16 they thought was best for the school. And I just hope that's not overlooked in this whole
17 process.

18 **MS ANDERSON:** I'm not asking the questions from that perspective, I'm asking about the
19 expectation about how the reporting upward would work and whether this is an example of
20 that expectation, your word, I'd use the "system" word but you're using "expectation", that
21 that hasn't,- your expectation hasn't been met in relation to something as significant that
22 required a letter to the Bishop-.

23 **MR FIRTH:** Yes, I would have expected to have been warned of something of this nature.

24 **MS ANDERSON:** And then a couple of years further on in the sequence, so that was 2003 we
25 were looking at, so two years later, June 2005, calling up DSW0000104.

26 So just while this is coming up, Derek, it's a letter from Principal MacLean to Ross
27 Browne in June 2005, and you'll see in the fourth paragraph there's an allegation that he
28 was, the chaplain was allowing students to sit on his knee and at the bottom of the page
29 some other allegations that are not very clear but which are described as a blurring of
30 boundaries between a group of students and the chaplain.

31 And then over the page, we see that there's recording on the file, we'll just bring that
32 second page up so you can see, recording on the file "a strong caution with regard to the
33 specific instance discussed".

34 **MR FIRTH:** Yes, I don't remember the particular letter but I was certainly involved at this point.

1 **MR ANDERSON:** So in 2005 --

2 **MR FIRTH:** Yes.

3 **MS ANDERSON:** --you're aware of this because it's leading to a formal sanction on a staff
4 member.

5 **MR FIRTH:** Yes, absolutely.

6 **MS ANDERSON:** And then we know, don't we, that Ross Browne's resignation is in March 2006.

7 **MR FIRTH:** Yes.

8 **MS ANDERSON:** After the incident that you've described in your opening statement of
9 encouraging boys to masturbate in class.

10 **MR FIRTH:** Yes, I think we were aware of that, I think the previous year, in 2005.

11 **MR ANDERSON:** Well, certainly I think Ross Browne's letter, we won't take the time to come
12 up to it, but accords with that, because he's contemplated the position over the Christmas
13 break.

14 **MR FIRTH:** Yes.

15 **MS ANDERSON:** And then -- yeah.

16 **MR FIRTH:** Yes, we had a lengthy period of discord with Ross Browne. I don't know what
17 expression to use, but he had the gift of the gab. And he was adamant that everything he
18 was doing was consistent with proper educational instruction and not causing harm and so
19 on, and GRO-B and I and the other trustees were equally adamant that he was
20 going off the rails, and we were very, very unhappy about it.

21 Now, I'm sure back in 2005 we were taking legal advice from our lawyer who was
22 an employment expert, and we were advised that we had to be very careful because he was
23 denying wrongdoing, the lawyer pointed out the need for notice and warnings and all those
24 well-known things, and we were well at the point before Christmas in 2005 that we were
25 very unhappy with this chap, uneasy about him and wanted him to go, and we were getting
26 legal advice at the time.

27 **MS ANDERSON:** And was he stood down over this period that you've got this concern and
28 you're engaging with lawyers?

29 **MR FIRTH:** No, I don't remember him being stood down, no.

30 **MS ANDERSON:** So not stood down?

31 **MR FIRTH:** No, and we would have been advised against that. You see, at the moment, now, we
32 know that he crossed the boundary in a horrible, criminal way. We had no idea of those
33 events that eventually led to his conviction. We were only aware of these sorts of things

1 like having boys sit on his knee and encourage them to masturbate in class, it was
2 appalling, absolutely appalling.

3 **MR ANDERSON:** Well, they're significant red flags, aren't they?

4 **MR FIRTH:** Absolutely, absolutely. So really from whenever we were aware of that in 2005
5 through to persuading him to go in March 2006, and I was actively involved in that directly,
6 we were getting constant legal advice, there'd be meetings with him, I think there might
7 have been one or two with his legal representative present, I mean.

8 **MS ANDERSON:** So quite a process, yeah.

9 **MR FIRTH:** He was shaping up for a fight, yes.

10 **MS ANDERSON:** And so then in that context that's where a resignation is accepted rather than
11 dismissal of him from the staff, that's right?

12 **MR FIRTH:** Yes, yes, that's right. He --

13 **MS ANDERSON:** And we have heard Dr --

14 **MR FIRTH:** Sorry, I think it was apparent to him that if he didn't resign he would have been
15 dismissed.

16 **MS ANDERSON:** Yes, but it's still -- we've had a trend of persons who have been accused of
17 abuse, not just at Dilworth, in a lot of other institutions, where the option of a resignation
18 and moving on happens rather than a formal disciplinary process, and that's what happened
19 here, isn't it?

20 **MR FIRTH:** We were advised that he had not committed an offence for which he could be
21 summarily dismissed. Now, I'm far from confident that was the right advice, and I said so
22 at the time to our advisor. But that was the advice.

23 **MS ANDERSON:** And Derek, does that relate to the basis of the information that you've got is
24 really what people have come forward and reported as opposed to a wider investigation of
25 what actually might have been the harm this chaplain had been inflicting in the school -- so
26 you were on the subcommittee that did the investigation, weren't you?

27 **MR FIRTH:** Yes.

28 **MS ANDERSON:** And that investigation report, I'm not going to bring it up, but I think they
29 spoke to eight boys who'd come forward, they spoke to eight boys in that investigation?

30 **MR FIRTH:** I don't remember us speaking with boys directly. That would surprise me but I don't
31 remember that.

32 **MS ANDERSON:** I don't think the Board spoke to them directly.

33 **MR FIRTH:** No, no.

34 **MS ANDERSON:** But just in carrying out the investigation.

1 **MR FIRTH:** It would have been Mr MacLean.

2 **MS ANDERSON:** And no calling in an independent person to investigate at this point, that didn't
3 occur to the Board --

4 **MR FIRTH:** No, correct.

5 **MS ANDERSON:** -- as an option. And so again, sort of decisions made on, you know, a certain
6 pool of information, but had there been an investigation, there might have been much more
7 information available to the Board at this time.

8 **MR FIRTH:** Well, looking back now and the horrible things he was doing, yes, I guess if there'd
9 been some sort of wider investigation they would have emerged, and boys saved from the
10 terrible things he was doing. But, no excuse for him, but we believed we were following
11 the right process, because as you will well you know, 80% of employment law is getting
12 the process right, and as most employers know, that drives them mad.

13 So we just had to comply with the law as we were advised by an expert in
14 employment law. Our advisor is now a judge.

15 **MS ANDERSON:** You'll see, you will have heard Mr Wilton yesterday, I think he conceded that
16 by 1996 with all of the information available at that time, at the point in time of Ian Wilson
17 that that could have legitimately have been a point in time that the Board could have
18 commissioned a wider inquiry of the type that has been commissioned in 2021 about the
19 nature and extent of abuse at the school.

20 **MR FIRTH:** No, I think that's easy to conclude now, but if you look at my opening statement
21 now, there was one case of known abuse, known to me anyway, Mr Parr, two in the case of
22 Dr Wilton over 18 years, and one in the case of Mr MacLean.

23 **MS ANDERSON:** But that's partly how you characterise what is the actual sexual abuse though,
24 isn't it? In terms of --

25 **MR FIRTH:** That would add one or two at the most to those numbers.

26 **MS ANDERSON:** So you don't accept that there's a point of time, either in 1996 or moving
27 forward 20 years to 2006, in relation to Ross Browne, where you've -- it's the point in time
28 in which you've known the two chaplains have -- their conduct has been highly
29 questionable in the school environment. So thinking about 2006 with the history leading up
30 to that point, my question to you is, did the Board ask itself at that time, "Is there a problem
31 that we actually need to do some work to understand the nature and extent of it?"

32 **MR FIRTH:** No, when I was chair at the time that was not considered or discussed. All I can do
33 is repeat those numbers, give or take one depending on the definition of abuse, over 18 and
34 21 years, 39 years, there were three or four depending on that definition. It wasn't a setting

1 in which we saw the need for that sort of wider investigation.

2 Now, compare that with the last couple of years with Operation Beverley, all the
3 information that's come to light, all the complaints that have come to light, all the
4 prosecutions that have come to light, it's a different world, a totally different scene. To
5 think that we might have been in that setting in 2006 is just not right.

6 **MS ANDERSON:** Do you accept that in Operation Beverley one of the different features was that
7 the name of the school was put out in the public domain?

8 **MR FIRTH:** Yes, and I've certainly –

9
10 **GRO-C**

11 **MS ANDERSON:** I've got one further topic, Derek, I'm going to explore with you before I give
12 Commissioner's time for questions, and it relates to an exchange of letters that you are
13 familiar with from the bundle between yourself and Frances Joychild and the person that
14 she was representing beginning of December 2012; do you recall the documents I'm talking
15 about?

16 **MR FIRTH:** I've just about memorised them.

17 **MS ANDERSON:** Yes. So we won't need to bring them up. I'll call them out so we can read into
18 the record and then I'll give you an opportunity to respond.

19 You've written a letter to Ms Joychild in January 2013. Just so that we have a
20 transcript reference, the document number is DWS0001984, and you're saying that you are
21 happy to meet with her client, but that you intend to do nothing -- that is nothing more than
22 a courtesy. Do you recall that language? And then you say:

23 "You will appreciate that one has to be very careful about historical complaint
24 because..."

25 First bullet point:

26 "Many cannot be authenticated because of the passage of time."

27 Second bullet point:

28 "We are informed that a relatively high proportion tend to be made late as an excuse
29 for difficulties which have arisen in the person's life. This is not to say that the abuse does
30 not occur."

31 And then your third bullet point:

1 "We are informed that a number of late complaints are motivated by an intention to
2 seek Accident Compensation."

3 You go on to say:

4 "I do not intend to offend this person by these remarks but simply statement the
5 factual context in which we must consider what is being said."

6 Then you go on to say:

7 "The Trust Board will not make any financial contribution to this person's travel
8 costs to meet or the legal costs as it would be quite inappropriate to do so."

9 Then you say:

10 "I also signal that the Board will not make any other payment of any kind to this
11 person."

12 So you recall this --

13 **MR FIRTH:** Vividly.

14 **MS ANDERSON:** -- correspondence.

15 In terms of a survivor being given a copy of your letter, Ms Joychild would have
16 been required to share that with her client, what do you say about the harshness, my word,
17 harshness of the propositions that you've put forward in this letter?

18 **MR FIRTH:** If I had any inkling then of what I know now, I would never have said those things.

19 May I add a bit more?

20 **MS ANDERSON:** Yes.

21 **MR FIRTH:** At the time it's absolutely true there had been coverage in the media of the ACC
22 paying out \$10,000 as a blanket figure to a victim, male and female victims of sexual
23 abuse, and the point of some coverage was to the effect that the ACC was getting wary of
24 this about the veracity of some of these complaints. So that was absolutely true, but it
25 wasn't an appropriate thing to say, obviously, and I shouldn't have said it. But it was true.

26 **MS ANDERSON:** But the point that people make complaints late as an excuse for difficulties that
27 have arisen in the person's life, do you think that perhaps clearly doesn't illustrate an
28 understanding of the impact of trauma on someone's life?

29 **MR FIRTH:** Totally agree, if I knew now what I knew then I would not have said that.

30 **MS ANDERSON:** What's the message that you might want to give the survivor today about your
31 statements in that letter?

32 **MR FIRTH:** Well, the publication of that letter by The Herald led to a complaint to the
33 New Zealand Law Society and --

34 **MS ANDERSON:** I've asked you about what you want to say to the survivor.

1 **MR FIRTH:** Well, I'm sure that my response to the Law Society would have gone to the survivor
2 and in it I made exactly these points, that I would not have said those things.

3 **CHAIR:** Excuse me, I just want to -- I understand that this evidence may well and is obviously
4 upsetting and triggering to many people, but the Commission's not helped by noises of and
5 it's interrupting the flow of our concentration. If you want us to listen carefully, analyse
6 carefully what's being said, please don't interrupt. If you feel you need to express yourself
7 loudly, please do it outside so that it doesn't interrupt our ability to concentrate on the
8 evidence because it's doing that now. Thank you.

9 **MR FIRTH:** The short answer to your question is that I wish I had not written that letter, and I'm
10 sorry. But that point's been well and truly made before now, and to everyone concerned.

11 **MS ANDERSON:** Do you think the mindset that you had when you wrote these words, which is a
12 decade ago, so relatively proximate in time, and at a time when you were Chair of the
13 Board, is reflective that there was a culture of disbelief of what survivors were saying at
14 that time in 2013?

15 **MR FIRTH:** No, no, I just think it reflected my age and my view of the world at that time.

16 **MS ANDERSON:** You did say that you had some comments that you wanted to make, further
17 comments. I don't think we've covered perhaps your opening statements that you wish to
18 make in relation to a matter Commissioner Erueti had raised with you yesterday perhaps. Is
19 there anything else you wish to cover before we open up to questions from the
20 Commissioners?

21 **MR FIRTH:** No.

22 **CHAIR:** Thank you, Ms Anderson. I'll just ask my colleagues if they have any questions.
23 Paul, do you have some questions?

24 **COMMISSIONER GIBSON:** Thanks, Mr Firth. Just clarify for me, you made the comment
25 around the Board, the advice given about not wanting to end up on the front cover of The
26 Herald, and I wasn't sure whether the context of that was you thought that was a kind of
27 safeguarding against potential cover-up, or that was advice that might advise that we want
28 to cover up.

29 **MR FIRTH:** No, I'm delighted to clarify that. This was in the context of all of the Board's
30 undertakings. Its commercial undertakings, property undertakings, dealing with lessees,
31 not just abuse, in fact I don't think abuse was even being thought of when those comments
32 were being discussed. It was just very wise advice from a very wise trustee to say that
33 when anyone doing anything is deciding whether to do something or not, they should give
34 thought to not wanting it widely published, just because it would be a silly thing to have

1 done.

2 It had nothing to do with abuse. It was just a generalised wise comment and I think
3 it was probably more in relation to our commercial activities.

4 **COMMISSIONER GIBSON:** There's a lot of wise advice, wise trustees, you made the comment
5 about your age and view of the world, would it be fair to say there might not have been a
6 lot of diversity amongst the Board in terms of their age and views of the world?

7 **MR FIRTH:** Yes, there was certainly no gender diversity because the only woman trustee was
8 Mrs Dilworth, until very recently, there's been a woman trustee. But in my time there was
9 no gender diversity. There was no ethnic diversity in my time, but there was considerable
10 diversity in experience and, I mean, the trustees in my time, many of them were chief
11 executives of very, very large organisations.

12 **COMMISSIONER GIBSON:** But that wasn't enough to understand what was going on in the
13 school and to safeguard boys within the school; would that be fair to say?

14 **MR FIRTH:** Yes, it would be fair to say, because the trustees did not -- the trustees saw the most
15 important appointment they made, the two most important appointments they've ever made
16 were the general manager of the Trust Board and the head of the school, and as in all good
17 corporate governance practice, one is expected to let those people drive their relevant areas,
18 I think it's well known that many organisations go off the rails when directors or trustees try
19 and get involved in the detail.

20 **COMMISSIONER GIBSON:** I'm wondering about the culture of the school and what the Board
21 projects. I think you've expressed -- in some cases you're quite adamant about what you
22 thought happened or didn't happen. In recognising the power that boards have and the
23 culture it projects, could you imagine or did this sort of go through the school, I'm just
24 imagining how hard when, if you're a boy at the school wanting to say something and there
25 was almost this adamancy about what has or hasn't happened, do you think that would have
26 made it hard for boys to report abuse?

27 **MR FIRTH:** Certainly boys would not have come direct to the Trust Board while they were
28 students. That would not have been encouraged and I don't think it would have dawned on
29 anyone, any of them to do that. But I can't see why they should have felt daunted about
30 talking to staff about any topic.

31 **COMMISSIONER GIBSON:** I suppose could the adamancy of the Board project the point of
32 punitiveness that if somebody was to challenge --

33 **MR FIRTH:** No, no.

34 **COMMISSIONER GIBSON:** -- that there would be canings and things like that?

1 **MR FIRTH:** No, no, it would come back to the approachability of the staff and their
2 approachability would not have been influenced by the Board, they would be wanting to be
3 good educators.

4 **COMMISSIONER GIBSON:** Thanks.

5 **MR FIRTH:** I'm sorry if I've come across as being adamant.

6 **CHAIR:** Well, it's important we hear your views, Mr Firth, and that's the whole point about this
7 hearing, we're hearing the perspective of boards, of the governors at the time, and it's
8 important we hear those and hear them well.

9 Sandra.

10 **COMMISSIONER ALOFIVAE:** Good morning, Mr Firth, thank you for the views that you've
11 shared this morning. I'm still just a little bit troubled, and I'm hoping you'll be able to
12 clarify this for me, given that the Board was made up of so many esteemed members and
13 there was so much legal advice, including your own standing, about the concept of abuse,
14 be it at the very worst that we've seen, at the sexual end, right down to bullying and
15 harassment at perhaps a lower end, depending on the circumstances, and the stance that the
16 Board took really in terms of all of the advice that was coming in around the circumstances
17 in which you were seeking the advice, like Ross Browne, and how you weren't able to
18 marry that with what you were seeing in your practice.

19 So you refer to your own background, and I'm really just wanting to understand,
20 I suppose, what was going on in the school, what you were seeing out in practice, like what
21 was happening at some of the other schools that you were involved with, but also with
22 some of the other bigger communities that you were involved in prosecuting, Centrepont,
23 how you weren't able to, perhaps, draw a stronger thread between what was happening at
24 your school and what was happening, the reality of the context of the day.

25 **MR FIRTH:** Yes, that's a very good question, and I -- looking back, of course there should have
26 been more red flags, but I would invite you to focus on how it was presenting itself to us at
27 the time, because it was much fewer cases of abuse over a very long period. That's all been
28 concentrated into a tsunami of abuse now. But at the time these were one-off things,
29 widely spread out, and I can assure the Commission that -- there were only six trustees, we
30 were very hard-nosed in business, which is obvious for other reasons, and we were very
31 hard-nosed with ensuring that the school did the best it could for the boys and their
32 families.

33 Now, that was what we intended, that's what we wanted to do, and if you put abuse
34 to one side and consider other risks, like risks of fire, risks of vehicle accidents, all sorts

1 of -- there's a myriad of other risks as you would you know. And we were vigilant in
2 respect of all of them. I mean, we had the buildings, we had remedial work done to the
3 buildings to make them safer from fire, from window breakages, from all sorts of things.
4 We were focused on a very wide range of risks and addressing them all, and if anything
5 cropped up or came to our attention that indicated we were lacking in addressing these risks
6 properly, we jumped on them, and it was pretty heavy jumping. And similarly, when abuse
7 was reported, we jumped on it. Any other approach would have just been wrong.

8 So I would ask you to see what we were doing and how we were addressing things
9 in that broader context of all risks.

10 **COMMISSIONER ALOFIVAE:** That's accepted in terms of the evidence that's been filed, it's
11 been very, very full. But there is a line in the evidence which constantly refers to the
12 vulnerability of the boys that were coming to the school, that it was more than just good
13 work, that there was a nurturing that the school was seeking to do, you've turned out prime
14 ministers, you've turned out politicians, you've turned out exceptional businessmen.

15 But there was also this other underlying vulnerability that was coming through just
16 as strongly, and I guess I'm just wanting to ask now, to give you the opportunity, and this is
17 the beauty of hindsight, the reflection that perhaps there was a gap there in the thinking
18 around that board table around the psychological protection that enabled children and
19 young people -- because what the research tells us is that on average it takes about 20 years
20 for a young person, a young boy or a young girl, to actually find the courage to speak up.

21 So there's a parental responsibility in a sense.

22 **MR FIRTH:** I totally understand that now. I certainly did not understand it in the 70s and 80s,
23 and I think it is fair to say that in the late 70s, from my involvement through into perhaps
24 the mid-80s, there was a lack of nurturing, I think that's the right word. There was a lack of
25 nurturing, and that probably was reflected in how, or the lack of detailed attention that was
26 given to victims, because we simply said to the Heads, "Make sure they get counselling."
27 I mean, to our minds in those years, that's what you did. But we can see now that's totally
28 inadequate.

29 **COMMISSIONER ALOFIVAE:** Thank you, Mr Firth.

30 **COMMISSIONER ERUETI:** Mr Firth, tēnā koe. So following from my colleagues' questions,
31 I notice you said in your evidence your resistance to the idea of systemic problems with
32 governance. I wonder if you still hold that. It seems from listening to the evidence,
33 looking at the brief that there are these gaps in terms of providing the necessary safeguards
34 in terms of vetting of staff and providing an environment where these vulnerable students

1 would feel confident to come and disclose abuse. And your position is a position of
2 enormous responsibility along with the other trustees.

3 So I wonder, just reflecting on that, about whether you think that the systems could
4 have been more robust which would have enabled the complaints to filter through to the
5 trustees during your time at the helm.

6 **MR FIRTH:** Yes, I come back, rightly or wrongly, I come back to the fact that we required the
7 Heads to have the right systems in place as they were understood at the time, and of course
8 they were in constant touch with their counterparts in other State and independent schools.
9 So they were not bringing to Dilworth their personal views only, they were bringing to
10 Dilworth what they had learned through consultation with their own peers in the education
11 world.

12 I don't think for a minute, and I'd say so if this wasn't the case, but I don't think for a
13 minute that the trustees instilled or suggested or influenced amongst the Heads any form of
14 view that they should be resisting a welcoming approach from students. In other words
15 that's anathema to what we would have felt had to be the case, the students had to feel they
16 could speak.

17 Now, back in the 70s there was an incredible level of discipline as you've read in the
18 statements which was not appropriate and was discontinued. But there was this disciplined
19 atmosphere in which the boys were brought up, and that could well have had the effect of
20 making them reluctant to come forward or come forward in the case of the first chaplain
21 with the full details.

22 On systems generally, may I make a comment on protocols, because I think the
23 whole world's been sent into a tizz with having the right protocols and I respectfully
24 suggest that there's an angle to that that can helpfully be addressed.

25 If you think about yourselves and others who have engaged babysitters, I don't think
26 anyone has ever said to the babysitter on arriving at the doorstep, "It's a rule of this house
27 that you must not sexually abuse my children." You wouldn't even think to say that, would
28 you? How many babysitters in the world, how many parents in the world or caregivers
29 would say that to their babysitters? I suggest probably none.

30 So similarly, there's not much point or reason in having in a protocol a statement
31 that you must not sexually abuse the boys. I mean, for the same reason you don't tell
32 babysitters that when they turn up at the door. But from an employment law perspective, it
33 is important to now have that in those protocols, not because that will stop it happening, but
34 because they know that under employment law it will be instant dismissal. I cannot follow

1 the reasoning that a rule book that says you must not abuse the students is going to have the
2 effect of stopping any abuse, just as parents don't say that to babysitters.

3 **COMMISSIONER ERUETI:** You do vet your babysitter, you do check with other parents to
4 say --

5 **MR FIRTH:** Yes, of course.

6 **COMMISSIONER ERUETI:** -- you know, can you trust this person?

7 **MR FIRTH:** Absolutely.

8 **COMMISSIONER ERUETI:** You do call in on your iPhone to check to make sure that, with the
9 kids who have phones these days, there is oversight. So there are systems in place, but it
10 does not seem that -- for example, to be trustees that is a really significant place for
11 oversight and monitoring of the behaviour within the school, including the Heads. And it
12 seems as if that responsibility was really left with the Heads and just assumed by virtue of
13 their character and experience that they would do that monitoring oversight role. Would
14 you say that's fair.

15 **MR FIRTH:** Not quite. Not quite, because with the more senior -- that is certainly fair of more
16 junior appointments, which is where these problems arose, with the more junior
17 appointments. So what you have said, Commissioner, is right, it was left to the Heads.

18 With the more senior staff appointments, the Heads would always come to the
19 Board or the Chair and say, "Look, we're down to these three, what do you think of them?"
20 So although the decision was the Heads, the Chair or the Board would be consulted on the
21 last few. But that did not happen with the more junior appointments and it's the more
22 junior staff, well, initially there it was the more junior staff members who were the
23 problem, although the chaplain, that blessed first chaplain of course was an appointment by
24 us as trustees not by the head, and we certainly relied on certain things.

25 The tutors, of course the Board would never have been consulted about the
26 appointment of tutors.

27 And a couple of the other people were more senior, and at the time would probably
28 have been bounced past the Board, I don't know about Ian Wilson -- before my time -- and
29 Rex McIntosh was appointed before my time, but with the others, the more senior ones, the
30 head would have said, "look, we're down to these two or we're down to these three, what do
31 you think?"

32 **COMMISSIONER ERUETI:** Sir, in the interests of time, also I recognise that you accept that
33 the responsibility really rested with the Heads to carry out that monitoring and oversight
34 role.

1 **MR FIRTH:** Yes, yes.

2 **COMMISSIONER ERUETI:** Can I just turn to another question just following from my
3 colleague Commissioner Gibson about the composition of the trustees, because I
4 understand that within the student body over time there would have been a fairly sizable
5 number of Māori and Pasifika and other ethnic identities, groups, in the student body, and
6 so it is -- it's not surprising I suppose, but it does seem that the composition in terms of the
7 trustees themselves seemed to be largely white men, and I wonder what your view is now,
8 on reflection, about whether it would have been better to have greater diversity in the
9 make-up of your board in terms of genders and perspectives.

10 **MR FIRTH:** There are a few parts to the answer, if I may. First of all, that's been remedied by
11 the new chairman who you will meet shortly, in that there has been both gender and ethnic
12 diversity in appointments under his chairmanship.

13 Coming back to my time, yes, I would agree that some wider diversity might have,
14 or would have been better, but I would hastily follow that with a comment that I can't see
15 for one minute how that would have avoided the abuse you've been hearing about.

16 **COMMISSIONER ERUETI:** I think it's -- the point that my colleague was pressing, you used
17 the words "someone of my age and world view" I think, and if there are other perspectives
18 that -- multiplicity of perspectives, including younger views, let's say, that that would help
19 to identify systems, gaps and errors. That's the proposition we're putting to you.

20 **MR FIRTH:** Yes, I understand the point. That may be so, but I'm not sure of it, no.

21 **COMMISSIONER ERUETI:** You're not convinced of that?

22 **MR FIRTH:** No.

23 **COMMISSIONER ERUETI:** All right. Thank you for your time, thank you.

24 **CHAIR:** Mr Firth, it falls to me at the end. I have a few questions. This has not been touched on
25 yet, but it is coming up later in the morning and that relates to the relationship between the
26 Dilworth School and the Church, the Anglican Church. And I've noted in your brief, of
27 course you've said that the Dilworth Trust Board are totally independent, I understand that.
28 But we have heard evidence of correspondence, haven't we, between the school and the
29 Bishop, and I just wondered if you could explain -- we understand the institutional
30 arrangements, what's on paper, the will, etc, but in terms of what went on below that, what
31 was the level, in your day, of the conversations, the interaction between the bishops and
32 other members of the Church in Dilworth?

33 **MR FIRTH:** In my time as Chair, it was definitely confined to religious-type things. That is the
34 curricula that the chaplains adopted, how they were generally performing, and it was

1 certainly not wider than that. In fact, I think Dr Wilton makes the point in his detailed
2 submission that it's probably not correct to define Dilworth as a faith-based school, it's a
3 school absolutely independent of the Church.

4 **CHAIR:** I truly understand that, that's why I'm asking not so much on that, we accept that, but in
5 terms of the way the formalities go. I'm just wondering about the level of interaction that
6 the Board had, say with the Bishop, with any other -- was there any? We just need to
7 know.

8 **MR FIRTH:** No, no, the Board never met with the Bishop except once a year when he presented
9 his report. Trustees would see the Bishop when the Bishop attended the chapel and
10 occasionally the Bishop -- the Bishop would have been invited to all the major functions of
11 the school and perhaps attended half of them. So the trustees would meet with the Bishop
12 of the time when he had had the inclination, willingness and time to come to a major
13 function, and formally around the board table once a year when he presented his report.

14 **CHAIR:** And he would attend the board meeting and discuss the report with the members?

15 **MR FIRTH:** Yes, yes.

16 **CHAIR:** Okay, thank you. I won't take that any further.

17 Just hammering this point a bit and I think it's important that we do, it's about this
18 question of how it was back in the 70s and 80s, which you've referred to and the different
19 attitudes and the like. But I need just to refer to your brief of evidence that you -- no, sorry,
20 it's the not your brief of evidence, it's in the responses -- is it a brief of evidence? It's really
21 answering the questions in the Notice to Produce.

22 **MR FIRTH:** Yes.

23 **CHAIR:** And you talk about your work outside the school, which my colleague Sandra has just
24 referred to, and that was about your work with -Centrepoint where you were acting for a
25 group of people who were objecting to Centrepoint and in the course of- that you say that
26 coming to light you received and learned about a lot of sexual abuse that was going on at
27 Centrepoint.

28 **MR FIRTH:** Yes.

29 **CHAIR:** And that that was presented to whichever body, I think it was an environment court.

30 **MR FIRTH:** Various courts and planning bodies, numerous courts, yes, it was a planning...

31 **CHAIR:** But it was put there and you expressed, I think, some disappointment that the evidence
32 about that sexual abuse was not believed in those bodies.

33 **MR FIRTH:** That's right.

34 **CHAIR:** And that was work that you were doing back in the 70s and 80s wasn't it?

1 **MR FIRTH:** Indeed, indeed.

2 **CHAIR:** I just wonder whether you can remember what the effect of that disbelief was on you
3 who was presenting it and on the people who had given that evidence to you.

4 **MR FIRTH:** Well, I was certainly disappointed it wasn't believed. They were young women in
5 all the cases at Centrepoint and I did not speak directly with them, their evidence was
6 briefed and I led it. In fact I don't even think they appeared, I think it was in a setting
7 where they didn't have to appear. And I had no idea of how it was affecting them, but by
8 golly, as a result of this experience I'm sure they were 100 times more devastated than we
9 even imagined.

10 **CHAIR:** I just wondered whether that experience, which you were having contemporaneously I
11 think with the --

12 **MR FIRTH:** Yes.

13 **CHAIR:** -- whether there was any link between what was going on in that world and what was
14 going on in your Dilworth world?

15 **MR FIRTH:** No, no, none at all.

16 **CHAIR:** Just moving on. And coming back to, I know you don't like the word "systems", but the
17 reason we're using it it's in our terms of reference and we're having to look at systemic
18 factors, so however you phrase them, whether it's expectations or the like, you say in one of
19 your -- in response to -- we are asking whether there was a cultural practice of ignoring
20 abuse, and you say:

21 "It would seem that some of the abuse was well known among the students at the
22 time and they may have assumed it was more widely known."

23 So this is, again, a hindsight thing that you now realise it may have been.

24 **MR FIRTH:** Yes.

25 **CHAIR:** Just in terms of systems, you've explained to us why you think that -- the futility of
26 having a rule "You shall not sexually abuse students". I'm just going to put to you whether
27 you think it would be futile to have a protocol, a rule, a value, a statement to the boys, "You
28 have an expectation that you can bring complaints, if anything's going wrong you can come
29 to us"?

30 **MR FIRTH:** Absolutely, and that was brought in, I can't remember when, but a point was reached
31 where the boys were warned and told that they must speak to someone, and indeed
32 eventually, perhaps later than it should have been, but eventually it got to the point where I
33 understand that every student, probably not the very senior students, but every student at
34 the junior level had two other people to turn to, in fact three, they had a mate of the

1 same year, they had someone older in the form of a staff member or an older student, and
2 they had another staff person. So the point was reached where every boy knew that there
3 were up to three people to turn to, and this was not just for sexual abuse but for bullying or
4 anything inappropriate.

5 **CHAIR:** Can you remember when that came in?

6 **MR FIRTH:** No, no, I can't, I'm trying to -- I think that might not have been until Mr MacLean
7 became the principal in '97, which was late.

8 **CHAIR:** Well, it was late, although not as late as 2019. Do you know if there was any increase in
9 complaints as a result of that? I'm trying to work out whether -- it sounds like a good
10 move. Was it an effective one, was it one that made the boys feel more open to disclosure?

11 **MR FIRTH:** I don't know, but I know Mr MacLean thought it was a good scheme and he made
12 sure it was kept alive.

13 Can I just touch on the protocol point again?

14 **CHAIR:** Yes, sure.

15 **MR FIRTH:** Because it would be terrible distortion of my evidence if it was a headline tomorrow
16 that I said there should not be a rule against sexual abuse, that would just be abusing what
17 I've said. One would not expect to see in a protocol a rule that "you should not burn down
18 the buildings"; one would not expect to see a rule "you should not poison anyone"; one
19 could go on forever. There could be 30 examples like that. And, yes, of course it's sensible
20 to pick out abuse, absolutely. But surely the real point of it is to have it there as an example
21 of grounds for immediate dismissal, because it would have to be.

22 **CHAIR:** That's a formal way of doing it, I accept that.

23 **MR FIRTH:** Yes.

24 **CHAIR:** Just your reference to the headmaster brings me on to my last point. I think you've made
25 it very clear, at least in your time, that the Board is very reliant on the headmaster to be its
26 arms and legs, if you like, to be the person who implements the values, the tenor, operations
27 of the school. And the Board of course must place great trust in the person who holds that
28 role; you agree with that?

29 **MR FIRTH:** Yes.

30 **CHAIR:** And I expect there were, with each headmaster, the Board would form a relationship of
31 collegiality with the headmaster?

32 **MR FIRTH:** Yes, yes.

33 **CHAIR:** Trust and confidence and the like.

34 **MR FIRTH:** Yes.

1 **CHAIR:** Did the Board have any, I'm going to say the word "protocol" again, it's almost
2 triggering us all today, but did the Board have a process for monitoring the work of the
3 headmaster? So some sort of, I don't know, performance evaluation of a regular sort and
4 the like?

5 **MR FIRTH:** Yes. There were a number, and I can't immediately think of them all, but I can think
6 of one, and that is that there was a performance review meeting every year and while I was
7 either Deputy or Chair I always participated in those annual performance review meetings.
8 And we would gather together discreet information from senior staff and others about the
9 school. I don't think it occurred to us to gather information from the students.

10 **CHAIR:** I was going to ask you that.

11 **MR FIRTH:** Perhaps we should have but we didn't. And these were quite rigorous meetings.
12 I learned in my former law firm on this topic, that what employers must not do is schedule
13 the annual review and then be too busy or cut it short or whatever, it has to be of full
14 duration and uninterrupted and we certainly observed that with these annual reviews of the
15 Heads.

16 I wasn't involved in the one with Peter Parr, but with Murray Wilton and
17 Mr MacLean.

18 These were quite rigorous and indeed they led to a formal note being issued about
19 their strengths and weaknesses, aspirations for the next year, the usual things you would put
20 in that sort of document.

21 So the Heads were very aware that they were under watch from the Board, they
22 were very aware of the no surprises requirement, yes.

23 **CHAIR:** Okay, and we're over time, but just very quickly, and in those reviews, do you recall
24 whether the question of the incidents, the events that had come up in the course of, you
25 know, relating to the abuse of boys, was that raised in those meetings?

26 **MR FIRTH:** I don't recall, I don't recall abuse being expressly raised, and I was at most of them.

27 **CHAIR:** Thank you. We've come to the end of the evidence, slightly over time, but Mr Firth, can
28 I thank you very much on behalf of the Commissioners for your cooperation with the
29 Commission, your willingness to come forward, your very considered and in-depth brief of
30 evidence and the statements, the preparation for that today. It's very important that, as
31 Commissioners, we get a full, rounded view of what's been going on and you've helped us
32 immeasurably in that. So thank you very much indeed, much appreciated.

33 **MR FIRTH:** Thank you.

34 **CHAIR:** It's the time for the morning adjournment and if we come back at 20 past 11? All right,

1 we'll adjourn until then.

2 **Adjournment from 11.06 am to 11.26 am**

3 **CHAIR:** Welcome back, everybody, and welcome back, Mr Barker.

4 **MR BARKER:** Mr Barker appearing as counsel for Dilworth School, Dilworth Trust Board with
5 Ms Lanham and we have been joined by our instructing solicitor, Mr Shanahan, just on the
6 bench for Mr Snodgrass.

7 **CHAIR:** Just bring your microphone --

8 **MR BARKER:** Is that actually on? Yeah, is that better?

9 **CHAIR:** It's on but you need to speak into it.

10 **MR BARKER:** I haven't often been accused of having a quiet voice.

11 So we have, Commissioners, Mr Snodgrass who's the current Chairman of the
12 Dilworth Trust Board giving evidence to you this morning. He's joined by Mr Reddiex as a
13 support person who is the current headmaster of the school. I did think he's not there as a
14 witness, Mr Reddiex, but I did hear some of the questioning towards the end of yesterday
15 and I don't know where the Commissioners want to go to, but he is the current headmaster
16 so if there are any current operational matters he may be able to assist you on those matters.

17 **CHAIR:** Why don't we, in the spirit of making it up as we go along, within the rules, we might
18 give the affirmation to both and should you find it necessary.

19 **AARON SNODGRASS and DAN REDDIEX (Affirmed)**

20 **QUESTIONING BY MR BARKER:** Mr Snodgrass, you've prepared a statement for the purpose
21 of this hearing. That has been received and read by the Commissioners, and will be
22 available at the conclusion of your evidence. You're not going to be asked to go through
23 that in detail but I understand you have a brief summary statement of that evidence which
24 you wish to present.

25 **MR SNODGRASS:** I do.

26 **MR BARKER:** Could I ask you to read that to the Commissioners.

27 **MR SNODGRASS:** Tēnā koutou, talofa lava and Pacific greetings to everyone here. My name is
28 Aaron Peter Snodgrass, I am the Chairman of the Dilworth Trust Broad. I am also an Old
29 Boy of Dilworth School, attending the school for nine years from 1981 to 1989.

30 I'm grateful to the Commission for the opportunity to speak today. I acknowledge
31 the support of headmaster Mr Dan Reddiex beside me who, along with me, has fronted this
32 issue of abuse at Dilworth School since 2019. I also acknowledge the support of fellow
33 trustees.

34 I also acknowledge the support of the staff at Dilworth of 200, Old Boys in the

1 audience today, and former students.

2 I also acknowledge the attendance today of representatives of the Anglican Church,
3 Archbishop Philip Richardson, Archbishop Don Tamihere and, I believe, Bishop Ross Bay.

4 I'm deeply passionate about Dilworth. The wishes of James and Isabella Dilworth
5 were to educate and to support as many boys as possible in helping them to reach their full
6 potential and become good and useful members of society. They directed trustees to
7 establish the school for that purpose.

8 But the primary purpose of Dilworth, as a school, was to ensure the safety of boys
9 whose families were entrusted to us with their care and to protect them from harm. It is
10 now clear that the school did not meet this fundamental responsibility. The harm that has
11 been suffered by Old Boy survivors of abuse is immeasurable. I have been heartbroken to
12 learn of their experience and suffering.

13 Since September 2019 in my capacity as Chairman of the Dilworth Trust Board, I
14 have publicly apologised and continue to apologise unreservedly to all Old Boy survivors,
15 their whānau, and the wider Dilworth community for this failure and the harm that was
16 done.

17 As part of the redress programme which is now underway, Dilworth will be making
18 personal apologies to many survivors in a way that responds to their particular experience
19 in a manner in which they wish that apology to be delivered. However I take this
20 opportunity now in this public forum to make that apology to all survivors of abuse at
21 Dilworth School.

22 On behalf of the Dilworth Trust Board, the Dilworth School, the Dilworth
23 community, I apologise to all Old Boys who suffered abuse while a student at our school,
24 however that abuse occurred. It was not your fault. It was your school that failed to protect
25 you. I cannot fully explain to the Commission or to our Old Boy survivors how this abuse
26 was able to occur. It is essential that they are given as full an understanding as we can of
27 what happened to them and how it was able to happen.

28 We must also understand what happened to ensure that this does not happen again.
29 For that reason, the Board has commissioned a full and independent inquiry into the abuse
30 that happened at Dilworth School. It is being led by Dame Silvia Cartwright and Frances
31 Joychild. I understand the work of the Inquiry, sorry, -I- describe the work of the Inquiry in
32 my statement. The Board hopes that their report, when it is received, will give Old Boy
33 survivors and the Dilworth community the answers that we all need.

34 It is also important that we acknowledge and address in a meaningful way the abuse

1 that was suffered by Old Boy survivors. For that reason, the Board has also established an
2 independent redress programme that will provide survivors with a process through which
3 they can receive an offer of redress, including financial redress from the Board. Again,
4 I discuss this programme in my statement.

5 Finally, I want to ensure those within the Dilworth community that we have taken
6 all reasonable steps that we can to ensure that this abuse that occurred in our past will not
7 be repeated. I will -- I discuss in my statement the work that is being done to re-orientate
8 the focus of our school on to child safety. This work has been recognised with the school's
9 recent accreditation as a child safe school by international agency Child Wise.

10 Nothing in life can prepare you for the crisis that Dilworth has faced over the last
11 few years. There is no manual for this and in this respect, Dilworth supports the work of
12 this Commission.

13 For us, we've had to try and find our own way. We've also endeavoured to do so
14 with integrity and respect. I apologise to survivors for any mistakes that we have made
15 during this process. I can assure everyone, the trustees, headmaster, director of student
16 services and the team of 200 staff at Dilworth that we have been focused on taking
17 responsibility for the past, ensuring that it is not repeated again, and supporting our Old
18 Boy survivors, and we will continue to do so.

19 **MR BARKER:** Thank you, Mr Snodgrass, if you could just answer any questions from my
20 friend.

21 **CHAIR:** Thank you, Ms Anderson.

22 **QUESTIONING BY MS ANDERSON:** Kia ora, Mr Snodgrass. I think my microphone's
23 working there.

24 **MR SNODGRASS:** Good morning.

25 **MS ANDERSON:** One of the topics that I'm going to start with, I'm just going to move through a
26 limited number of topics with you this morning.

27 The first relates to and dovetails into the conversation that we've had with Mr Derek
28 Firth relating to the second chaplain Ross Browne who was at the school and left in 2006.
29 And do you recall correspondence that you've had later in the period of time, so beginning
30 in 2019, I think, there's a document I'm going to take you to in a moment where you're
31 expressing concern to the Bishop about the fact that Ross Browne is still in ministry and
32 you think may still be having contact with children?

33 Can you just walk us through what you became aware of, when, and what you did
34 about it.

1 **MR SNODGRASS:** Yes, as we understood some of the complaints that had been made about
2 Ross Browne in 2006 and as we learned about him continuing in ministry at Manurewa
3 Church, and as we also learned that he was involved in Scouts, we were deeply concerned.

4 **MS ANDERSON:** And you'd had quite a few members of staff who'd been involved also with
5 Scouts that had given -- that had been reported as abusers to the school; is that right?

6 **MR SNODGRASS:** Yes. So at that point I had discussions with Bishop Ross Bay and --

7 **MS ANDERSON:** Is this after Operation Beverley has become public or is it --

8 **MR SNODGRASS:** No, this was way before then.

9 **MS ANDERSON:** Before that? Yeah.

10 **MR SNODGRASS:** Yes, it was way before then. As Chair, I met with Bishop Ross and
11 expressed to him concerns that Browne was still in ministry and we talked quite openly
12 about that and then there just reached a point where we also learned that Browne was still
13 involved in Scouts. At that point I wrote to Scouts, I wrote to the Police and I wrote to
14 Bishop Ross formally expressing concerns.

15 **MS ANDERSON:** I'm going to call up a document that's dated 17 June 2019, DWS0000069. Just
16 while that's coming up, to orientate you to it, that's a letter that you've written to Bishop
17 Ross Bay in the middle of 2019, so just while it's coming up.

18 You see that on the screen, that may be a document you reviewed that was in the
19 bundle; do you recall that document?

20 **MR SNODGRASS:** I do, yes.

21 **MS ANDERSON:** And you can see there that it refers to having met in February of that year and
22 then again in March to discuss the position of the vicar at the Manurewa parish. And then
23 you go on to refer to historical complaints received in relation to that person. And then
24 down at the bottom of the page you refer to a further discussion on 12 May, so quite a
25 series of conversations that you've been having.

26 So is it fair to say you're knocking on the door raising your concerns?

27 **MR SNODGRASS:** Yes, we're very concerned.

28 **MS ANDERSON:** And you've written this letter, setting out by way of summary beginning on the
29 bottom of that page, about the concerns about his role as director of a gang show and the
30 Bishop's knowledge of this, and the "concerns discussed recently" with a particular Bishop
31 who's advised Bishop Bay that until a further complaint had been received involving
32 criminal behaviour that the Church should not remove Ross Browne from his position.

33 So that's what you understood at that time, that the Church was waiting for a report
34 of abuse that involved criminal behaviour.

1 **MR SNODGRASS:** Yes, the position of the Church was that Ross Browne had been appointed as
2 vicar of Manurewa with full knowledge of the abuse that occurred at Dilworth and, as a
3 result, this being an employment matter for them, the Bishop felt, I believe he'd taken
4 advice from Chancellor that they could not remove him from the position, given that that
5 knowledge was fully known when he was employed.

6 **MS ANDERSON:** Right, okay. Just on to the next page, I think what you've referred to is just
7 expressed there in the last sentence of the first paragraph, that Bishop Bay has expressed
8 that he understood Dilworth's concern but that legal advice was that you could not remove
9 Ross Browne without further information or complaints.

10 **MR SNODGRASS:** Correct.

11 **MS ANDERSON:** Do you recall discussing whether Bishop Bay thought he might be able to
12 commence what's called a Title D investigation, which is the Church process for
13 investigating reports of abuse for disciplinary -- it's a disciplinary process, was there any
14 discussion about that?

15 **MR SNODGRASS:** There wasn't, and I just started to understand the Title D process probably
16 about 18 months ago. So no, there was not discussion about that.

17 **MS ANDERSON:** But you go on to record in that second-to-last paragraph that you're just not
18 comfortable with leaving matters as they are until a complaint of some kind is made, and
19 that you signal that you're going to be alerting the Police and Oranga Tamariki, and you
20 took those steps.

21 **MR SNODGRASS:** We did, yes.

22 **MS ANDERSON:** And do you recall what happened as a result of the concerns you were raising
23 at this time?

24 **MR SNODGRASS:** We did get a response from Bishop Ross and he again reiterated his -- the
25 point, I think you probably have that letter in evidence, I don't know if you want to bring
26 that up, but there was a response from Bishop Ross.

27 **MS ANDERSON:** But it really emphasised the same point that he didn't feel at that time he could
28 do anything.

29 **MR SNODGRASS:** That's correct, yes, yeah.

30 **MS ANDERSON:** And it's not until sometime later that Bishop Ross is taken -- Ross Browne is
31 taken through a Title D process and effectively defrocked or laicised?

32 **MR SNODGRASS:** Yeah, that happened this year.

33 **MS ANDERSON:** This year.

34 **MR SNODGRASS:** We also sent to the Police some information shortly after that letter on

1 everything that we knew about Ross Browne in our school.

2 **MS ANDERSON:** How was that information coming to you, what was it you were able to pull
3 together?

4 **MR SNODGRASS:** We had quite a number of school files, we had the allegations that were
5 made that resulted in him being -- resigning from his position in 2006, and we had
6 information about the investigation that took place around that time.

7 **MS ANDERSON:** And so at this time were you thinking for the school itself that there might be
8 something you needed to do for Old Boys who might have in fact been harmed by this
9 chaplain? Was that part of your thinking at the time?

10 **MR SNODGRASS:** I was thinking about Old Boys, I was thinking about young people that might
11 be in contact with Ross Browne, particularly in Scouts, and I was concerned that the matter
12 had been left to lie in 2006 and no further action been taken.

13 **MS ANDERSON:** One of the issues that the Inquiry's heard from some witnesses on and will be
14 considering is the question of mandatory reporting, and whether that should be an element
15 of the future system design that might in fact help keep people safe, prevent abuse, so that
16 when it's found that people are -- it's reported to the right channel and the right actions are
17 taken at the time.

18 Do you have a perspective yourself from your current role as Chair of whether a
19 mandatory reporting regime would be a useful tool in the kete to keep boys safe?

20 **MR SNODGRASS:** I think it's essential, I think it's essential that people are not given the
21 opportunity to make judgment calls, that there is a codified and legal responsibility to
22 report abuse, particularly sexual abuse, and I note in Australia this week that there has been
23 initiatives to try and eliminate abuse against women and children and I think New Zealand
24 needs to look at regimes to seriously confront the issue of abuse of children particularly.

25 **MS ANDERSON:** I think we can agree from the evidence that we've seen in the Inquiry and
26 probably what you're aware of now from the Trust Board perspective, that there's very clear
27 patterns of grooming behaviour by the staff members over a period of time with a number
28 of boys. Do you agree that that's conduct that's clearly occurred in the school?

29 **MR SNODGRASS:** Absolutely.

30 **MS ANDERSON:** And you can't answer partly because you weren't there back in time, but one of
31 the questions that the Commissioners will have in their minds and which survivors have is,
32 you know, how could there have been such a high degree of grooming behaviour and a high
33 degree of abuse occurring, by two very prolific offenders, or three very prolific offenders,
34 and nobody really noticing that that was going on at the school? Have you got any

1 reflections you want to share about how could there be abuse of the nature and extent that's
2 come out through Operation Beverley and the prosecution, and people at school say they
3 never suspected anything at the time.

4 **MR SNODGRASS:** I clearly can't speak as a trustee because I wasn't a trustee at the time.

5 **MS ANDERSON:** But you were at the school.

6 **MR SNODGRASS:** I was a student at Dilworth and this is just my own personal observations. I
7 think that there were -- the staff at the time went above and beyond to try and support,
8 encourage and grow and mentor us as young boys, and many of those staff did wonderful
9 things for us as boys to become good men. However, there were - it enabled one-on-one
10 contact with boys and staff, and that I think opened the door to these perpetrators abusing
11 boys at Dilworth.

12 **MS ANDERSON:** And knowing what you know now, albeit the inquiry that's been initiated by
13 the school isn't concluded, there's the obvious question of whether there was a culture of
14 abuse at the school, certainly in the 70s and the 80s, potentially earlier. What do you say
15 about that proposition?

16 **MR SNODGRASS:** I don't believe there was a culture of abuse at Dilworth, but what I do believe
17 is that the safeguards that we had in the school were not adequate to encourage boys, to
18 encourage families to talk openly about their experience at Dilworth, to report abuse. I
19 don't think that there were adequate safeguards in place, mainly for the reasons I just
20 articulated, to ensure that boys weren't having one-on-one contact with staff in an
21 uncontrolled way.

22 **MS ANDERSON:** You've heard the evidence of Murray Wilton and Derek Firth. You've heard
23 that I put to them that with the information back in time, you know, first of all, initially at
24 the period of knowledge of the first chaplain and then McIntosh in '79, so two events that
25 are in a quite proximate time period, other disclosures coming forward and then up to the
26 period of 1996 with Ian Wilson, and I put the proposition that perhaps there was enough
27 information at that point in time for the School Board to have thought that there was a
28 problem that might have warranted the kind of inquiry that's now been initiated. Do you
29 have a comment on that?

30 **MR SNODGRASS:** I really can't speak to the past and what was going through the leaders' minds
31 at the time.

32 **MS ANDERSON:** I'm not asking you to get into their minds, just on the information base
33 available by 1996, is that something that you think, if you'd been sitting on the Board at the
34 time with that history of information, that you might have made a decision that a wider look

- 1 was required?
- 2 **MR SNODGRASS:** Certainly based on the information that we had in 2018, 2019 we were
3 preparing to look at our own inquiry.
- 4 **MS ANDERSON:** And that information in 2018 and '19, that was coming to you because you'd
5 had some direct approaches, hadn't you, about Old Boys who might have been -- who had
6 been -- who were saying that they had experienced abuse at the school?
- 7 **MR SNODGRASS:** That's correct, yes.
- 8 **MS ANDERSON:** At what point in 2018 did you come on to the School Board?
- 9 **MR SNODGRASS:** So I joined the Dilworth Board as a trustee in 2013 and I became Chairman
10 in 2018.
- 11 **MS ANDERSON:** What point in 2018? Is it January or...
- 12 **MR SNODGRASS:** March.
- 13 **MS ANDERSON:** And so in 2018 were you starting to think about has the school's response to
14 people who have been harmed adequate, was that something that the Board was starting to
15 think about?
- 16 **MR SNODGRASS:** Yes, there was a confluence of factors. The first one was that I became
17 Chair of the Board and I had received more information about what the school knew of
18 perpetrators at Dilworth.
- 19 **MS ANDERSON:** Was that a briefing to you as a new incoming chair or was that happenstance
20 that information was being reported to the school at that time?
- 21 **MR SNODGRASS:** No, it was a number of documents that I received from the former Chair
22 passing that information on to me. So I had received that information and I shared it with
23 the Board, and we also knew at the time that this Royal Commission of Inquiry into Abuse
24 in Care was being set up and we also knew that, through my relationships with the Old Boy
25 community, that there was further information that was going to be forthcoming. And we
26 went over it and we needed to do something, we needed to understand this further.
- 27 **CHAIR:** Mr Snodgrass, just a point, you said you received documents from the previous chair;
28 was that Mr Firth?
- 29 **MR SNODGRASS:** No, that was Mr John Wain.
- 30 **CHAIR:** That's right, there was somebody in between. When you became the Chair, were
31 those -- were they related to abuse?
- 32 **MR SNODGRASS:** They were related to a whole number of different matters, it wasn't just
33 abuse, it was a whole number of aspects around appointment of trustees, it was previous
34 negotiations or transactions that the board had done.

- 1 **CHAIR:** But it included information about the abuse.
- 2 **MR SNODGRASS:** Correct.
- 3 **CHAIR:** My question is, had that information been known to you as a board member before you
4 became Chair?
- 5 **MR SNODGRASS:** No. I knew certain aspects of perpetrators at Dilworth. You're not a live and
6 a member of this community without knowing who perpetrators were previously.
- 7 **CHAIR:** But there was additional material that you didn't know --
- 8 **MR SNODGRASS:** Additional material.
- 9 **CHAIR:** -- and the Board as a whole didn't know, it was held by the Chair; is that right?
- 10 **MR SNODGRASS:** Correct.
- 11 **CHAIR:** Thank you.
- 12 **MS ANDERSON:** So you've reviewed this information received. Did it surprise you that that
13 information hadn't been shared with the broader members of the board? I'm talking about
14 the abuse-related information in that hand-over material.
- 15 **MR SNODGRASS:** It did, and I regret that I didn't ask for it previously, but the approach -- the
16 understanding that I had was that that had been dealt with in the past and that it was no
17 longer an issue. That was incorrect and I apologise for not asking for that information.
- 18 **MS ANDERSON:** Because it's an ongoing issue for the boys who were harmed, isn't it?
- 19 **MR SNODGRASS:** Absolutely.
- 20 **MS ANDERSON:** A lifetime of effects.
- 21 **MR SNODGRASS:** Yes, and there were many Old Boys that have seen -- taken the opportunity
22 since 2019 to make disclosures and I think what we've tried to create is an environment for
23 them to make those disclosures and be supported in the process.
- 24 **MS ANDERSON:** When you've come into your role as -- you've been on the Board, you've come
25 into the role as Chair in early 2018, how would you characterise the approach taken to
26 responding to people coming forward reporting abuse? How would you characterise the
27 way the school was responding to people coming forward?
- 28 **MR SNODGRASS:** We're very pleased that Old Boys are coming forward and making
29 disclosures. It means that we can help them and support them, it means that we can, as a
30 community, try and make redress and it means that we can support them in going to the
31 Police and to this Commission, and to hold these perpetrators to account.
- 32 **MS ANDERSON:** I'm going to call up a document, DWS0000093. This is a document that you
33 will have seen in the bundle -- are you happy for me to call you Aaron?
- 34 **MR SNODGRASS:** Please do.

1 **MS ANDERSON:** You will have seen it in the bundle, Aaron, but it's not a communication to or
2 from you but it's from the person who was the, I understand in the position of General
3 Manager at the school; is that right?

4 **MR SNODGRASS:** Correct.

5 **MS ANDERSON:** And it's an email dated 23 August 2018, so this is about five months after
6 you've come into the, four or five months after you've taken on the role of Chair, and it's
7 talking about responding to a particular person who's come forward, and then you see, I'll
8 just call out the last sentence beginning "sadly" in that first paragraph, just so
9 Commissioners can see that clearly:

10 "Sadly at Dilworth for some that initial response has been one of dismissal and
11 disbelief at first. There were instances in my earlier days when that was the reaction. Even
12 later when I had one boy come to me with a revelation, it was not believed at first. It was
13 seen as a vendetta against the staff member. The Trust Board too has not handled things
14 well at times in the past. The feeling was to be defensive and very guarded in case they
15 demanded compensation."

16 So in terms of what you knew as the Chair of the Trust Board at the time, do you
17 agree that that's an accurate characterisation of what the response had been at least up to the
18 date of this email?

19 **MR SNODGRASS:** Yes, I think that's correct in a general sense, although I can't say that it would
20 be in every sense. One of the things that we did in 2018 was to start increasing our
21 knowledge and understanding of abuse, and particularly sexual abuse, and understanding
22 the reasons why there would be delayed reporting, and I have to say that as a professional
23 man that's nothing that we learn about at university, but I do think that's now something that
24 every board member of a school needs to understand why there would be delayed reporting
25 and how to respond.

26 So yes, I do agree with that statement and I can understand the reasons why.

27 **MS ANDERSON:** And moving into 2019, that's when you establish the listening service, isn't it,
28 so that Old Boys can contact and get counselling without having to worry about paying for
29 that, the school begins meeting the cost of that counselling service, is that right, that's the
30 right timeframe?

31 **MR SNODGRASS:** Yes, we wanted to put that in place before we wrote to all Old Boys, or at
32 least the Old Boys that we had contact details for, and putting on social media a letter that
33 acknowledged the formation of this Commission and acknowledging that abuse, being
34 physical abuse and sexual abuse, had occurred at our school, we felt that we needed to put

1 that listening service in place first so that Old Boys could reach out to it once they received
2 that letter and started to learn about the initiatives that we were taking at Dilworth.

3 **MS ANDERSON:** I think we've heard in the opening address of counsel for the school that about
4 100 people have taken advantage of that service.

5 **MR SNODGRASS:** Correct.

6 **MS ANDERSON:** So we're still in -- so in 2018 we've got the concern expressed that the
7 defensive response was driven by a concern about compensation, and then you've moved
8 into 2019 and you've set up a counselling service but there's no financial element at that
9 point of responding to survivors' needs arising from the harm they experienced at the
10 school.

11 **MR SNODGRASS:** Yes, you've made the point about the response to Old Boys reflecting
12 because of compensation, I haven't made that statement.

13 **MS ANDERSON:** Well, I think what I'm asking you is, from your time on the Board and then as
14 Chair, do you accept or reject that there's been a concern to protect the school from
15 compensation claims? Leaving aside what's happened in 2022 with the redress scheme, so
16 we're talking about this period 2018 through to mid-2021.

17 **MR SNODGRASS:** No, I wouldn't agree with that, but what I would agree is that there was a
18 lack of understanding about dealing with historical abuse, there was a lack of understanding
19 in terms of -- sorry, not a lack of understanding, there was a concern about the school's
20 name and reputation. You've heard from the previous Chair, Derek Firth, there was a
21 scepticism that delayed reporting might have been as a result of compensation or the ACC
22 scheme at the time. But I wouldn't say that it was a primary concern.

23 **MS ANDERSON:** But it's in 2022, isn't it, that there's an announcement that there might be a
24 financial element of redress available to boys who have been harmed at the school?

25 **MR SNODGRASS:** No, that's not correct, it was 2021, and we'd been starting to think about that
26 earlier than 2021, we were thinking about how we can provide a meaningful response to
27 Old Boys.

28 **MS ANDERSON:** And so when you're in that process of thinking about that, so internal workings
29 about it in 2021, but the public visibility of it is in 2022; is that right?

30 **MR SNODGRASS:** I think it was 2021 or '22, I'm not quite sure, but certainly I think at the end
31 of 2021 we had made an announcement that we were going to be putting in place a redress
32 programme.

33 **MS ANDERSON:** And then the actual redress programme, the terms of reference for that have
34 been released earlier this year.

1 **MR SNODGRASS:** Correct.

2 **MS ANDERSON:** But the intention to establish it announced in 2021.

3 **MR SNODGRASS:** Correct, yes.

4 **MS ANDERSON:** Do you understand that there have been survivors who have expressed some
5 concern that the redress programme is running in tandem, in parallel with your inquiry
6 process?

7 **MR SNODGRASS:** Correct.

8 **MS ANDERSON:** And what do you understand are the reasons they have concerns about the
9 parallel processes?

10 **MR SNODGRASS:** The concern is from some Old Boy survivors that the redress programme is
11 underway before the findings of the Dilworth inquiry are known.

12 **MS ANDERSON:** What are the reasons for those concerns?

13 **MR SNODGRASS:** That if there is wider knowledge of the school's understanding of abuse, that
14 that may not be taken into account in formulating a customised redress offer.

15 **MS ANDERSON:** And perhaps another way of characterising that, because the terms of reference
16 for the redress programme include appropriate apologies; is that right?

17 **MR SNODGRASS:** Correct.

18 **MS ANDERSON:** And so the question I put to you is, how will the school know what to
19 apologise for exactly if you're giving an apology to a survivor before the inquiry's actually
20 concluded and reported to you and you actually understand what the school knew at the
21 relevant time?

22 **MR SNODGRASS:** Yes, I understand that point of view and we acknowledge that, but when we
23 went out and extensively sought feedback from Old Boys, there were some that wanted to
24 wait for the inquiry to be completed before they engaged with the redress programme. But
25 there are also a number of Old Boys where this had been on their mind quite intensively for
26 a period of time, and they wanted to start putting this behind them. And so we were dealing
27 with two groups of Old Boys here.

28 So the approach that we've taken is to get the redress programme up and going so
29 that Old Boys can engage with the programme. The redress panel can make an offer of
30 redress prior to the report of the Dilworth inquiry coming out, or the Old Boy can say "we
31 wish to have the offer of redress held over until the Dilworth inquiry report comes out". Of
32 course Old Boys have the ability to lodge an engagement with the redress programme after
33 the inquiry report comes out.

34 So we've tried to give as many options to these Old Boys as we can.

1 But what we know through the engagement we had with Old Boys, that there are
2 some that are really in need right now and we wanted to provide assistance. The panel has
3 the ability to re-look at any offers of redress that have been given to Old Boy survivors
4 before the inquiry report comes out.

5 **MS ANDERSON:** That's how you've attempted to accommodate the concerns that have been
6 expressed, the ability to reopen after the inquiry reports.

7 **MR SNODGRASS:** Correct, and, you know, the Commissioners in their report on redress have
8 provided a recommendation to Government, being Pūretumu Torowhānui programme, but
9 in that report they say they encourage institutions like Dilworth to get on with redress and
10 that's what we've attempted to do.

11 **MS ANDERSON:** That's what you've done, yes. And certainly in terms of the maximum
12 financial cap, 200,000 or up to 300,000 in exceptional circumstances, that's a number that's
13 in quite significant contrast to what we've heard are the levels of payment to survivors of
14 abuse in other faith-based settings and the State.

15 How did you arrive at that number?

16 **MR SNODGRASS:** That's been a really difficult issue for us to get our heads around as trustees.
17 You have to remember that the Dilworth Trust is a testamentary trust that's been formed
18 through the will of James Dilworth. So we don't have the legal ability to fully delegate
19 trustee responsibilities. So we've set up a programme that we've attempted to be as
20 independent as possible from the Dilworth Trust. So apart from a cap, we don't really have
21 any specifications to the panel.

22 **MS ANDERSON:** So it's for the panel to determine what factors they take into account in making
23 a level of financial offer; is that right?

24 **MR SNODGRASS:** Correct, yes. But we did have to come up with a cap, and we noted and we
25 looked at programmes around the world that most had a cap. We looked at the
26 Commission's report and we noted in it various payment levels that had been made by other
27 organisations. And we acknowledge that abuse at Dilworth. It was an historic concern and
28 a concern for us.

29 So in coming up with the cap, we took advice, we looked at other programmes
30 around the world, and we came up with a number. We went out for feedback and the
31 feedback was that we needed to take another look at the level and we increased it, and that's
32 how we got to the level that we have.

33 **MS ANDERSON:** So an alternative where the panel were empowered to make any uncapped
34 recommendation of what was needed to assist a survivor was not a viable option from the

1 Trust Board's perspective?

2 **MR SNODGRASS:** The advice that we got was our duties as trustees is that we could not fully
3 delegate in such a way to the panel.

4 **MS ANDERSON:** So, effectively, you've delegated a fiscal cap calculated by likely numbers
5 coming forward by maximum payments; is that how the board's approached it.

6 **MR SNODGRASS:** No, we haven't looked at the numbers that will come forward, because we
7 don't know the numbers of Old Boys that are going to engage with the programme, so we
8 didn't know that. But we have looked at the abuse that we know about, we've looked at
9 what other programmes around the world have done, we've looked at what courts in
10 New Zealand have awarded and we've looked at the Commission's report and had to make a
11 call on this. We could not have an uncapped scheme.

12 **MS ANDERSON:** And in terms of the model of the process of development of this, am I right to
13 characterise the model as that there's been some internal thinking, developed up a proposal
14 and then it's been out for consultation with Old Boys; is that the process?

15 **MR SNODGRASS:** No, not entirely. So we did have a number of lawyers that were working
16 with Old Boys and so we engaged with them in 2021 to get their feedback on the
17 programme. We were hoping to put that out for wider consultation to Old Boys earlier
18 this year, but we waited some time to get more fuller feedback from those representatives.
19 We got that feedback, we put together a programme. We wanted to get it in the best shape
20 that we possibly could before consulting or getting Old Boy -- feedback from the
21 community on the programme.

22 **MS ANDERSON:** So how did you put it out to the Old Boys for feedback? Was that
23 communicated through your email process, emails to Old Boys? How did it work?

24 **MR SNODGRASS:** No, we did it much wider than that. We created a public website, Dilworth
25 Response, and --

26 **MS ANDERSON:** But people still need to know there's a website there to go and look at, don't
27 they?

28 **MR SNODGRASS:** Let me finish. We created this website that was available to the public, we
29 put out a press statement, we -- I made a video that was available on the public website, we
30 reached out to Old Boys through social media, and -- we don't have a complete record of all
31 Old Boys and where they are now, that's simply not information we have, but we did our
32 best to reach out to as many people as we could, including using the media to promote the
33 website.

34 **MS ANDERSON:** And then you've received the feedback and then you've made some

1 adjustments to the proposed terms of reference; is that right?

2 **MR SNODGRASS:** Correct.

3 **MS ANDERSON:** I'm just going to take you to a document, MSC0001131. Just while that's
4 coming up Aaron, you will have seen this document in the bundle, I think. It's an Office of
5 the Children's Guardian in New South Wales, "Engaging sensitively with survivors of
6 abuse - a guide for faith organisations". Have you seen this document?

7 **MR SNODGRASS:** Yes, I have.

8 **MS ANDERSON:** Just turning to page 22 of the document, it's referring to these six principles of
9 trauma-informed practice. The first one is safety; second one, trustworthiness and
10 transparency; the third one, collaboration and mutuality; four, empowerment, voice and
11 choice; five, peer support; and six, cultural, historical and gender issues.

12 You can see in that principle relating to collaboration and mutuality that it starts
13 from a position of "recognising the abuse of power is paramount in the deliberate harm of
14 children", and so that those -- "should seek to reverse those by identifying and balancing
15 power differences to recognise the value and contributions of survivors".

16 So in terms of your process of developing your redress terms of reference, to what
17 extent do you think this collaboration and mutuality with survivors has been a part of your
18 process?

19 **MR SNODGRASS:** I think we could have done better and one of the things that we had to weigh
20 up here was getting a programme together that was timely, that was responsive to survivors'
21 needs at this time, and putting together an offer of redress that's meaningful to survivors.
22 We understand that best practice would have been to involve survivors in the complete
23 set-up, and that's what I understand Puretumu Torowhānui is doing. But we wanted to get
24 this programme set up as soon as we could.

25 So what we've done is we've used the representatives of Old Boys to try and get a
26 programme that reflects their feedback. We put together a programme first off so that we
27 didn't have to start from the beginning and we looked at that, we developed that with our
28 advisors by doing surveys of what other programmes around the world were offering so
29 that we didn't have to start from the beginning. But I recognise that there will be aspects of
30 this programme that won't be for everyone, and we put in the terms of reference to the
31 programme an ability for the panel to suggest amendments to the Dilworth Trust Board
32 should they believe that those amendments need to be made.

33 **MS ANDERSON:** But there's inevitably going to be a certain number of boys going through
34 under the current terms of reference before any changes might be suggested by the panel,

1 that's right, isn't it?

2 **MR SNODGRASS:** Yes. But we have had feedback, wide feedback on the programme so far.

3 **MS ANDERSON:** Yes, the point, distinction I'm drawing is it's quite different, a consultation
4 progress in which you receive feedback is very, very different from a collaborative process
5 of designing something from the ground-up with survivors.

6 **MR SNODGRASS:** I acknowledge that.

7 **MS ANDERSON:** You accept that. And you understand that that's the concern that's been
8 outlined around the process, that the Class Action Group outlined in its opening address to
9 the Inquiry yesterday, that it's a process concern around the, effectively, as I've interpreted
10 it, this lack of collaboration with survivors in the design of the redress process has
11 contributed to the situation where the school and the survivors are not in the same waka.

12 **MR SNODGRASS:** I'm disappointed to hear that the survivor group don't believe that there was
13 no consultation, but what I'm trying to do is to give the Commission an understanding of
14 why we've moved at pace to put this programme in place. We're trying to bridge the
15 formation of this programme and the formation of Puretumu Torowhānui so that we can
16 provide meaningful redress to Old Boy survivors now.

17 **MS ANDERSON:** Turning to a different topic, which relates to the way the Education Review
18 Office (ERO) comes in and reviews Dilworth as a private school, calling up document
19 ERO0000135.

20 Commissioners will be familiar with the format of this because some of these types
21 of reports have been looked at in the State accountability hearing, and so the point here is
22 that when ERO is coming in to do a review of Dilworth, it's just assessing you in terms of
23 the criteria for registration as a private school, which is set out on this page. This is a 2021
24 ERO report. And the last criteria for registration there, which is a relatively new one, is
25 that the school is a physically and emotionally safe place for students. You see that?

26 **MR SNODGRASS:** Yes, I do.

27 **MS ANDERSON:** And then just turning over to page 2, the lower part of that page, if I could just
28 call that up under (h), so you can see that they describe what a safe place is, where risks to
29 student safety are regularly assessed and evaluated, and that ERO's judgment is based on
30 the quality, intent and regular review of the policies and procedures.

31 So ERO comes in and looks at your documents; is that right?

32 **MR SNODGRASS:** Yes, they do.

33 **MS ANDERSON:** And it says that you've regularly reviewed policies and procedures to provide
34 for a physically and emotionally safe place. How helpful is ERO's report to you on this

1 criteria of whether the school is physically and emotionally safe? Does it help you at all?

2 **MR SNODGRASS:** Not at all.

3 **MS ANDERSON:** Because they're really just looking at whether you've got the right policies in
4 place, aren't they?

5 **MR SNODGRASS:** Correct.

6 **MS ANDERSON:** And so that's quite different from the process that you've put in with the Child
7 Wise accreditation to actually take those steps to make the current school environment a
8 much safer place.

9 **MR SNODGRASS:** We wouldn't rely on the ERO report to tell trustees or our wider community
10 if Dilworth is a safe place. We just wouldn't do that.

11 **MS ANDERSON:** And in fact, coming in to review policies and procedures is very different from
12 actually understanding practice on the ground, isn't it?

13 **MR SNODGRASS:** Yeah, in this current environment we'd get no comfort from it.

14 **MS ANDERSON:** Thank you.

15 The final topic I'm going to raise with you before the Commissioners have an
16 opportunity to ask you questions relates to correspondence from the lawyers acting for the
17 Class Action Group to you in June last year outlining the class action concerns. Do you
18 recall that correspondence?

19 **MR SNODGRASS:** If you could bring it up that would be great.

20 **MS ANDERSON:** I will. It's DWS0001034. It's a letter dated 24 June -- sorry, it's a letter to the
21 Chief Human Rights Commissioner, this is the lodging of the human rights complaint by
22 the two individuals who are leading the class action. You're familiar with this document?

23 **MR SNODGRASS:** Yes, it's been some while since I've read it, but I'm aware of it.

24 **MS ANDERSON:** You see on page 2 beginning at paragraph 15 -- it will come up on the screen
25 in a moment in front of you, Aaron.

26 15(a), you see there there's an allegation that the school knew sexual harassment
27 was being complained of and allowed it to continue, and there's a listing there of following
28 factors to indicate the basis of that knowledge over time.

29 At paragraph (b) there's a reference to principal calling boys liars and threatening to
30 expel them and cane them for reporting abuse.

31 You're aware of the information base underpinning that allegation, aren't you?

32 **MR SNODGRASS:** I'm not aware of the specifics, or at least I can't recall it right now, of that
33 specific allegation. But it's certainly in the letter.

34 **MS ANDERSON:** And we heard Mr Firth talk about the caning incident, so it seems to be some

1 knowledge of a caning event where somebody was caned as a result of disclosing abuse.

2 **MR SNODGRASS:** Yeah, Mr Firth spoke about that this morning. I'm not familiar with that and
3 there doesn't seem to be a school record of it.

4 **MS ANDERSON:** And over at paragraph 17 on the next page, where the allegation is that despite
5 its knowledge -- paragraph 17 -- the school allowed a culture of systemic sexual harassment
6 to be cultivated and perpetuated. The school did not take any steps to investigate or prevent
7 sexual harassment.

8 Obviously you're in the middle of a process around this, so I'm not going to ask you
9 to go into the substantive element of that, but just the proposition there that there's been a
10 culture of systemic sexual harassment in the school. Is that something that you feel able to
11 comment on at this time?

12 **MR SNODGRASS:** Look, I really -- you've heard from Dr Wilton and Derek Firth over today
13 and yesterday and certainly I would acknowledge that there has been failures. The nature
14 and extent of those failures, how we dealt with complaints of abuse and the contributing
15 factors that enabled this abuse to happen in our school is a matter I really want the Dilworth
16 inquiry to investigate, and we have some knowledge at Dilworth, but what we've learned
17 about in the last few years is that Old Boy survivors and their account of what happened is
18 not known completely to us. So the inquiry is the best place to enable those accounts to
19 come together and be examined.

20 So I don't want to comment on that.

21 **MS ANDERSON:** What advice would you have for other boards and principals at other schools
22 in New Zealand where there might be a history of abuse about the value and utility of
23 establishing the independent inquiry of a kind that you have taken, because it's a significant
24 development that the school's undertaken that step. So what advice do you give other
25 boards and principals where they might have the same kind of issues in their school
26 history?

27 **MR SNODGRASS:** The first thing I'll say it's hard and you have to be courageous in trying to
28 understand everything that you can about what has happened in your school so that you can
29 support survivors, you can address or try to address the wrong that's happened, and learn
30 from it. Because without understanding what's happened in the past, you can't learn from it
31 in the future, and we have to learn from the past.

32 **MS ANDERSON:** Thank you, Aaron. I think the Commissioners may have some questions for
33 you.

34 **CHAIR:** I'm sure we do.

1 **COMMISSIONER ERUETI:** Tēnā koe, Mr Snodgrass. Can I ask you about the mandatory
2 reporting idea and are you able to -- have you had -- we're looking at this, I appreciate your
3 views on, let's say, the scope of mandatory reporting, about the type of incident that would
4 require mandatory reporting, have you been able to reflect on that?

5 **MR SNODGRASS:** Not completely, but I certainly believe, Commissioner, that there are certain
6 levels of abuse that must be reported outside the school, so it can be investigated. At
7 Dilworth we have a policy that now all instances of sexual abuse must be reported, all
8 allegations of abuse must be reported internally, but externally we would involve the
9 Police, sexual abuse allegations.

10 **COMMISSIONER ERUETI:** So far it's focused on sexual abuse and not physical abuse, your
11 internal policy.

12 **MR SNODGRASS:** That's our internal policy, but if there was a serious assault, my expectation
13 is that that would also need to be reported to the Police. There has to be a level, but I'm not
14 quite sure where to draw that line. Maybe that might be something that the Commission
15 could consider.

16 **COMMISSIONER ERUETI:** Yes, that's right. The other question I have was you talked about
17 your experience when you were a student at the kura and how it was double edged, on the
18 one end one of the strengths of the school was the closeness that the teachers had with
19 students, but at the same time I think you were suggesting that kind of one-on-one
20 relationship, that intimate relationship, if you like, also allowed abuse to occur. Is that what
21 you were indicating?

22 **MR SNODGRASS:** Correct, yes.

23 **COMMISSIONER ERUETI:** You don't want to elaborate upon that, but that's the essence of it,
24 you think that there was a culture of staff engaging -- a closeness of relationships with
25 individual students was part of the culture of the kura at the time?

26 **MR SNODGRASS:** Look, I think that the nature of Dilworth is you're taking good boys from
27 good families in straightened circumstances and, through education and through boarding
28 and the wider environment, to help them become good and useful members of society. And
29 the staff at Dilworth take that mission really seriously, still do today, especially today.

30 But the -- sorry. The man I am today is because of the teachers at Dilworth that
31 went above and beyond to help me not just academically, not just to ensure hygienic
32 matters in the house were adhered to, but to help me as a person to grow and develop, and I
33 am forever grateful to those teachers and to the staff. And they know who they are.
34 Unfortunately there were, and we know so far, 12 perpetrators that took advantage of that

1 situation.

2 Now, we still have a caring and nurturing environment at Dilworth. We also have
3 policies and procedures around boys not going home with staff members at any time, not
4 going into their homes, etc, so we have policies and procedures around that to protect the
5 boys. We also have better pastoral care in our school to support boys in other ways by
6 professionals, including a registered psychologist that is on staff.

7 **COMMISSIONER ERUETI:** I take your point about at that time there weren't the checks and
8 balances and the processes that you have in place now to create a safe environment. So you
9 can have both the mentoring and the closeness of relationship but also the environment is
10 safe, that's how you see the kura now?

11 **MR SNODGRASS:** Well, that's our paramount concern is to make sure the boys are safe.

12 **COMMISSIONER ERUETI:** Yes, of course. Can I please also ask you, I know you're familiar
13 with our report Puretumu Torowhānui. One of the objects there is to have a single redress
14 scheme. Can I ask you, is the intention here for this redress programme to run parallel to
15 any National Redress Scheme that's established by the State?

16 **MR SNODGRASS:** Well, the Commission in its report has recommended that these programmes
17 may cease to continue at that point in time. So we've given ourselves the flexibility for it to
18 run parallel, but we're quite aware of the Commission's recommendations that consideration
19 be given to wind those programmes up. So we're trying to be flexible and do the right
20 thing.

21 What I can assure you is that these former Dilworth students and Dilworth Old Boys
22 are cared for in our environment and are important to us, so we won't be just winding things
23 up and forgetting about them, that's not the intention, but we're aware of the
24 recommendations you've made.

25 **COMMISSIONER ERUETI:** Yes, you are. I'm not going to give another speech.

26 **MR SNODGRASS:** Sorry.

27 **COMMISSIONER ERUETI:** Just referring to the evidence in the last few days. Okay, thank
28 you, no more questions, thank you for your time.

29 **MR SNODGRASS:** Sorry, if I was a bit verbose.

30 **CHAIR:** It's all right.

31 Sandra.

32 **COMMISSIONER ALOFIVAE:** Malo le soifua ma le lagi e mamā (Greetings to good health
33 and wellbeing) to you both.

34 I really would like to put a question to both of you, if I can, it was a question that

1 I actually put to Dr Wilton yesterday and it's forward thinking. So we've got your evidence
2 for everything that's gone on to date, but one of the incidents that arose in the school was in
3 December 1994 when an adult was in a consensual relationship with a 15 year old at the
4 school. That's how it's reported.

5 But what we've heard consistently from our survivors is around power imbalance
6 and in particular in the school setting. And so it doesn't matter how much you try to frame
7 it, there's always going to be this power imbalance, and we live in modern times.

8 So given the progressive work that the school is currently doing, we've also heard
9 around this issue, how can we help, how can we help around this power imbalance, and
10 whether or not for children, and I'm just talking about a specific cohort, that the age of
11 consent should actually be lifted to 18 in the school setting and whether or not in your role
12 as the chairperson and of course as the current principal, that is a discourse, one, that you
13 might be familiar with or, if not, is it something you might be prepared to look at and
14 consider given what you now know around sexual abuse and what's particularly happened
15 in your school?

16 **MR REDDIEX:** I'm happy to respond to this, I can we can be pretty categoric in response to this.
17 There can be no consensual relationship between a staff member and a student. The
18 students don't have the emotional capability to actually understand what they're engaging in
19 and the significance of it.

20 So, you know, 16, it doesn't make any sense, it should be clearly a student at school
21 cannot have and be engaged in a sexual relationship with a staff member and that be
22 considered okay on any level. It's a categoric response from my point of view.

23 **COMMISSIONER ALOFIVAE:** But the current legislation actually, you know, would be an
24 impediment to that, so it would be about contributing or driving a national conversation
25 around this particular issue.

26 **MR REDDIEX:** Yes.

27 **MR SNODGRASS:** I'd entirely agree with that. I think there's a legal response and I don't think
28 that -- I think that that's something from -- for school age children or young people that
29 there should be a legal response to that, but there's also a moral and ethical one and I know
30 that universities, for example, are examining their codes of conduct to make sure that the
31 power imbalance between a student and a teacher is addressed and taken care of so that
32 power imbalance is not allowed.

33 **COMMISSIONER ALOFIVAE:** So it might be an issue on a future agenda at your Board.

34 **MR SNODGRASS:** It's not allowed at Dilworth, it's prohibited in our school policies, and --

1 **COMMISSIONER ALOFIVAE:** But about driving a national conversation as part of the work
2 that's -- about changing the law.

3 **MR SNODGRASS:** Yes, well, I think there's so much that Dilworth can do and I, again,
4 encourage the work of this Commission to drive that further.

5 **COMMISSIONER ALOFIVAE:** Thank you, both.

6 **CHAIR:** Paul Gibson.

7 **COMMISSIONER GIBSON:** Thanks. I think you made the comment that ERO wasn't
8 particularly helpful, especially if you look at it from the perspective of keeping boys safe
9 over time. What would an external monitoring system which was helpful to the school and,
10 more particularly, keeping kids safe and also addressing some of the particular
11 characteristics in an independent school or boarding school, what would a good external
12 monitoring oversight process look like?

13 **MR REDDIEX:** If it's the okay I might respond, having worked as a headmaster of a State school
14 and now working in an independent school. The mirroring of the ERO review in the State
15 school into the private sector would make incredible sense. So the rigour is entirely
16 different and the depth of response and the depth of questioning that takes place with a
17 State sector review is significantly different from a private sector one, which really is just a
18 compliance audit.

19 So something of that nature, an independent body, whether that can be ERO doing
20 the same function in the private sector, I don't know about the complexities of that legally,
21 but something with that rigour and depth required of the private sector just feels like a bit of
22 a no-brainer.

23 **MR SNODGRASS:** I'd agree.

24 **COMMISSIONER GIBSON:** Is there anything particularly required for something which is a
25 boarding school as well?

26 **MR REDDIEX:** It's one of the questions again that features in the ERO review, but it's a one line,
27 yes or no, and it's a bit of a cursory glance at what's actually happening. In the ERO
28 review, as defence, they're not necessarily people who are specialist in boarding and so
29 they're being asked to make judgments on things that they haven't lived and necessarily
30 understood. So some expertise in that area with people who have lived it, understood it,
31 breathed it, know how it works would be incredibly useful.

32 **COMMISSIONER GIBSON:** Thank you.

33 **CHAIR:** Thank you both for what you've said so far. I've got a few questions.

34 Mr Snodgrass, I'm in a way sorry I have to take you back to your school days, and

1 I appreciate what you've said already and your feelings about the school, so this is not
2 intended to undermine you personally at all. But I just need to put to you something that a
3 survivor told me and that was that everybody there knew what was going -- "everybody"
4 being the pupils -- "everybody knew what was going on more or less and the lucky ones
5 amongst us knew how to keep out of the way".

6 So I don't know if you're able to comment on that or not. And it was somebody
7 from roughly your sort of era, maybe even a bit later. They knew who to avoid to keep
8 themselves safe.

9 **MR SNODGRASS:** Chair, I can say as a student I didn't have that knowledge, but I'm really sad
10 that that was knowledge in the school. I think that what we've tried to do at Dilworth now
11 is to open every avenue to boys, to families, to staff so that if there is that concern or there
12 is a concern at Dilworth, that those complaints can be made.

13 Those avenues include us enabling an app for boys to raise concerns anonymously
14 or with their name attached. There is email, there is physical mailboxes in each of the
15 houses. We make it clear to boys that if they were to raise a complaint their scholarship
16 won't be in jeopardy. We want to hear about them so we can make their environment safe,
17 and we make it clear to boys that our primary purpose in serving them is to ensure that they
18 are safe in our school and by speaking up and telling us about their concerns, whether it's
19 the food that they're given at night time, if it's the -- spoken harshly by a staff member or by
20 a fellow student, or they're concerned about bullying we want to hear about it so we can do
21 something about it.

22 **CHAIR:** All those matters that build the culture of the school, isn't it?

23 **MR SNODGRASS:** Correct. And by doing that we have a safe and caring environment.

24 **CHAIR:** I truly hear that. Just going back to those former students who felt the way this
25 particular person felt, and I think from my understanding, just again from the wider world
26 what people have said to me out there in the world, "Oh, we don't want to make a
27 complaint, you know, it's gone and done." Is there an avenue in the inquiry for people who
28 don't want to bring a personal matter but who wish to, maybe even anonymously, address
29 the cultural issues that they went through at that time? Maybe you don't know because it's
30 so independent you don't know what's happening but are you aware of that?

31 **MR SNODGRASS:** No, I do know and we've designed it such that there is a separate inquiry to
32 the redress programme.

33 **CHAIR:** Yes.

34 **MR SNODGRASS:** So those Old Boys, former staff, members of the community involved with

1 Dilworth can contact the independent inquiry and to talk of their experience. We
2 encourage them to do that, that's why we've got it in place.

3 **CHAIR:** I think you made a very valid point before and it's one that I think, it's the premise upon
4 which this Royal Commission is based, and that is learning about the past to inform the
5 future. So it's not just dropping information into a hole -- a bucket with a big hole in it, it's
6 being gathered to inform best practice for the future, isn't it?

7 **MR SNODGRASS:** Yes, we have to learn from the past.

8 **CHAIR:** We have to learn from the past. So inquiries like this are not just about, oh, that's what
9 happened, but about what should happen.

10 **MR SNODGRASS:** Yes, we encourage as many people to be involved with this inquiry as
11 possible, we've set it up so that we can learn. We don't want to have to redo it.

12 **CHAIR:** Absolutely not.

13 **MR SNODGRASS:** But we want to learn from it.

14 **CHAIR:** Yes, thank you for that. Just another couple of points. In relation to the questions you
15 were asked about setting up the redress process and the collaborative process, and you've
16 given us your answers, it struck me listening to that that the idea of a collaborative process
17 for setting up has another advantage and that is that it helps maybe to break down that
18 power imbalance between the school hierarchy, the power of the school up against the
19 power of the individual, when individuals are brought into the process at an early stage.
20 Would you agree with that.

21 **MR SNODGRASS:** Yes, I really do acknowledge that, and it's really not our intention here,
22 Judge Shaw.

23 **CHAIR:** I understand that. Just on the redress, I only know what I've read in the papers, and
24 you've spoken about the listening service and you've talked about the redress process. Just
25 as a matter of interest, you have three prominent experts sitting on your redress panel. Are
26 those the people who will actually hear, take the accounts, or do they have foot soldiers out
27 there, other people who will be listening to the boys or is it linked into the listening service?
28 How do the accounts of these survivors go to the panel?

29 **MR SNODGRASS:** Good question. We have established a team of people that, called redress
30 facilitators, and the redress facilitators are experienced in working with redress and they
31 take the account of the survivor and they document that in full. In that process, the Old
32 Boy, they can determine what support the Old Boy might need and can arrange for that
33 support to take place.

34 The account is documented, it's given back to the Old Boy to make sure that they're

1 comfortable with it. At that point in time it goes to the redress panel. And the redress that
2 can be provided is not just financial redress, it will be an apology if that's what an Old Boy
3 wants, a customised apology, it can be other customised forms of redress that the Old Boy
4 may need and that's determined by the independent panel.

5 **CHAIR:** Thank you for that, that's very helpful. I have one last area, and again, Mr Reddiex, it
6 might include you. I asked Mr Firth about the relationship between the Dilworth Board of
7 Trustees and the Church, the Anglican Church, and the degree to which, and I'm not talking
8 about the formal structure again, we understand that, the daylight between the two and the
9 relationship and its limitations in terms of a formal structure. But it's sort of the day-to-day
10 work, what goes on in terms of the relationship between the Board of Trustees and the
11 Church; and then secondly, and this comes out of Bishop Bay's evidence where he talks
12 about his contact with the headmaster, it seemed he had quite a lot to do with the
13 headmaster.

14 So maybe, first of all, start with the Board of Trustees. What's your experience of
15 the contact between the Anglican Church and its involvement in the affairs of the school?
16 Mr Snodgrass, that's first.

17 **MR SNODGRASS:** If you don't mind me giving a bit of a prolonged answer to this but I think it's
18 important to understand.

19 James and Isabella Dilworth were proud parishioners of St Mark's Church in
20 Remuera and were involved in the establishment of that Church, they gifted land to that
21 Church and Dilworth today still has a very strong relationship with St Mark's, including the
22 boys on their final day doing a pilgrimage to St Mark's. The relationship with the Anglican
23 Church is something that's really important to Dilworth because of that connection with our
24 founders.

25 There is in the will a direction to trustees to educate boys in the tenets of the
26 Anglican Church. That doesn't mean that boys that come to Dilworth have to be Anglican,
27 but there will be an Anglican element to the education and experience at Dilworth.

28 The will also specifies that the Bishop will make a visit to the school and report to
29 the trustees on their visit and that's not, purposefully not contained to any particular topic.
30 So the Bishop over the years, and we've given you all the visitor reports from 1906, the
31 Bishops over the years have talked about wide and varied topics, and in recent years we've
32 asked Bishop Ross to talk about various aspects around safeguarding and wellness.

33 But the point is, I think I want to make here, is that the relationship from a Dilworth
34 perspective with the Anglican Church is special to us. We invite the Bishop along to, I

1 think all of our functions and he attends a good number of them, and we really appreciate
2 that. And in his visit he talks to the boys.

3 I remember back in the day having Bishop Gilberd, and the other Bishop at the
4 time, talking with us and I think that the relationship from a student perspective, from a
5 school perspective and from a board perspective is more than just a visit, it is involvement
6 with the community.

7 **CHAIR:** It's a relationship.

8 **MR SNODGRASS:** It's a relationship. We're not an Anglican school but we are a school with an
9 Anglican chapel in it, but it is part of our being.

10 It's hard to describe in a few words, but it is really important to Dilworth and even
11 with this Inquiry, we've felt that it was really important to support the Anglican team in
12 helping other schools present before the Inquiry, know what's going on. So it is important
13 to us.

14 **CHAIR:** Thank you for that fulsome answer.

15 Mr Reddiex, just from your perspective as the headmaster?

16 **MR REDDIEX:** I'll be a little more concise. So in terms of the pragmatics and the running of the
17 school, no impact whatsoever from the Bishop. So if you are thinking, for example, about
18 construction of Christian education classes and curriculum, we do that independently. But,
19 again, it's his attendance at functions and then the visitation once a year that is the essence
20 of our relationship with him.

21 **CHAIR:** What about the appointment of chaplains; is that still continuing?

22 **MR REDDIEX:** Yes. So the conversation with the Bishop is an important one because
23 obviously he has to confirm that the person is an ordained Priest which is a requirement for
24 our chaplain, but that's the extent of the input. We're happy to receive feedback from the
25 Bishop about potential appointees, but ultimately that decision also rests with the Trust
26 Board.

27 **CHAIR:** Thank you very much -- I've got an interloper with one more question.

28 **COMMISSIONER ERUETI:** Thank you, Chair, I just have a very brief question for Mr
29 Snodgrass, because I asked Mr Wilton about this yesterday, and it's about when you create
30 your redress programme obviously you have to determine its boundaries, and I asked him
31 what his views were about whether they were - whether he's happy with the scope of the
32 redress programme. And so I wanted to ask you too about whether, for example, that
33 on- peer-on-peer abuse it's limited to sexual abuse and doesn't include physical abuse, and
34 I'm just wondering where you are with that, because it seems there's still scope for

1 revisiting these fundamental questions of scope.

2 **MR SNODGRASS:** I think the redress programme and the scope of it has been determined. Of
3 course we're open to any feedback on it and I note that Dr Wilton hadn't had a chance to
4 fully review the redress terms.

5 **COMMISSIONER ERUETI:** That's true.

6 **MR SNODGRASS:** But let me tell you about how we've got to where we've got to.

7 The redress programme started off as redress for survivors --

8 **COMMISSIONER ERUETI:** I don't mean to stop you, it's just a question of time for today,
9 we're really compressed. And my question is really, are you satisfied with the scope as it
10 presently is, or do you still have some questions in your mind about whether it could be
11 broader; to exclude physical abuse will actually include serious forms of physical abuse in
12 your programme. So I just want your views on that, please, Mr Snodgrass.

13 **MR SNODGRASS:** Concisely.

14 All forms of abuse from a staff member to a student is covered in the programme.
15 Boy on boy sexual abuse, if it was known by the school and not acted upon, is covered in
16 the programme. What's not covered in the programme is boy on boy physical abuse. We
17 colloquially call that bullying. We believe that's a wider societal issue that is difficult for
18 us to consider in this programme and so we are looking to a wider discussion, hopefully
19 through this Commission, about how we might deal with the effects of bullying on people,
20 but we're not covering that in the programme.

21 **COMMISSIONER ERUETI:** Thank you for your answer.

22 **CHAIR:** Thank you, both, very much and to the Dilworth Board of Trustees for their cooperation
23 with the Inquiry. It's been very helpful. Thank you for coming, Mr Reddiex, it was an
24 unexpected but useful addition to our line-up.

25 You've done a lot of work and the Board and its people have done a lot of work and
26 we're very grateful for that because it truly has assisted us to try and get a better picture on
27 this.

28 If other issues arise, I ask most witnesses this when I remember, would you be
29 prepared to answer further questions in writing should other matters come to light that we
30 need to know as a result of this Inquiry?

31 **MR SNODGRASS:** Absolutely.

32 **CHAIR:** Good, that's gratefully received, thank you very much.

33 So, on that note, we will bring the portion of the evidence about Dilworth to an end.
34 We're going to have a small ceremony, but we're going to adjourn for five minutes while

1 there's a set-up for that, and once that's done we will then take the lunch adjournment and
2 continue after that with the Anglican evidence.

3 We'll just take a very brief adjournment.

4 **Adjournment from 12.56 pm to 1.03 pm**

5 **CHAIR:** Mr Harding, I understand you would like to address us first; is that correct?

6 **MR HARDING:** That's correct.

7 **CHAIR:** Thank you.

8 **DILWORTH SURVIVORS' PETITION**

9 **MR HARDING:** Tēnā koutou katoa, thank you for this opportunity for us to address the
10 Commission. My name is Neil Harding, I am a Dilworth survivor, I'm middle-aged,
11 grey-brown hair, blue suit, blue tie, light blue shirt. And with me is Greg Evans.

12 **MR EVANS:** Yes, I'm a senior male of large build, wearing a charcoal suit, glasses, pink shirt and
13 tie.

14 **CHAIR:** Thank you.

15 **MR HARDING:** Once upon a time we assumed institutions such as schools and churches obeyed
16 our society's laws and were therefore beyond reproach, that it was impossible for the
17 figures of authority that ran them to do wrong and conspire to do wrong. But we have since
18 discovered that Dilworth School chose to participate in an enormous wrong against
19 children. They chose to cover up the vilest of sexual abuse, over 30 paedophiles abused
20 hundreds of boys over a 40-year period.

21 It seems the reputation of their organisation was more important than the welfare of
22 the boys in their care in contradiction to the moral values that the school was supposed to
23 reflect and live by.

24 As survivors, our mission as part of our healing journey is to prevent the children of
25 tomorrow being harmed by institutions that allow travesties such as this to occur.

26 We experienced, as well as the loss of our innocence, the unravelling of many of the
27 lives of either ourselves or our classmates and friends. We experienced the devastating
28 news of the suicide of many of our brothers.

29 Trauma and the loss of innocence endured by children contributes to many of the
30 issues facing our society, especially as they enter adulthood. Their neurodevelopment is
31 adversely impacted and causes many of them to remain in a sympathetic fight or flight
32 response where survival is as good as it gets, let alone thoughts of a career or being capable
33 of functional relationships. Many end up with drug and alcohol addictions. The effects of
34 PTSD are becoming more researched and more understood. We need to do a lot better.

1 Today, Greg Evans and I, on behalf of 170 Dilworth survivors, family and friends
2 present a petition calling for a Dilworth Law that would require the mandatory reporting of
3 child abuse to Police.

4 Specifically the petition is asking the Abuse in Care - Royal Commission of Inquiry
5 to recommend to the New Zealand Government the implementation of the Dilworth Law.
6 This law would require a person or entity to report to Police if a child or young person is at
7 risk of significant harm, the child or young person has been or is at risk of being physically
8 or sexually abused or ill-treated.

9 This law already exists in New South Wales under the Children and Young Persons
10 (Care and Protection) Act 1998 No. 157, Part 2.

11 We were astounded to learn that in New Zealand there is currently no such law. If
12 this law had existed and been followed when we were at Dilworth most of us would never
13 have been sexually abused.

14 We appreciate the Royal Commission's understanding of survivor voice and it
15 would greatly help to us know that institutions like Dilworth School can never be allowed
16 to cover up abuse again. Thank you.

17 **CHAIR:** I will come down and take the petition from you.

18 **MR HARDING:** Thank you.

19 **CHAIR:** On behalf of the Commissioners, I accept the petition and I assure the survivors that we
20 will certainly take it into deep consideration. Thank you very much.

21 Ms Anderson.

22 **MS ANDERSON:** Thank you, Madam Chair, I think we'll take the lunch adjournment, I suggest
23 2.15.

24 **CHAIR:** Yes, 2.15, we'll resume for the Anglican part of the evidence, thank you.

25 **Adjournment from 1.08 pm to 2.15 pm**

26 **CHAIR:** Good afternoon everybody, nau mai hoki mai to what is indeed the last witnesses that
27 this Royal Commission will hear. Some might say we've left the best until last. But it's an
28 important part of our process that this is indeed the last time that we will be hearing
29 publicly from witnesses.

30 So Ms Guy Kidd.

31 **OPENING STATEMENT FOR THE ANGLICAN CHURCH**

32 **MRS GUY KIDD:** Tēnā koutou katoa, talofa lava, good afternoon Commissioners. Good
33 afternoon survivors and members of the public. My name is Fiona Guy Kidd and together
34 with Jeremy Johnston and India Shores we act for the Anglican Church, Anglican care and

1 service organisations and most schools affiliated with the Anglican Church. I am a 53 year
2 old Pākehā woman, 5 foot 7 with blonde hair and I'm wearing a teal blue dress.

3 The three witnesses you are going to hear today are all from the Anglican core
4 Church. The first is Bishop Ross Bay. He is the current Bishop of Auckland and he is to
5 the right here. Auckland is one of the seven Diocese which comprise Tikanga Pākehā. We
6 understand that he has been called and asked to give evidence primarily relating to
7 Dilworth School, which, as you've heard, is an independent school in Auckland created by
8 the will of James Dilworth who was an Anglican. Dilworth School was not founded by the
9 Anglican Church, and unlike some of the other schools you've heard from, such as
10 Wellesley and some of the Catholic schools, it has never been owned by or governed by the
11 Anglican Church. St Peter's in Cambridge is another example of a school in that situation.

12 The Royal Commission has also asked to hear from the two Primates, the two
13 leaders of the Anglican Church in Aotearoa New Zealand; Archbishop Don Tamihere in the
14 middle who heads Tikanga Māori and who is also the Bishop for Tairāwhiti, and
15 Archbishop Philip Richardson to the left who heads Tikanga Pākehā and who is also the
16 Bishop for Taranaki and Waikato. We've actually got the three of them together now, but
17 as you will recall the two of them giving their evidence, two Primates reflecting their equal
18 and joint roles.

19 In the last 18 months since you heard from our witnesses and since the first
20 institutional hearing, the Archbishops have been personally engaged in redress processes
21 and personal meetings with survivors of abuse in the Church. Bishops throughout
22 New Zealand have also been engaged in redress processes with survivors.

23 The Archbishops and Bishops have used their influence to support survivors and to
24 promote that survivors' voices and input are central to the design of redress processes. And
25 we have done that in interactions with the State, with schools and with the Church itself.
26 Both Archbishops have used their many opportunities when speaking publicly, in churches,
27 in the media, to talk about abuse; abuse within the Church and responses. What they are
28 trying to do and effect is cultural change.

29 The development of a more formalised, in some aspects, Church redress system
30 based on Māori principles such as mātauranga and kaitiakitanga is also currently underway
31 and there's a lot of thought going into that. The Church sees that many of these principles
32 are not limited to redress and can also be applied to other aspects in the Church such as the
33 selection of priests. The three Tikanga streams with the equal decision-making power of

1 each is one of the significant ways in which the Church lives the principles of Te Tiriti o
2 Waitangi, including tino rangatiratanga.

3 Further changes to the title deed disciplinary process that you may recall we
4 discussed are underway and are being considered by General Synod next week. Those
5 clarify the extent of its coverage and enlarge its scope and they've been proposed and going
6 to be considered by that meeting next week.

7 Those changes arise out of the learnings regarding the operation of Title D as
8 experienced by survivors in the last 18 months and we're very grateful to the continuing
9 input of the survivors that we have worked with and heard from.

10 So I will now hand over to each of the gentlemen here to describe themselves.

11 **CHAIR:** Shall I just give them the affirmation.

12 **MRS GUY KIDD:** Yes, let's do that first.

13 **CHAIR:** Then we can speak freely after that.

14 **RIGHT REVEREND ROSS BAY, MOST REVEREND DONALD TAMIHERE and**
15 **MOST REVEREND PHILIP RICHARDSON (Affirmed)**

16 **QUESTIONING BY MRS GUY KIDD:** If I could ask you for a personal description of yourself.

17 **CHAIR:** This is the most challenging part of the evidence I can tell you right now, for all of us.

18 **RT REV ROSS:** Tēnā koutou katoa, I am Ross Bay, the Anglican Bishop of Auckland. I'm a 57
19 year old male of medium height and build, I have short, light brown hair, I'm clean shaven
20 and today I'm wearing a blue suit and shirt with a red tie. Kia ora.

21 **MOST REV PHILIP:** Kia ora koutou, Philip Richardson. I'm a 64 year old overweight, white
22 male with dark, greying hair wearing a dark suit and what one of my colleagues described
23 as an indescribable tie and a white shirt. I'm not clean shaven, I have a beard.

24 **MOST REV DON:** Tēnā hoki koutou. My name is Don Tamihere, I'm the Bishop of Tairāwhiti
25 and Bishop of Aotearoa and one of the Archbishops and Primates of the Anglican Church
26 in Aotearoa New Zealand and Polynesia. I'm a typically substantial Māori male, 49 years
27 old, 5'11" and three quarters, wearing a blue suit that doesn't signify the way I vote and I
28 have a gold tie on today. Kia ora tātou.

29 **MRS GUY KIDD:** I'll hand over to you Archbishop Tamihere.

30 **MOST REV DON:** Tāpiri atu i tērā, he mea tika kia tuku atu, he tino mihi rawa atu ki a koutou, e
31 te tēpu, koutou ngā Kaikōmihana, ki a koe e te Hea. Nei rā mātou e tū atu nei ki a koutou i
32 runga i te aroha, me te mihi atu ki a koutou i runga te tapu, te mana hoki o tō koutou mahi.
33 Me te whakaaro nui ki te hunga, ā, kua tapaina ināiane nei ngā purapura ora, ngā mōrehu, ngā

1 mea kua pāngia e te tūkinotanga, nei rā te mihi ki a rātou katoa, ki runga i te aroha. Kia ora
2 tātou.

3 (In addition to that, it is right to extend a heartfelt greeting to you, the panel of
4 Commissioners, and to you the Chair. Here we stand before you with compassion, and
5 acknowledge the sacredness and authority of your role. Our thoughts are rightfully with
6 those that have been identified as the seeds of well-being, the survivors, those that have
7 been subjected to abuse, here I respectfully acknowledge them all. Thank you.)

8 **COMMISSIONER ERUETI:** Tēnā koe. E tika ana kia mihi ki a koutou, mauria mai ō koutou
9 mana, ō koutou reo, ō koutou tikanga ki waenganui i a mātou. Nā reira nau mai, haere mai,
10 tēnā koutou. (Greetings to you. With respect I acknowledge you all, we welcome your
11 authority, your voices, and your protocols. With this, welcome, welcome, welcome.)

12 **MRS GUY KIDD:** For a start, firstly I'll ask some questions with Ross Bay. And Ross, you have
13 a statement that you've prepared, I'll get you to read that and then I will ask some further
14 questions arising from the evidence the Commissioners have heard today. Thank you.

15 **RT REV ROSS:** Thank you. I wish to begin by reiterating the apology I made in my previous
16 evidence to all survivors of abuse while in the care of the Anglican Church or one of our
17 related institutions. You did not receive the genuine care to which you were entitled. This
18 failure has been compounded by our lack of responsiveness over the years to people who
19 came forward to report abuse and to seek redress. I apologise for that and I reiterate the
20 Church's commitment to enter into processes of redress with survivors in good faith.

21 Especially today I wish to acknowledge and apologise to those who are the
22 survivors of abuse at Dilworth School. This is a school that was meant to offer hope and
23 stability for boys coming from vulnerable situations. Instead, advantage was taken of that
24 vulnerability by various members of the staff. Among those who abused students were two
25 Anglican chaplains. The Church recognises its responsibility for these people who were the
26 Church's direct representatives on the staff. You should have been able to expect that they,
27 more than others, would be role models for genuine care and compassion. I apologise
28 deeply for their actions and acknowledge the shame which the Church bears as a result.

29 I wish to comment on my and the Church's relationship with the school. As you
30 know, the will of James Dilworth requires that boys attending the school receive education
31 in the teaching of the Anglican faith. It also appoints the Bishop of Auckland as the
32 episcopal visitor to the school and invites the Bishop to visit the school at any time and to
33 enter any comments or observations in the book reserved for this purpose.

1 Early on when the Church was small, those visits would probably have been more
2 frequent with comments on the detail of school operations and programmes. Over time, as
3 the school grew in size and complexity, the visit has become an annual event with a
4 programme established for the Bishop to get a general sense of the fabric, programmes and
5 morale of the school across its now three campuses, and to be assured of the maintenance
6 of Anglican character.

7 The school is owned and governed by its independent Trust Board, the Anglican
8 Church does not appoint any trustees, the Bishop of Auckland cannot be a trustee. This
9 presents a challenge as to how to effectively keep abreast of a school that carries the
10 Anglican name and the limits of an annual visit to achieve that. Although the responsibility
11 for the safety of the school environment rests primarily with trustees and school
12 management, the Church acknowledges its moral responsibility for this and especially for
13 the work of the chaplains.

14 I have given this issue particular thought over the last couple of years in the wake of
15 the arrest and conviction of Ross Browne for offences of sexual abuse. The key issue is
16 ensuring that the right people are recruited for these roles. The appointment of a chaplain
17 must be undertaken in a far more collaborative way to ensure that neither party is simply
18 recommending an appointment to the other based on their belief that it would be good.
19 There must be effective due diligence based on the information that both parties have to
20 bring to the process of search and appointment.

21 Related to recruitment for specific roles, the Church also needs to ensure that its
22 discernment processes in selecting people for ordination itself are robust, consistent and
23 minimise the risk of possible offenders being ordained.

24 It is essential that there is better communication between the Church and school
25 about any matters that relate to the safety of students and particularly when a chaplain is
26 involved. A commitment from both parties to such communication and taking appropriate
27 action as a result must characterise the relationship moving forward.

28 Further, the changes to the Church's processes on maintaining Ministry standards
29 will act to prevent the avoidance of a proper investigation into allegations of abuse and
30 misconduct and ensure that there is appropriate accountability for those undertaking work
31 in the name of the Anglican Church.

32 We have undertaken an internal investigation into the process leading to the
33 appointment of Ross Browne as vicar of Manurewa parish after he left Dilworth. This
34 report had that narrow focus, but it is not the end of this matter or other instances of abuse

1 by Clergy. The Anglican Church is planning to undertake a fuller and independent inquiry
2 into abuse within the Church which will include a deeper examination of the abuse by the
3 two Dilworth chaplains. The design of this inquiry will seek survivor collaboration.

4 Finally, a word on redress. We are aware that the school has initiated a redress
5 programme. For those who are the survivors of abuse by a school chaplain, the Church will
6 willingly engage in a process of redress if survivors would prefer to approach the Church
7 rather than the school. We wish to be careful that survivors do not have to engage in two
8 different processes and we are seeking survivor response to such an idea so that the design
9 is appropriate, but we wish to affirm our openness to redress from the Church.

10 The Archbishops will be able to comment more on that matter and on plans for the
11 independent inquiry as these are being treated as a whole of Church response rather than
12 just one from the Auckland Diocese. I thank the Commissioners for the opportunity to
13 make these opening remarks. Kia ora koutou katoa.

14 **CHAIR:** Thank you, thank you very much. Can we just get the names right, is it all right if we
15 call you Ross?

16 **RT REV ROSS:** Yes please.

17 **CHAIR:** Thank you, and similarly for the others? I think that was our practice last time. Thank
18 you very much.

19 **MRS GUY KIDD:** So Ross, when were you made the Bishop of Auckland?

20 **RT REV ROSS:** April 2010.

21 **MRS GUY KIDD:** And just so we can put things in context, Ross Browne left Dilworth in 2006?

22 **RT REV ROSS:** Yes, in March of that year I believe.

23 **MRS GUY KIDD:** So before you were appointed. I would like, Felix, if you could bring up
24 document 31, a letter that was from Aaron Snodgrass to you. 31 is the last number,
25 DSW -- it's a letter that Mr Snodgrass referred to today. No, I think it was the other letter
26 that you just put up, 69_00031. It's the letter from Aaron Snodgrass to Bishop Ross.

27 **CHAIR:** This is 0031, is this the one you wanted?

28 **MRS GUY KIDD:** No, it's the one that you just gave me.

29 **CHAIR:** Is that the one?

30 **MRS GUY KIDD:** No, that's a reply to a letter, "I write in response to your letter of 17 June
31 2019." And that's the letter that we're wanting to put up which was put up this morning.
32 It's in the Dilworth bundle. Just to orientate our conversation, that's the letter that was
33 referred to today from Mr Snodgrass to you dated 17 June 2019.

1 So Mr Snodgrass gave evidence about the Church having the full knowledge of the
2 abuse at Dilworth. I just wanted to narrow into this issue of what you knew as at June 2019
3 regarding actions, abuse, allegations involving Ross Browne, the then chaplain. And this is
4 the letter that you received and its records, by way of summary:

5 "We discussed the historical complaints that Dilworth received from students
6 regarding RB. We are now aware from your reports by Dr Susan Blackwell that the actions
7 of RB at the time they took place were not considered criminal, but following a Supreme
8 Court decision such actions would now constitute a criminal offence."

9 So just in a nutshell, just using the language, that's referring to what was said to be
10 an allegation of boys masturbating or being encouraged to masturbate in class?

11 **RT REV ROSS:** Yes, they were the matters that related to Ross Browne leaving the school in
12 2006 and a report that was made to the Bishop of Auckland at the time about that matter,
13 and it described those behaviours in that classroom that were about encouraging
14 masturbation.

15 **MRS GUY KIDD:** And then we see down the bottom of that page, he also refers to another
16 meeting where he says that you had discussed concerns with RB continuing to minister in
17 Manurewa with the Bishop and that he advised that he and another person agreed that until
18 a further complaint had been received involving criminal behaviour, that the Church not
19 remove RB from his position.

20 Now I'd like to take you through to the reply letter that you sent -- I'll ask you about
21 that -- of 26 June 2019, this is Anglican 642. I'll just ask if the Commissioners -- you may
22 wish to bring up, I think we can do that, that third paragraph:

23 "You have informed me that legal advice newly received suggests that the events in
24 question would now be regarded as criminal."

25 What's that referring back to?

26 **RT REV ROSS:** That's referring to the classroom actions that led to his removal from -- him
27 leaving the school.

28 **MRS GUY KIDD:** And that there are concerns about other allegations known to exist from
29 former students.

30 "I note, however, that the school is unaware of the substance of those allegations
31 and that the students concerned are not intending to bring those allegations to the school.
32 While I understand the school's view of what occurred has changed, it is not clear to me
33 that there is at present any new evidence which would lead me to suspend or remove
34 Mr Browne from his post. I would be pleased to learn quickly of any new evidence."

1 So what did you know at that stage about these other allegations known to exist
2 from former students?

3 **RT REV ROSS:** Aaron Snodgrass approached me to tell me that he had been visited by another
4 Bishop and another person with him, that they were bringing to the school the awareness of
5 allegations that I refer to in this letter, these are the other allegations known to exist. But at
6 that point no disclosure of detail about those allegations had been made to the school, just
7 that there were matters that some old boys of the school were concerned about but did not
8 want to approach the school itself. So there was no substance to what the matters were
9 about, but Aaron was advising me of that.

10 **MRS GUY KIDD:** To be clear again, did you know they were of a sexual nature?

11 **RT REV ROSS:** No, I didn't know any of the detail. My memory is that Aaron himself was
12 unaware of the nature of them. I guess I made an assumption that they probably were
13 related to the earlier matters that we did know about, but there wasn't any substance to
14 them.

15 **MRS GUY KIDD:** And you said, "I would be pleased to learn quickly of any new evidence." We
16 heard from Mr Snodgrass that at some point he took a file of information to the Police
17 about allegations. Were you provided with that file?

18 **RT REV ROSS:** No, I thought what I was saying this morning was that that was Ross Browne's
19 file that contained information that they took to the Police, but I've not seen that file.

20 **MRS GUY KIDD:** And on that same day, 26 June 2019, and this is Dilworth 030006, a letter
21 dated 26 June 2019, and I'll read in. This has got a new document number. In this letter
22 that you sent to --

23 **CHAIR:** I think rather than taking up the time if you could just read it out.

24 **MRS GUY KIDD:** In this letter, which is of the same date, 26 June, which you write to the Chief
25 Executive of Oranga Tamariki and New Zealand Police because Mr Snodgrass had sent a
26 letter to those two entities, again, we see in paragraph three you're recording:

27 "I understand that the Dilworth Trust Board now takes a different view of the
28 original behaviour which led to Mr Brown's resignation."

29 So it's this issue of whether it's criminal or not. Mr Campbell's letter implies that:

30 "It is a failure on my part not to have removed Mr Brown from his current position",
31 and you say, "I wish to clarify I have not done so as I do not believe there is sufficient
32 cause for me to act in such a way under the provisions of natural justice."

1 You stress that you're anxious to ensure that licensed ministers observe appropriate
2 standards of behaviour towards vulnerable people, particularly children and young persons,
3 and then again in the final paragraph you say to both Oranga Tamariki and the Police:

4 "If either of your organisations has any information which you are able to share
5 with me and which bears on the fitness of Reverend Browne to continue to hold office at St
6 Lukes' Church Manurewa then I would be pleased to receive it."

7 And you invite a discussion if they would like. What response did you get or what
8 information did you get to that plea?

9 **RT REV ROSS:** Nothing directly in relation to that request. I did get an acknowledgment from
10 the New Zealand Police that they were undertaking an investigation and would contact me
11 if they required anything from me.

12 **MRS GUY KIDD:** Did they provide you details of the allegations or information?

13 **RT REV ROSS:** No, they didn't.

14 **MRS GUY KIDD:** I'd like to call up another document TGC0000514, it's a document that was
15 put to a witness this morning. This is a Police job sheet, it's two pages, it's dated 19
16 February 2001. It's by a Detective Constable, it records that there is an allegation of
17 possible possession of objectionable material on the part of Ross Browne.

18 And then on the second page we see that that Detective Constable makes an inquiry
19 that same month with GRO-C , GRO-C , and that was covered in the evidence
20 today. You weren't Bishop in 2001, but when did you first become aware that there was
21 this allegation dating back to this period of possession of objectionable material?

22 **RT REV ROSS:** This morning when it was put to the witness.

23 **MRS GUY KIDD:** So I take it from that that GRO-C never informed you of this allegation
24 or contact he'd had from the Police?

25 **RT REV ROSS:** No, he didn't.

26 **MRS GUY KIDD:** I've finished asking questions unless there's anything you'd like to add to
27 clarify matters there?

28 **RT REV ROSS:** No, I don't think I have anything to add to that, thank you.

29 **MRS GUY KIDD:** I'll now turn to Don and Philip. And you can answer as you see fit and chime
30 in or riff off each other.

31 The first topic I'd like to talk about is a systems and cultural rebuild, the
32 fundamentals. In paragraph 70 of your joint statement to the Commission, you say:

1 "Our General Synod is putting aside significant time and resources to engage in
2 wānanga around mātauranga Māori, mātauranga Mihinare as a pathway forward for a
3 shared future."

4 Could you speak to that and what it involves?

5 **MOST REV DON:** We're trying to take very seriously the learnings that we've had with our
6 experience with the Royal Commission, which is very clearly demonstrated to us that we've
7 had a significant systems failure, particularly around the protection of children and
8 vulnerable people. And part of our approach to these things, and it has been for 200 years
9 that this whakapono has been a part of us, is to think very deeply about the set of values
10 that we are drawing upon, that we are basing our behaviour and practice upon, and a big
11 part of that in our history has been the mātauranga (the knowledge) of our people. So we
12 haven't simply just adopted a value set from overseas by way of a foreign faith, we've
13 blended it with the mātauranga that our people developed over time in their history. So
14 we're using this conversation to really look at the bedrock values upon which we believe we
15 are built, values that we believe in instances where abuse has occurred we have failed to
16 live up to.

17 So we're having an all of Church discussion about the values that are important to
18 us, and particularly about how those values can be used to help nurture and protect our
19 children and our vulnerable people and all of the people within our hāhi. So we gather next
20 week as a General Synod, it's 120 delegates from across five nations of our province,
21 including Polynesia, and we are committing ourselves to a complete redesign of the
22 systems and practises and the culture that we have in place around these things.

23 And it's a journey for us, we know that it's going to take some time. But we are not
24 afraid to hold ourselves accountable and to be held accountable in this space and that's what
25 this activity is all about for us.

26 **MOST REV PHILIP:** If I may add, one of the drivers for that has been, as we've sought to face
27 into the challenges that have been raised by our failures in the past, particularly to support
28 and keep safe the vulnerable, we've had to face into some deep inequities in our Church,
29 and we touched on that in our last brief of evidence. Those inequities are embedded in our
30 structure and they're the reflection of colonial history, of a hāhi that was inherently Māori
31 for the first decades of its existence, and as part of the process of land alienation, the
32 Church, the settler Church benefitted. It benefitted in terms of resource and it benefitted in
33 terms of structure.

1 Te Hāhi Mihinare Māori (the Māori Anglican Church) who, in most cases, gifted
2 the resources for the purposes of the gospel, had been significantly disadvantaged. And
3 we've been through years of positioning in our relationship with each other, which is
4 adversarial. We've used the language of resource sharing, but actually we haven't engaged
5 with what it means to encounter each other's ways of knowing and, as a consequence of
6 that, start to understand each other's perspectives.

7 So Don lives in my world, is fluent in my world. I don't live in his world and I am
8 not fluent in his world; and I should be because that's what the Treaty dreamed of and that's
9 what our constitution as a Church says should be the ideal, and this is the current reality.
10 We believe that it is foundational to the structural inequality in our society and in our
11 Church and that is part of the context of abuse. So we want to begin with first principles.

12 **MRS GUY KIDD:** I'm now going to turn to redress. From your personal involvement in redress
13 and meeting survivors over the last 18 months, what are the lessons that you have learned
14 that you would like the Commissioners to know?

15 **MOST REV PHILIP:** Kia ora, thank you, I'll begin this time. I want to firstly express my
16 gratitude to Commission staff for, in a number of cases, facilitating an opportunity for me
17 to engage directly with survivors. I want to acknowledge also the courage of some
18 individual survivors who have approached us directly, approached me directly. Most
19 importantly I want to express my gratitude to those who have, against all of their
20 experience, have trusted me into that space.

21 I think fundamentally that has been a journey that you, as survivors, have taken me
22 on. It's been a journey of trust, of, on your part, deep humility and grace, it's been a journey
23 of having to restate your experience.

24 One of the things you've taught me is that although we might use some common
25 processes in each of those encounters, they are fundamentally different in each case. And
26 they need to be. There is no one size fits all.

27 I think I've learned that when, in my case, the Archbishop of the Church, one of the
28 Archbishops of the Church is in the room, it changes the significance of the encounter.
29 And I know that I am allowed to use these names, but I remember Robert Oakley and my
30 meeting with him in his home in the foothills of the Southern Alps and I remember at one
31 point him saying to me, "This is the closest that I've got to look into the eyes of the man
32 who raped me and tell him what effect that has had on my life."

33 I have learned that the Church needs to face into at that very deep and personal
34 level. Yes, we need to make sure that we have good redress systems and approaches in

1 place, they need to be, we believe, deeply embedded for us as a Church in the interaction
2 between Te Ao Māori and gospel experience and principles. For me, each of those
3 encounters has been a deeply spiritual engagement because it's about the whole person and
4 we are in essence body, mind and spirit. The wairua of each of those engagements is what
5 made the difference. I don't want to lose sight of that.

6 I also, if I may, take this opportunity to recognise that there are individuals who fall
7 between the gaps. It's a crude way of putting it, but I want to acknowledge, with his
8 permission, Roger Allison who is a survivor of abuse as a result of what was happening at
9 Dilworth. He's not a Dilworth old boy and so seems to have no place in this process of
10 redress.

11 Roger's story's been made well-known publicly. But as a society and certainly as a
12 Church, we have to recognise it's all of our responsibility, because I'm sure there are more
13 Rogers out there. And how do we collectively spot the gaps and make sure that they're
14 responded to do so that there is the potential for healing and wholeness for those who just
15 don't seem to fit into any institutional responsibility, including, in Roger's case, ACC.

16 **[Applause]**

17 **MRS GUY KIDD:** Don, do you have anything you want to add there?

18 **MOST REV DON:** Just to tautoko my fellow Archbishop. It's an incredible learning for us and
19 an important one because we don't have a perfect template to follow. And so we've learned
20 to rely on our mātauranga and our values. In the case of Roger we want to acknowledge
21 that someone who was deemed to be outside the parameters of other institutions, it forced
22 us to face into the fact that somebody has to take responsibility, and it hasn't just been at
23 our level, we put it before the senior leadership of our Church who also took compassion on
24 the case and enabled us, as Church leaders, to respond to that survivor with a response that
25 we hope brings healing. But we knew if we relied on existing systems that wouldn't
26 happen.

27 Equally, and I hope he doesn't mind, survivors like Neil Harding who approached us
28 and who we saw a week later after the hearings had been first attended standing in a court
29 waiving his own name suppression for the sake of justice and also for the sake of enabling
30 others to come forward. So when you're faced with that extraordinary courage, it gives you
31 a lot of drive to do what you can, as imperfect as it might be.

32 So we're taking that extraordinary learning forward in terms of redress, because
33 redress isn't just, as I said, simply about trying to make reparations to survivors, it's also
34 about exercising accountability and responsibility, and understanding that dealing with guilt

1 is not the same as dealing with shame, that enacting justice isn't the same as finding
2 healing, there are other dimensions that are required for that. And these hearings will come
3 to an end, the work of this Commission will come to an end, but the work of supporting
4 survivors won't.

5 So we have to take a very open approach to make - we've demanded the Church
6 make itself vulnerable and accountable for the sake of finding a way forward, and
7 co---creating that. We've come to trust very deeply survivors that are working with us,
8 survivor networks that hold us to account and want to work with us to find a way forward.

9 So, you know, it's been an incredible process I've got to say, very humbling. But it
10 also gives us a lot of hope. It's been a very lifegiving one we've seen. As I said, while
11 there's no perfect template, while we don't have all the answers, I'm confident we're heading
12 in the right direction.

13 **MRS GUY KIDD:** One final topic before I hand you over. The Royal Commission has
14 recommended an independent redress system and that churches stop their own redress
15 processes once it is set up and running. What are your concerns about a single State redress
16 process, or in a more positive way what will it need to effect healing?

17 **MOST REV PHILIP:** Thank you, I'll start. Firstly, we're engaging fully with the Crown
18 Response Unit and are very, very committed to doing that. We said in our earlier brief of
19 evidence that we supported a single unitary approach. But we do have some concerns.

20 The first would be around our kind of central conviction that human beings are
21 fundamentally spiritual beings. But we live in a society, I think about the 1867 Education
22 Act that describes the provision of education in this country. Secular is a defining
23 characteristic and we don't compete with that, we embrace that, but the feedback that we
24 have from colleagues in the United Kingdom and Canada and Australia is that, in the case
25 of Australia, the Federal system is inherently a transactional process of reparation, not
26 holistic at all and certainly not one which enhances healing or enhances the spirituality and
27 the spiritual identity of the individual. So we would have some concerns around that. And
28 we will bring those concerns to the fore.

29 Just in relation to the Australian provision, an organisation called Kooyoora, which
30 is based in the State of Victoria, have assisted us. They were established originally as sort
31 of an Anglican Church entity and now a separate company, but when you look at the
32 provision of services that they offer and the way in which they approach redress is very
33 driven by survivor design.

1 And I think one of the statistics which they gave when they came to lead this
2 seminar with us was that the Federal redress system has around a 53, 54% survivor
3 approval rating and the Kooyoora system has an early 90s percent survivor approval rating.
4 Those are extraordinary figures if they're verifiable. That's a significant gap. So we
5 wouldn't want to see a system established in Aotearoa New Zealand that led to that sort of
6 low level of survivor approval.

7 So, as I said at the beginning, we'd want to do everything we can to contribute, but
8 we also feel that we need to take responsibility for some design work ourselves. And I do
9 want to acknowledge Hera Clarke who's our comistry in the redress space and also to
10 acknowledge the strong critique that Hera is bringing to us as a Church, institutionally and
11 in terms of leadership, about our continuing failures to provide the kind of environment
12 where an appropriate redress process could be established.

13 So I'm certainly not pointing a finger at Australia, for example, without recognising
14 there are three pointing back at me.

15 **MRS GUY KIDD:** My time is up I think, so I will hand you over and continue the discussion.

16 **CHAIR:** Thank you Ms Guy Kidd. Yes Ms Anderson.

17 Can I just -- I can't help myself, is there really an Australian institution with a Māori
18 name?

19 **MOST REV PHILIP:** No, it's an Aboriginal name.

20 **CHAIR:** It is, K-A-I-O?

21 **MOST REV PHILIP:** No, K-O-Y-O-O-R-A, I think, Kooyoora. It sounds awfully like kia ora
22 but it's not and it means a mountain of light.

23 **CHAIR:** Lovely thank you.

24 **MOST REV PHILIP:** Kia ora.

25 **CHAIR:** Kia ora.

26 **QUESTIONING BY MS ANDERSON:** Tēnā koutou katoa. I'm going to cover just a few topics
27 with you, make sure that we leave enough time for Commissioners' questions before the
28 session closes; but starting with a practical example that you've raised that calls into play
29 the relationship of the Church with Dilworth School. And you've referred to Mr Roger
30 Allison and the fact that he's had a response that he's outside the scope of the Dilworth
31 redress process.

32 And my understanding is that that's really -- the message that he's received really
33 clearly is that what's happened to him is -- first of all he was never a student of the school,
34 but although the abuse occurred in facilities owned by the school, it was considered to be in

1 the relevant staff member's private time and their private space, so therefore there's not a
2 basis for any vicarious liabilities, I think is the language that he may have discussed with
3 you, that that's the response he's had in relation to the redress process. Is that your
4 understanding?

5 **MOST REV PHILIP:** That is my understanding. And that that's a response to a recent approach
6 to the new redress framework that's been put in place, and that the response has been that
7 that was out of scope.

8 **MS ANDERSON:** So I'm interested in the fact that you've taken some, as you said, responsibility
9 for ensuring that he hasn't fallen completely through the gaps, and that you've provided
10 some support to him. Are you able to just help the Commissioners understand what sorts of
11 things have you been doing in your engagement with Roger?

12 **MOST REV PHILIP:** I'm trusting that I have his permission to speak and I've been given an
13 indication that I do. So --

14 **MS ANDERSON:** I can confirm we've also confirmed through other mechanisms, yes.

15 **MOST REV PHILIP:** Thank you. First and foremost it was about establishing a relationship,
16 someone provided a kind of mechanism for him to contact me and I think one of the
17 important things is about maintaining those relationships, that when people reach out in that
18 kind of way with that level of vulnerability, to not be faithful to that relationship is I think
19 probably the worst thing that could happen.

20 It became clear as I came to understand Roger's experience, what had happened to
21 him, as I engaged with people who have supported him for a lot longer than I've been
22 involved, that there were immediate needs, and we were able to respond to some of those
23 immediate needs.

24 But it also became increasingly clear that there could be no kind of healing for
25 Roger, and remember Roger laid a complaint with the Police, he faced the trial situation of
26 his abuser and was contributing to conviction of his abuser. The consequence of
27 re-entering into that reality saw his life fall apart in so many ways. This is a competent,
28 intelligent man with great skill, unable to engage in work or a normal kind of living
29 arrangement. It became really clear that a kind of piecemeal approach, kind of band aid
30 approach wasn't going to get us anywhere. His support people had been strong in their
31 advocacy so they had sought to raise matters with ACC, for example, because ACC had a
32 technical reason why he didn't qualify. Certainly engagement with Dilworth, my personal
33 engagement with Dilworth said that it was beyond their trust deed that he was outside of
34 scope basically.

1 **MS ANDERSON:** So in light of that outside of scope, you've adopted a relationship-based
2 approach with him. So is it fair -- because what we've heard, partly through the
3 engagement with the Methodist Church earlier this week, is perhaps a shifting away from
4 the strict legal structures of the Church --

5 **MOST REV PHILIP:** Correct.

6 **MS ANDERSON:** - and going to a human---centred response. It seems to me that's what's
7 happened here. You haven't turned your mind to "do we really have a legal obligation as a
8 Church given our relationship to Dilworth", you haven't come at it at all from that lens,
9 have you?

10 **MOST REV PHILIP:** No, we offered him a full redress process. I was honest, I hope, with him
11 in saying that I couldn't guarantee that I'd be able to find the resources to address whatever
12 the redress, independent redress process might offer. But as Archbishop Don said, that
13 commitment has been made by the Church and we will fulfil that commitment. But we
14 hope that Roger's story, which is the story of others, will drive some change in other places
15 and maybe there are others who will feel that they can contribute to Roger's well-being.

16 **MS ANDERSON:** So you say that's an example of, I think the language that was used was facing
17 a deep and personal level with somebody that's come forward reporting harm.

18 **MOST REV PHILIP:** Correct.

19 **MS ANDERSON:** Just shifting back a little bit to the relationship between the Church and
20 Dilworth, and Ross, you've outlined some aspects relating to that. Am I right that in
21 about -- it might be around 2019, I'm not quite sure of the actual date, and I'm hoping not to
22 take the time to go to the document, but that you were looking at formalising in a
23 memorandum of understanding the relationship between yourself as Bishop and Dilworth.
24 And I wondered whether -- one of the aspects in this draft memorandum is that it's got a
25 provision where, in addition to the visitation element and appointment of the chaplain
26 involvement, that there's an agreement that the board and the Bishop will update each other
27 and/or consult on significant news or developments impacting Dilworth School and the
28 Anglican Diocese of Auckland or the Anglican Church of Aotearoa, the parties will work
29 on a no surprises basis. Can you just give us a bit of background as to why you were
30 looking at crystallising that in a memorandum of understanding, has that ever actually been
31 finally signed and formalised?

32 **RT REV ROSS:** Yes, thank you. It's a matter I raised with the Trust Board last year, 2021
33 following my visit to the school, and in the light of the learnings from this Commission we
34 recognise that there wasn't any contemporary definition about what the relationship really

1 looked like. We had these two clauses from James Dilworth's will from 120 years or
2 something ago, episcopal visitor, brought up in the tenets of the Anglican faith, but what
3 does it actually mean today in the running of the school, a very different place 100 years
4 on.

5 So that's the background as to why I brought the suggestion that we might form a
6 memorandum of understanding that defined that clearly for us, so we understood the nature
7 of our relationship; and then particularly when there were changes in personnel, when
8 there's a new Bishop, when there's a new head, when board trustees change, we've got
9 something documented to guide that ongoing relationship.

10 **MS ANDERSON:** And as you say, that's an example of this further commitment to better
11 communication.

12 **RT REV ROSS:** Yes, and the status of the document is that we've done a couple of revisions of it,
13 I think you're probably looking at the current draft. I've had a verbal response from
14 Mr Snodgrass to say they're comfortable with it. We haven't yet formally signed it and I'm
15 making my annual visit to the board in a couple of weeks time and I'm anticipating that
16 then we might be able to formalise it by signing it.

17 **MS ANDERSON:** But often with these things, even while you're working with drafts, it changes
18 behaviour, doesn't it, it can lead to that no surprises and better communication.

19 **RT REV ROSS:** Yes.

20 **MS ANDERSON:** Has there been a change do you think over the last year or so about that
21 communication between you and the board about what's the important things that are going
22 on at the school?

23 **RT REV ROSS:** I can point to one matter in particular, and that is that the school has had an
24 indication from their current chaplain, I think he's going to conclude at the end of this year.
25 And so we do have to now face the appointment of a new chaplain which I've raised in
26 evidence has been a difficulty in the past.

27 And so already the principal of the school has been in touch with me to discuss a
28 process based on that in the memorandum of understanding so that we're working
29 collaboratively about coming to a decision on who the new chaplain should be. So I've
30 noticed that immediate change.

31 **MS ANDERSON:** But in terms of the other significant things that are going on at the school in
32 relation to abuse claims coming forward, what's the extent of information you currently
33 receive about that, including about the intention to launch the redress programme, the terms
34 of reference etc?

- 1 **RT REV ROSS:** There hasn't been any significant exchange of information about that.
- 2 Mr Snodgrass has verbally informally kept me abreast of some of those developments, but
- 3 largely we have learned of them through communication through our legal teams as the
- 4 process has been worked up. As the Church, the Archbishops might be able to respond
- 5 more on this. We have made submissions to the Dilworth Trust Board through their
- 6 lawyers about our own views on the process and its development as they were seeking to
- 7 refine it so in that way.
- 8 **MS ANDERSON:** You're talking about the process of developing the redress programme?
- 9 **RT REV ROSS:** Developing the redress programme, yes, that's correct.
- 10 **MS ANDERSON:** And you commented on the content of that redress programme?
- 11 **RT REV ROSS:** Yes. So as it was being developed we offered some input on the draft about
- 12 matters that we thought could be different.
- 13 **MS ANDERSON:** Perhaps I'll invite the Archbishops if they do have recollection of the sorts of
- 14 issues that you raised in relation to the redress programme.
- 15 **MOST REV PHILIP:** So we, through our legal team, contributed at the request to consultation,
- 16 both in terms of the Inquiry and in terms of the redress scheme. I think the first point we
- 17 would want to make is that consultation is not codesign. Secondly, we had some concerns
- 18 around the boy-on-boy abuse and the limitations around that. We had concerns about the
- 19 cap as a matter of principle rather than any particular figure. So if redress is --
- 20 **MS ANDERSON:** Is that concern on cap? What drove that concern about actually putting a
- 21 number on the top number on what could be awarded?
- 22 **MOST REV PHILIP:** Our experience, limited as it is, is that redress is about a relationship
- 23 fundamentally, not a transaction. And that as soon as you put a number, even if it's a
- 24 significant number, you change the nature of what you're inviting someone to trust you
- 25 with. So it was on that basis that we raised that concern, not about a particular number, just
- 26 about the principle of a cap. There were several other matters as well which I've forgotten.
- 27 **MS ANDERSON:** In the end do you think it's fair to say that the redress programme that
- 28 Dilworth has now operationalised, it's in its early days, really has that transactional element
- 29 that somebody comes in the door, goes through a process and goes out the door with a sum
- 30 of money, there's no on-going support for that person over the future years?
- 31 **MOST REV PHILIP:** I think the two comments I would make. One is that it's a strong
- 32 commitment to old boys as the Roger Allison case illustrates, and so I believe they're
- 33 genuine in wanting to have an ongoing relationship with their old boys.

1 The second comment, though, is that the commitment to relationship and what you
2 might call wrap-around care is easy to say and hard to put in practice because of the diverse
3 lives that people lead, and that requires considerable resource. My concern would be that if
4 that in some way got quantified into individual transactions, it's actually going to be hard to
5 exercise it in a holistic and comprehensive way.

6 So one of the survivors that I've worked with, I hope you don't mind, GRO-B
7 me mentioning you, but continues to point out to me the need for what wraparound
8 service -might - wraparound support, sorry, might look like. We can't keep doing it on a
9 one by one basis somehow, we have to- ensure -that it's available for all. And that requires
10 significant investment both in design and in resourcing.

11 **MS ANDERSON:** Thank you. Coming back to you, Ross, in relation to you're coming up for
12 your current episcopal visit and following up with the report; but when I'm looking at the
13 2019 report that you provided, I can bring it up if you need refreshing memory, but it's
14 simply the point that a large part of that report is under the heading wellbeing in the school
15 and quite a significant portion of your report is focused on your observations and some
16 questions around wellbeing. So that seemed to me to be a new departure in terms of the
17 visitation focus.

18 So if you're happy to speak to -- you seem to have embraced the role that as Bishop
19 you could have that effectively monitoring role in relation to the well-being of the students
20 of the school. Can you just outline why you went down that track and what benefit you
21 think it's providing to the school.

22 **RT REV ROSS:** So I think as a result of what began to happen in 2018 I think it was when those
23 new matters were brought to the school as these sort of unknown substance, but these
24 allegations, and I think the evidence we've heard this morning about the growing awareness
25 on the board when Aaron became the Chair, that they needed to do more; it was agreed
26 with me, so it was a mutual decision that my visit in that year might offer some focus on
27 well-being and safety. I think partly so that the school was able to demonstrate to me the
28 sort of steps that they were taking to ensure safety and well-being, and also to allow me to
29 offer any comment on them if I wished to.

30 So it was a particular focus of that year and that report, hence why the report's
31 largely about that. But I think it does form an ongoing aspect of while I'm in the school for
32 that visit the sort of things that I might discuss and look at with others on the staff, and then
33 in my discussions with the board.

1 I think in the memorandum of understanding we note that we would undertake, at
2 least annually, to report to one another on any matters that we're aware of. I think it should
3 happen at any time during the year. But I think my official visit to the trustees is an
4 opportunity to actually say and record are there any matters that we need to advise one
5 another about.

6 **MS ANDERSON:** So broadening that out to the three of you, I'm not sure who might want to
7 come in first, to the question of with the other Anglican schools that would probably more
8 accurately, or would own the title Anglican school a little bit more perhaps than Dilworth
9 does, although it has a close relationship about the Church; so for those other Anglican
10 schools, what sort of role is developing for the Church in terms of ensuring the well-being
11 of the students at those schools, is there any activity in that space since we spoke with you
12 in March 2020?

13 **MOST REV DON:** Yeah, absolutely. Look again, speaking to the work we're doing in terms of
14 the all of Church wānanga about what our value set is around these things, and then being
15 able to clearly articulate back into those school relationships, what it means to be Mihinare
16 in these Islands, what the whakapapa of that identity is, the taonga that have been handed
17 down from generation to generation because of that identity and therefore what we're
18 obligated morally and ethically and spiritually to be.

19 In some cases in relationship to some of the schools those things have been lost a
20 little bit, have ceased to be articulated, the stories haven't been told. We haven't reminded
21 ourselves of the values that we believe in that we want to see upheld. Things that are
22 life-giving and the idea that the presence of abuse in any form is a complete failure of who
23 we say we are and what we want to live up to.

24 So it sparked a huge, I think, activity amongst some of our school relationships and
25 to the point where we were having a complete redesign of the value frameworks that we're
26 having, for instance in Te Aute, Hukarere and other places in the Polynesian school
27 network, we're talking about a value set such as oranga ake, the idea that the entire purpose
28 of our faith is to enable people to flourish and the presence of abuse is the complete
29 antithesis of that.

30 So we're learning, again, how to make that more than just talk, how to really embed
31 it into the practice of our school so that it becomes a dependable and enduring trait of what
32 these schools offer to children.

1 **MS ANDERSON:** Does that move into also the space of whether the schools are responding
2 adequately to reports of abuse that have come to the school and the redress that they're
3 offering is in that, not in that transactional, adversarial space; what's happening in that area?

4 **MOST REV DON:** Yeah, you know, it's a conversation that has a lot of layers to it. For instance,
5 we have private schools, so you're really dependent upon the relationship with the board in
6 those cases as to how deeply embedded you can make those conversations. You have
7 integrated schools where we as a Church might "own", in quote marks, the land and the
8 hostel programme particularly, but we don't employ the principal or any of the teachers, we
9 have limited authority in what goes on in the classroom.

10 So it's utterly dependent on the quality of our relationships. And all that means is
11 we just have to work harder, build trust and to keep advocating for the same values that
12 would make sure that we're all adhering to it.

13 **MS ANDERSON:** It would seem that if somebody's really unable to get an adequate response
14 from an Anglican school in terms of abuse that happened in the school, that like with
15 Roger, that there's -- they should think they can come to the Church and have a
16 conversation with the Church about redress for them in that relationship sense that you've
17 talked about. Is that something that you're contemplating or encouraging? What's
18 happening there?

19 **MOST REV DON:** It's something that we're doing. You know, because, again, there's no perfect
20 template, often there's a lot of failure points in the conversation, in the system, we're trying
21 to adopt, at least from an all of Church perspective, that we need to step up and take
22 responsibility regardless as much as possible. And in the hope that down the line in the
23 conversation, schools and other institutions that we have would also adopt the same stance,
24 because ultimately, you're talking about human beings that have incredible sacred worth.
25 It's not fair that we create systems and structures that exclude them from healing.

26 So the conversation we're trying to lay over the top of that is to say look there's a
27 moral and spiritual dimension to this within which he must remain responsible and
28 accountable, and it has to be led by compassion and care. So you know, that's the space
29 we're in at the moment, isn't it. I mean we talk about legal frameworks, Crown led
30 initiatives, at some point you end up with parameters that have some people inside and
31 some people outside. And to be honest, the call of the Church is to kind of go and sit in
32 those margins and stand with those that have been excluded until they're excluded no more.

33 **MS ANDERSON:** So using an example, again we've got the survivors' permission for this,
34 Mrs M that you'll recall from the school in Christchurch that I think Bishop Carroll

1 discussed in the previous hearing and in the State institutional response hearing, her
2 evidence was again raised, I'm not sure whether you followed that, about her interactions
3 with the Teaching Council. You might recall there was an issue about her having to push
4 for reporting of the abuse to the Teaching Council and then the impact of that Teaching
5 Council experience on her.

6 So for somebody in her position, if a person like that is having difficulty getting a
7 redress outcome from the school, is she the kind of person that you say might be falling
8 through the gaps and can come through a door to the Church to have a conversation, is that
9 what you're suggesting?

10 **MOST REV DON:** Yes, we're ready to support, you know, we can't guarantee successful
11 advocacy and other structures over which we have no authority or can't compel, but we
12 certainly agree that it's our duty to stand and support no matter what.

13 **MS ANDERSON:** You don't draw a legal distinction, it's the school's responsibility, we don't
14 have to have a conversation about that, you take a different approach?

15 **MOST REV DON:** Yeah, we're trying to.

16 **MOST REV PHILIP:** But I think it's fair to say that, you know, that has to be led from the
17 leadership, because it is a culture change, and we've expressed the aspiration and the
18 commitment, but I think we're a long way from reflecting that in our institutional responses.
19 It's a work in progress, but that's the commitment.

20 **MS ANDERSON:** And I'll just raise with you now, and I'm not expecting a response from you,
21 but you might recall that Bishop Carroll in the previous hearing indicated that he would
22 work on an approach and acknowledgment to Mrs M, and we understand that that hasn't
23 happened as yet, so I raise that with you as something for the importance of follow through
24 in terms of commitments that are made to survivors which I'm sure is a point that you well
25 understand.

26 In terms of, I think you've been very clear that not that much has happened in a
27 formal sense with redress programme within the Church, you've focused on the Title D and
28 you've been very focused on direct contact with relevant survivors, so there's not a systems
29 approach but there is that underpinning core value that you've articulated, it's not
30 transactional, it's relationship and that's the basis on which you're proceeding in the interim
31 until there's a resolution of what an overall independent system might look like. Is that
32 right, is that a fair characterisation?

33 **MOST REV PHILIP:** Yes, but I think in addition we'd say that the commitment to Hera Clarke's
34 role is a starting point. As I said, Hera's initial feedback to us is there's a whole lot in our

1 own house that we need to get in order and that if we're really going to take this seriously
2 then we need to put significant resourcing around it. So simply the appointment of a skilled
3 practitioner with years of experience doesn't a summer make.

4 **MS ANDERSON:** In terms of the -- Ross, you mentioned there's going to be an independent
5 inquiry relating to the two chaplains at Dilworth. Can you tell us a little bit more about
6 when that might be up and running? Because that's a development that wasn't mentioned in
7 your evidence so this is something relatively new is it?

8 **RT REV ROSS:** Yes, I'll make a brief comment and then again the Archbishops, because it's a
9 whole of Church response, would be best to comment further and they'll be the ones
10 responsible for working with the standing company of our General Synod to implement
11 this. But it's come about as we've thought more and more about the abuse undertaken by
12 Ross Browne and the other former chaplain at Dilworth School. The fact that we don't
13 fully understand everything that went on, and that it's important we find out and what the
14 learnings are. And an awareness of the fact that there are a number of other instances of
15 abuse by Clergy across the Church where we need to find out and understand more about
16 that. And so in our conversations together we've come to the view that an independent
17 inquiry into abuse within the Anglican Church as a whole is important and it would include
18 both those chaplains. But perhaps Archbishop Philip might like to say more.

19 **MS ANDERSON:** So much broader than the two chaplains at Dilworth?

20 **RT REV ROSS:** It will include those two, but we feel it's important that it is broader.

21 **MOST REV PHILIP:** We believe there are at least eight to ten cases where, among other things,
22 the question of what Bishops did or didn't know, what Bishops did or didn't do are of
23 critical centrality to the ongoing abuse that vulnerable young people experienced. So it's
24 not an adequate response to simply identify that. We think that there are deeper and
25 broader questions that need to be asked.

26 I just want to acknowledge Ross in encouraging us to look at this broader and
27 deeper inquiry across a wider range. Ross was acknowledging that his own decisions are
28 inevitably, as are mine, as are Archbishop Don's, going to be subject to that. So it is current
29 as well as historical, it's to ensure that even our things like our safe to receive processes are
30 much, much, much more robust by making sure we've analysed the past, making sure our
31 recordkeeping, trying to get to the point where we have a fully centralised file keeping
32 system for the whole Church, accessible to those who need to have access so that we don't
33 have bonfires in the backyard of the Bishop's house on the day before retirement, which has
34 happened.

1 **MS ANDERSON:** Yes.

2 **MOST REV DON:** If I might add too, I think it may be that we end up with a series of inquiries,
3 successive inquiries as we keep going back over the ground to make sure we are exposing
4 everything to the light and learning properly. Because at some point we do want to get to
5 the stage where we're more proactive in this space, particularly in terms of the identification
6 discernment training of ministers, office holders. Because we need a brand new toolset.
7 One of our learnings here is how do you identify risk, how do you mitigate it, how do you
8 eliminate it in terms of creating a safe space for people. And we're kind of hopeful that
9 this, you know, form of accountability through a mechanism like an inquiry and a
10 re-interrogation of our past decisions might help us build a, you know, new systems that
11 won't fail us in the same way.

12 **MS ANDERSON:** Because you certainly already have, in terms of what happened, for example,
13 the first chaplain at Dilworth, there's clear evidence, isn't there, of reports of abuse prior to
14 the agreement and whatever the certification process was within the Church to move into
15 Dilworth.

16 **MOST REV PHILIP:** It appears to be non-existent at the time, doesn't it.

17 **MS ANDERSON:** Sorry?

18 **MOST REV PHILIP:** It appeared to be non-existent at the time in terms of expectation of
19 disclosure from one Bishop to another, or from one Bishop to an institution in that case.

20 **MS ANDERSON:** That's right, so there was knowledge but no communication of that
21 information.

22 **MOST REV PHILIP:** That's what the evidence suggests.

23 **MS ANDERSON:** And in terms of the report, Ross, that you commissioned into the
24 decision-making in relation to Ross Browne, what's the relationship of that document to the
25 inquiry that you're talking about? Would that be an input into that inquiry.

26 **RT REV ROSS:** I would expect so, yes, yes. As I said, that report, we commissioned it, we
27 wanted some answers about some particular things as quickly as we could, so it had a very
28 narrow focus. In particular with the needs of the significant stakeholder, if you like, in that
29 process was the parish of Manurewa who ended up with Ross Browne as their vicar, they
30 certainly wanted to know about how that had come about and what we had known; so it
31 really had that narrow focus, but I think that would be a piece of information that would
32 obviously then be fed into a wider inquiry.

33 **MS ANDERSON:** And there's a reference, and I'm not going to go through that report in detail
34 with you now because I do want to give Commissioners time for questions; there's a

1 comment in there, Ross, that you've come in as Bishop in 2010, you've inherited some
2 decisions that have already been made by the previous Bishop about issuing a fitness to
3 minister -- probably not quite the right language that I've got there, but -- and you didn't
4 feel you could revisit that decision. So just talk to me about that dynamic of a Bishop
5 inheriting decisions and what barriers there are to actually taking a fresh look at a particular
6 moment in time.

7 **RT REV ROSS:** I have found this really tricky I'll be honest. I've been guided in my mind and on
8 the advice of others on this matter by issues of fairness, and if I was going to critique
9 myself I would say did I put too much emphasis on fairness of process. My view was that
10 my predecessor had received information about the reasons why Ross Browne left Dilworth
11 School, had taken actions cognisant of that, had determined that he could continue in
12 Ministry and had allowed an appointment. And I felt that I was now inheriting the office of
13 Bishop as a sense in which you inherit the decisions of your predecessors and have to stand
14 with them.

15 So I didn't feel in terms of fairness of process that I felt able to revisit that and
16 determine otherwise. I accept that I could have perhaps taken a different view, but that's
17 the view that I took.

18 **MS ANDERSON:** In terms of the recalibration that's been talked about going on, that would be
19 one of the aspects, won't it, that will be inevitably be part of that conversation?

20 **RT REV ROSS:** Yeah, I think one of the great benefits that I see in our revised Ministry
21 standards work is that a Bishop now would have no choice, would be required to take the
22 information that had come to them from Dilworth School about the nature of his resignation
23 and to pass it to the Ministry Standards Commission to have that assessed and looked at.
24 So it's now unavoidable that a Bishop could just say gosh I think in this situation this seems
25 the right thing to do and I think that's really a critical safeguard for us, and particularly for
26 us as Bishops.

27 **MS ANDERSON:** I don't have any further questions for you. Madam Chair shall I hand over to
28 Commissioners? I'm not sure whether you want to take a break before you go into
29 questioning or whether you want to just --

30 **CHAIR:** I think we should box on and take a very short break, I'm very mindful we've got a lot of
31 people waiting to address us in closing submissions, so let's use every valuable moment we
32 can. I think the Commissioners will also commit to keeping their questions as short as
33 possible, always with the understanding than we could come back to you, Bishops three, if
34 we needed to, is that all right? All right.

1 Paul do you have any questions?

2 **COMMISSIONER GIBSON:** Just a quick question learning, you might have expressed it, there's
3 a lot of, in reviewing these things, focus on procedural fairness, getting that legal advice
4 correct and almost protecting the institution. I'm not sort of hearing the balance in the past
5 of protecting victims and potential victims, the balanced voice. Is there advice on impact
6 on people potentially affected by those with allegations against them? Is that a learning,
7 what's going to happen going forward in terms of how you run the next inquiry?

8 **MOST REV PHILIP:** So I think that's an accurate description of the way things have been and I
9 think part of the recalibration of culture that we're describing is about shifting where the
10 starting point is and who you listen to. So when we talk about establishing an inquiry, for
11 example, into those eight to ten examples of where Bishops have clearly made decisions
12 around which there are significant questions, we would like that inquiry to be co-designed
13 with survivors that we're working with.

14 So I think some of that shift is in the practice that we initiate, which is a sort of
15 advantage, I guess, at the moment of what bluntly might be called the kind of ad hoc
16 approach we're taking or case-by-case approach we're taking to redress.

17 **COMMISSIONER GIBSON:** Could I ask if the new thinking beyond co-design to actually have
18 survivors as inquirers?

19 **MOST REV PHILIP:** Yeah, I think that's absolutely viable. I can think of a situation in my own
20 Diocese where our significant resource person, in terms of process leading, is a survivor.

21 **COMMISSIONER GIBSON:** Thank you.

22 **COMMISSIONER ALOFIVAE:** Talofa lava, I'll keep it brief. Very encouraged in hearing
23 about the inquiry that you're intending to undertake because it's really looking at yourselves
24 as to what constitutes a healthy Anglican Church, what does that look like.

25 My question really relates to the issue of social change that I think you've been
26 talking about this afternoon. Because churches are made up of volunteers, they're just your
27 average, every day person who wants to go along to a particular parish and what not, and
28 I'm really interested in your perception, and perhaps the reality check of your reach into
29 your parishioners in all of the different tikanga and in-- how you're really going to be able
30 to stimulate that conversation. It's great to talk about it at a conceptual structural level, but
31 actually that change is really driven from the people who belong to the faith and to the
32 parents who belong in the schools who aren't always Anglican like at Dilworth.

33 **MOST REV DON:** We're under no illusions as to the size of the task, so we're trying to approach
34 it on multiple levels. We're certainly trying to embody that change is a very important

1 thing to us, and we've taken on that challenge to try to example in every way possible what
2 this would look like. We're also, like I said, redirecting the focus of some of our most
3 significant governance bodies into that conversation to take ownership of the conversation
4 and to make commitments, to even legislate in some ways that this is the new way forward.

5 We're also organising a series of regional wānanga events that will disseminate the
6 conversation as much as possible. We're investing into new comms networks that will turn
7 it into a very regular -- will hold the story in front of us. We're seeking to embed it into the
8 curricula of our schools network and we're working with the schools that are willing and
9 ready to go to embody the conversation as well.

10 So, you know, from the standpoint of our roles and where we're positioned in the
11 structure, we're searching for every avenue possible to create that culture change, that social
12 change. And it's kind of a two-pronged approach, as I said. We have to accept that there's
13 a long pathway to it, it will take a long time to -- it's almost generational changes. But
14 there's also a number of things that we can do now, and the most powerful thing to do is to
15 be practitioners in the first sense, so that's kind of where it's at for us at the moment.

16 **MOST REV PHILIP:** One of the huge opportunities we've got, which is not completely unique
17 to our organisation, but it is part of who we are, is that, you know, every Sunday I'm in a
18 different small community around Waikato Taranaki. So I'm connecting with local
19 communities and I've known those communities for 22 years as Bishop. I've known those
20 people across now two generations. So we have the ability to influence, we talked about
21 that last time, that is a real possibility. You know, we know community leaders, we relate
22 to health services, we are providers of social services and schools obviously.

23 So we have networks of influence that we can either sort of go, you know, just leave
24 them to it, or use every opportunity we've got. I think the moral imperative on every
25 Bishop and every regional leader, you know, we have a structure of archdeacons and
26 regional leaders that work with those influences and we can effect change effectively over
27 time and maybe less time than we fear.

28 **COMMISSIONER ALOFIVAE:** Thank you.

29 **COMMISSIONER ERUETI:** Tēnā koutou. It's encouraging to hear all the mahi that's been
30 done and to address the structural inequalities, as you put it, and it's been long-standing and
31 deeply embedded and, as we've been hearing, will take a lot of hard work in order to take
32 that vision and put it into effect and it could be generational. It is encouraging to hear
33 about the work that's been done since we saw you last. So I wish you all the best with the
34 mahi ahead.

1 A comment on the discussion about redress, we too had concerns about the National
2 Redress Scheme in Australia, we had the benefit of reviewing their review, their two year
3 review and we were aware of the criticisms that it had along with many other redress
4 schemes around the world.

5 But when I listen to your concerns, Mr Richardson, I don't really think we're
6 poles - I think the concerns that you expressed were actually concerns that we noted in our
7 report too about the need for a holistic approach and ensuring that it's survivor-led in
8 particular. So it's not the last word from us on the kaupapa of redress, there will be more
9 for us to say, but really the foundations are in that report.

10 So there are no questions from me, I just wanted to pass on those comments and
11 thank you, thank you for your time today.

12 **MOST REV PHILIP:** Thank you, we'd want to reiterate our commitment to that work at the
13 national redress level. I think the best way of us collectively as a community achieving the
14 very best outcome in that space is to contribute. So we'll keep bringing our concern, but we
15 certainly appreciated the position that the Commission took in the report.

16 **COMMISSIONER ERUETI:** Kia ora.

17 **CHAIR:** Kia ora koutou. I had a lot of questions but I'm going to confine it just to one. And
18 listening to you I'm reflecting on what feels like a very profound sea change from the
19 evidence that we received from you in 2020, in relation to particularly the assumption of
20 leadership, reassumption, the re-affirmation of the leadership of the Archbishops. I noted that
21 you are using the word "we have demanded that this will happen". I felt before there was a
22 reticence maybe, you know, Bishops hold their own domain and their own Diocese etc, and
23 this feels like a widening, not becoming hierarchical, but just imposing the values and
24 standards that we know that you embody. So that's interesting.

25 And with that you've used the word a lot of "accountability". And I think that's
26 something that in our journey through this evidence over the last week or so, the word
27 accountability has been used a lot, interpreted differently a lot, and we have run the gamut
28 from strict legal accountability to a much wider embracing of accountability in not just the
29 legal sense but the moral, the ethical, the spiritual sense. And I feel that that - I want you to
30 know that I see that and I acknowledge it. And that ground, and it's a big hint really, not to
31 you but to others out there in the churches listening, to what extent is there a conversation
32 between the churches about this? Because it seems to me we have a range of views across
33 our various churches that we have heard from and no doubt others from whom we've not

1 heard. Is there an interfaith - I know there's an interfaith-type institution, but has this issue
2 come up or is it likely to come up?

3 **MOST REV DON:** A couple of things, Madam Chair. Firstly I'd say our ability to demand
4 anything remains pretty poor, but, you know, the exercise of leadership for us has been the
5 exercise of servanthood and doing the work and earning the opportunity.

6 In terms of your question, I don't think nearly enough has been done in the
7 ecumenical space, the inter-church space. There are some initial reasons for that, you
8 know, different quality, different structures, different authorities. But if we use that as an
9 excuse we're really framing the conversation in the wrong space. If we framed it in the
10 sense of relationship, that's where true accountability lies, because we're obliged to manaaki
11 each other, to love one another.

12 Where I have seen it begin in a very encouraging way has really been amongst our
13 theological education providers. So there's a growing desire for more collaboration and
14 working out these relationships, these conversations together. I think that's pretty
15 important, because those are the entities that train our future leaders. So that's been the
16 most encouraging thing.

17 I think the most discouraging thing is there's been a lack of collaboration amongst
18 existing leaders, that would be fair to say. I think the desire is there but we are yet to really
19 activate that.

20 **CHAIR:** I think we've seen that, and I take some small credit, not as individuals but the existence
21 of the Royal Commission I think has focused everybody to the issues and I share your
22 observation it's not about the legal structures, it's not about what system that Church has,
23 but what position you take in relation to survivors of abuse.

24 **RT REV ROSS:** Madam Chair, if I could just add to Archbishop Don; last month on behalf of the
25 Archbishops, because of their absence I attended the National Church Leaders meeting
26 which does bring together some Church leaders from across denominations, and safety was
27 one of the topics at that meeting, and it was good to be able to share on behalf of the -- I
28 was invited to do so, on behalf of -- what some of our experiences have been, and good to
29 see that there is a conversation being initiated between the Churches at that level about
30 what we can learn from one another, the importance of carrying that forward. So I think
31 there is some beginning on that.

32 **CHAIR:** That's good to hear and encouraging.

33 **MOST REV PHILIP:** And if I could just add because it's got to be three voices.

34 **CHAIR:** Of course there have, yes.

1 **MOST REV PHILIP:** Just to finish. In Aotearoa now and going forward there's also an
2 interfaith conversation, and again, we have a platform for that and therefore we've got an
3 obligation for that. So the interfaith conversations, which are often about how do we live
4 together in mutual respect across faiths that could be seen to be oppositional or seeking to
5 proselytise over and against each other, what are the opportunities to demonstrate a
6 different kind of way of co-living. And where better placed to begin than the safety of the
7 most vulnerable in our communities.

8 **CHAIR:** Exactly. That's a fine note to end, the safety of the most vulnerable in our communities,
9 thank you for having that final word. Thank you very much indeed. Final thanks to the
10 Anglican Church, like to all the others and faith-based institutions who have cooperated so
11 willingly -- well, you mightn't have been willing, but you have cooperated and so fulsomely
12 with us for all the work you've done coming along today again, and for, I'm sure, further
13 demands on your time that we make of you, we thank you very sincerely indeed for that.
14 **[Applause]**. So here endeth the lesson if I may just steal a phrase.

15 **MOST REV PHILIP:** Thanks be to God.

16 **CHAIR:** We're going to take a really short break. Just to let you all know that we've got a lot to
17 do this afternoon, we have closing submissions 20 minutes per entity from about
18 eight -- just four now, just four groups, okay. But that's still a long time, so if we just took
19 10 minutes, does that give us some time? All right, so we'll resume then thank you.

20 **Adjournment from 3.50 pm to 4.05 pm**

21 **CHAIR:** Welcome back for the final session of the day, I hope that flickering light doesn't mean
22 anything and just so everybody knows, we've closed our evidence for the public hearings
23 and we're now moving into the final part of our hearing, which is closing submissions, and
24 we have an update on who's going when. Just to let everybody know, both in the room and
25 online, today we will hear closing submissions from the Crown, from Dilworth School and
26 the Trust, from the Anglicans and from the Catholics, and then tomorrow we will hear, a
27 big day tomorrow, from first Gloriavale, then the Methodists, the Dilworth Class Action
28 Group, from SNAP, the Gloriavale Leavers' Trust and we finish with submissions from our
29 Survivor Advisory Group, SAGE, and then there will be a poroporoaki from Ngāti Whātua.

30 So that's the order of service, if I may again adopt a phrase from our faith-based
31 institutions. And just, please, to note to all those who are making submissions, I don't have
32 a timer but 20 minutes is your lot; we must, must finish by 20 past 5. Kia ora koutou.

33 Welcome back, finally, Ms Schmidt-McCleave.

34 **CLOSING STATEMENT BY THE CROWN**

1 **MS SCHMIDT McCLEAVE:** Tēnā koutou katoa. I te mana whenua o tēnei rohe, Ngāti Whātua
2 ki Ōrākei, tēnā koutou. E ngā Kaikōmihana tēnā koutou. E ngā purapura ora katoa, tēnā
3 koutou katoa. Ko Ms Schmidt McCleave tōku ingoa, ko te rōia mō te Karauna. (Greetings
4 all. To the tribal authority of this region, Ngāti Whātua, Ōrākei my acknowledgements.
5 Greetings to you the Commissioners, and to you the survivors. My name is Ms Schmidt
6 McCleave, lawyer for the Crown.)

7 I represent all the core government agencies involved with the Inquiry. For those
8 unable to see me, I am a 49 year old woman of Scottish, Polish and German descent, I have
9 brown hair and brown eyes and today I am wearing a red jacket with a red and white
10 blouse. I have no visible disabilities.

11 Thank you, Madam Chair and Commissioners, for the opportunity to present this
12 brief closing statement of the Crown for the faith institutional response hearing.
13 I particularly thank you for accommodating me to give this closing -- these closing remarks
14 on behalf of the Crown this afternoon due to a short prior commitment on my part
15 tomorrow morning.

16 I will therefore be absent for the first part of tomorrow morning but I do intend to
17 return to take part in the final stages of the Commission's public hearing work as it brings to
18 an end its final public mahi before the important reporting date of June 2023.

19 I also acknowledge, on behalf of the Crown, the survivors, their whānau, and
20 supporters who have sat patiently throughout many hours of evidence over the past nine
21 days and indeed over the past three years. Your fortitude, your courage and your strength
22 continue to inspire and motivate us all.

23 As the Commission heard in the State institution hearing in August, the Crown's
24 work continues apace to implement into its processes across agencies what it has heard in
25 the evidence to date, and what the Commission has already recommended. In the words of
26 the Chair in this hearing, this ongoing work is critical to ensure what we have heard never
27 happens again, e kore ano.

28 The Crown has played an observing role in this hearing, but as we have all heard
29 over the past days, the role of Church and State in care settings is not always well defined.
30 To that end in these brief closing remarks, I wish to pick up on some points that have
31 emerged in the evidence and to comment upon them. The Crown is actively considering
32 these points and a fuller response will be provided in due course.

33 In particular, when delivering my opening statement, Madam Chair, you asked me
34 about the Crown passing on Te Tiriti and human rights obligations to faith-based

1 institutions who care for children and how the Crown monitors those obligations. We are
2 in the process of confirming the scope of your question and we will respond with a written
3 fuller response as soon as possible.

4 In these closing remarks, however, I wish to focus briefly on three issues which
5 have emerged over the last nine days. These are the structure of the education system, the
6 retention of records, and the redress system currently being formulated. I want to deal with
7 the third issue first.

8 As was advised in the State hearing in August, work on the design of a new
9 independent redress system has begun in response to the Royal Commission's report He
10 Purapura Ora, he Māra Tipu. Critical to that work is collaboration with survivors and the
11 prominence of the survivor voice.

12 The Crown is acutely aware that, to be enduring, a redress system must reflect the
13 needs and wishes of survivors and be survivor driven and focused. To that end, the Crown
14 Response Unit has been engaging with survivor groups and other key stakeholders to seek
15 their views on how the collaborative design of a new redress system might work, with the
16 aim of commencing that process in the first quarter of next year. And I understand that
17 more details around this design process will be made available next month in November.

18 In parallel, the Crown Response Unit has also been working at pace on projects
19 flagged by the Royal Commission for immediate work and that includes a public national
20 apology, improvements to records processes, and an interim listening service. Short-term
21 changes have already been announced around current claims processes.

22 Of course also critical to the design of such a system is the involvement of the
23 Churches and their supporting organisations. The Crown Response Unit has been engaging
24 with the five major churches that have historically operated care institutions, the Catholic,
25 Anglican, Methodist, Presbyterian churches and the Salvation Army, one-on-one and
26 collectively, on the development of the new independent redress system.

27 That engagement has been positive and the unit welcomes the churches'
28 commitment to being part of the broader work to develop the new system through a
29 survivor-centred design process.

30 The Crown Response Unit does recognise that given the complexity of the
31 churches' structures, which we've heard about in the last nine days, including with their
32 social service groups and schools, the Unit does need to better formalise the relationship
33 with the churches and the other non-State care organisations. I am informed that the Unit

1 will begin working with these groups to formalise these arrangements at the conclusion of
2 this hearing.

3 The second point I want to address you on briefly, as was acknowledged by the
4 Crown in its hearing in August, there are record-keeping issues such as gaps in recording
5 and the loss of some records which have meant that the number of children, and particularly
6 the number of Māori and Pacific children in State care during the period in question, is
7 unlikely to ever be known. It has been apparent through this hearing that similar
8 record-keeping failures have existed in faith-based organisations and care institutions.

9 I note that during the scope period for your Inquiry, contracts between faith-based
10 institutions and Government agencies for care work would not necessarily have included an
11 explicit requirement to maintain records of that work. There is currently a requirement in
12 the 2005 Public Records Act for every public office and local authority to create and
13 maintain records of its affairs, including the records of any matter that is contracted out to
14 an independent contractor. And I can advise the Commission that there is ongoing work
15 occurring in this space.

16 Finally, I wish to briefly comment on the role of the Crown in faith-based care. As
17 I noted in opening, many of the organisations discussed over the last nine days received or
18 receive Government funding for the schools, homes and other social services they operated
19 or operate. Agencies such as Education, the ERO, Oranga Tamariki, and the Ministry of
20 Social Development have and have had different roles in the accreditation, monitoring and
21 regulation of schools, both private and State-integrated, and of care homes and other
22 contracted social services.

23 What has been apparent in this hearing is the contrasting way differing faiths view
24 their responsibilities to tamariki, rangatahi and other vulnerable people that come into their
25 care. While the Crown or the State is sometimes talked of and thought of as a single
26 unified entity, its statutory roles and responsibilities for people in different forms of
27 faith-based care were generally owed by particular Crown agencies which meant that the
28 Crown, through its various agencies, had a range of functions and obligations depending on
29 a number of factors, including the child's legal status and applicable policy and statutory
30 schemes at the time.

31 We have heard through this hearing in particular that churches who are proprietors
32 of schools have characterised the closeness of their relationship with those schools quite
33 differently despite having similar structural arrangements between the proprietor and the
34 School Board. We also noted that for some, a close relationship with the school is essential

1 to ensure the special character of that school founded on the Church's doctrines and beliefs
2 and that it is appropriately maintained. That close relationship is also characterised by the
3 Church's willingness to accept responsibility for abuse within the school as well as the
4 wider Church.

5 I referred in my opening submissions which set out in detail the differing roles and
6 responsibilities of the State in different settings but what must be emphasised is that the
7 presence of those differing roles and responsibilities did not detract from the primary
8 responsibility to ensure safety, which lay with the institution concerned. As I also set out in
9 more detail in my opening, over time, various legislative and regulatory requirements have
10 been implemented to improve student safety in educational settings, including in private
11 schools and in respect of monitoring and oversight in care settings.

12 When people are brought into the care of the Church or of the State, as a society we
13 expect them to be protected from abuse. As I said in August, that is an absolute minimum.
14 We all expect much more; that they will be loved, that they will be nurtured, and they will
15 be supported to face challenges and lead happy and fulfilled lives. It is shameful that this
16 did not always happen.

17 The Crown emphasises again that it is grateful to the Commission and to survivors
18 for the difficult work in bringing that history to light and it is committed to ensuring the
19 mistakes of the past are not repeated, including in settings where the role of the Churches
20 and the State intersect.

21 This is the last public outing by this Commission in its critical work. The Crown
22 thanks you for the opportunities it has had in the course of the last three years to assist the
23 Commission, and continues to be available to do so as the Commission moves into the final
24 stages of its mahi.

25 I want to finish by speaking to survivors. Ko tōku mihi whakamutunga, ki a koutou
26 ngā purapura ora. (My concluding acknowledgement is for you, the survivors). I humbly
27 thank you for your courage and strength to express and share your experiences. Nā te
28 ngākau iti tēnei mihi mō tō koutou māia me te kaha ki te whakapuaki i ā koutou kōrero. Hei
29 whakakapi i tēnei kōrero, mā te whakarongo me te ako ka huri tātou te tai. Nō reira, tēnā
30 koutou, tēnā koutou, tēnā tātou katoa. (I humbly acknowledge your courage and strength
31 for expressing your stories. To conclude, through listening and learning we will be able to
32 change the tide. Hereby, I greet, acknowledge and salute each and every one of you here).

33 **CHAIR:** Kia ora, Ms Schmidt-McCleave. Can I just thank you on behalf of the Commission, you
34 and your other counsel, Ms White, and others who have stood representing the Crown, for

1 your diligence, your clarity and your assistance in cooperation with the Commission. It's
2 been very valuable and we thank you very much very much for that.

3 **MS SCHMIDT-McCLEAVE:** Ngā mihi ki a koutou.

4 **CHAIR:** Kia ora.

5 **MS SCHMIDT-McCLEAVE:** Kia ora.

6 **CHAIR:** We're now going to hear from the Dilworth School. Kia ora, Mr Barker.

7 **CLOSING STATEMENT BY DILWORTH SCHOOL and**
8 **DILWORTH BOARD OF TRUSTEES**

9 **MR BARKER:** Kia ora. I wasn't intending on taking too much of your time, I did a reasonably
10 complete opening yesterday, and I think in fairness the issues that were raised have been
11 well canvassed during the course of this hearing, and I don't see there's a great deal of point
12 in me repeating them, so I was really going to target a few points just of clarification on
13 issues that arose.

14 The other aspect is that, of course, if there are any questions from the
15 Commissioners or areas for further inquiry, my friend Ms Anderson said that since I was
16 doing this an oral closing for the hearing if I needed to file anything later on I'd be more
17 than welcome to do so.

18 There may be issues that the Commissioners -- either I cannot answer or if you say,
19 "I'd like to know a bit more about that" I'd be happy to do that, so opportunity to find those.

20 But this is I suppose almost using the framework of a court process a little bit of a
21 reply to some of the issues that occurred during the course of the hearing.

22 Just coming to a few comments on the nature of the redress programme. There was
23 some comment made or criticism, I suppose, that it's been put in place before the work of
24 the inquiry has been completed, the independent inquiry, I mean. Mr Snodgrass explained
25 why that was, but I just wanted to draw to the Commission's attention that in the -- it is
26 specifically addressed in the terms of reference at clause 11 where the survivor can make an
27 application for redress prior to the inquiry being initiated, but --

28 **CHAIR:** Just to confirm, Mr Barker, these are the terms of reference of the --

29 **MR BARKER:** The Dilworth redress scheme --

30 **CHAIR:** Dilworth redress scheme. Yes, yes.

31 **MR BARKER:** -- that allows survivors to make an application for redress, have it considered and
32 dealt with there and then, they can make one for redress, have it held in abeyance until the
33 inquiry is determined, or they can make one after the inquiry if they wish to do so.

1 It also expressly includes the ability for, if the redress panel makes the
2 determination prior to the inquiry, they've got the ability to revisit redress awards after the
3 inquiry has come out.

4 So it was an attempt, as Mr Snodgrass indicates, to try and give people who wanted
5 redress now the ability to seek that redress now and if people wanted to seek it later then
6 they could seek it later.

7 Two other points on the terms of reference for that redress programme. I heard, I
8 think, one of the Archbishops just make the comment that it was -- he was concerned that
9 that programme sort of ended at the decision that is reached, and I just wanted to note that
10 the definition of redress that can be given is very broad and it allows for counselling
11 on -- you know, it can be set up through the redress award that's made, and also includes a
12 very, very broad discretion for the panel members to decide what form of redress is
13 appropriate.

14 So the whole scheme from I suppose Dilworth's point of view is that it does put a lot
15 of trust in those panel members to react to the situation of the survivor that is before them,
16 and that's really part of the whole step that has had to be taken by Dilworth that's had to
17 work its way through is that element of letting go, that once it's established it is out of their
18 hands what happens and how it is dealt with. Their sole obligation is to do as they're told
19 by that panel.

20 **CHAIR:** An ongoing obligation is accepted.

21 **MR BARKER:** Yes, if the result of the redress is there should be an ongoing relationship that is
22 what will have to happen.

23 **CHAIR:** Thank you.

24 **MR BARKER:** Then finally just on the terms of that redress programme, I just wanted to
25 highlight there was an issue as to the interaction between these two programmes and this
26 might be something I set out in just a written note afterwards, because it's one of those
27 issues I saw in emails but haven't quite followed but there was, I suppose, an interaction
28 between the redress panel and the Inquiry as to how do they deal with survivors who come
29 to both of them, and I think there may have been an agreed protocol between them as to
30 how they deal with that.

31 **CHAIR:** Just to be quite clear, you're talking about the Dilworth redress plan --

32 **MR BARKER:** Yes, sorry. Yes --

33 **CHAIR:** And --

1 **MR BARKER:** -- and the Dilworth independent inquiry. So you've got a situation where
2 someone might go to the inquiry but also want to seek redress, so how do you manage that
3 person? You don't want them to have to go and give the same story twice and things like
4 that.

5 **CHAIR:** And that raises an issue, Mr Barker, that I've had in my mind too, and I meant to ask a
6 witness, so I'll ask you and if you want to put it in writing, and that is, the listening service
7 that's been set up, that's a third avenue, isn't it --

8 **MR BARKER:** Yes, it is.

9 **CHAIR:** -- for survivors to go? One of the strong lessons we've learned is the pain and -- just the
10 endurance that survivors have to go through in repeating their story over and over again to
11 different places, and so certainly if there's a way of refining that down and -- meaning that
12 the survivors only have to tell their story the minimum number of times. So that listening
13 service is also important.

14 **MR BARKER:** That was actually one of the -- some of the feedback that came back from the
15 HRC claimants and in the redress programme it says that you can effectively make your
16 application by using material you've given in other contexts such as your Police statement
17 or something like that, so --

18 **CHAIR:** Or a private session --

19 **MR BARKER:** Or a private session, yes.

20 **CHAIR:** -- with this Commission.

21 **MR BARKER:** Yes, so it's not necessary you have to sit there and say -- re-give that whole
22 statement again to them, so that's expressly dealt with in the terms and conditions, and I'll
23 put that on my note.

24 **CHAIR:** Thank you.

25 **MR BARKER:** The next question I just wanted to briefly address is just -- there was a comment
26 made about the fact the redress programme relates only to Old Boys, and I just thought I'd
27 give some background to why that is. One of the great strengths of Dilworth is that it
28 operates under this trust structure which gives it tremendous freedom that is probably not
29 shared by many other educational institutions, but it does impose some restrictions, and that
30 ultimately the trustees are trustees in law and equity and have to follow the rules of a trust
31 deed.

32 And one of the difficulties is that the trust established -- the trust is established to
33 establish a school, but it then has an express power to help old boys who have left the
34 school, and that's really been the source of power for the redress programme itself, but

1 unfortunately it is a power that's limited to old boys which is where that restriction has
2 come from, it's really a trust-based restriction.

3 And, again, that probably distinguishes Dilworth from other entities because they
4 don't have absolute freedom, they've got a lot of freedom but the hard limits they have are
5 hard limits.

6 **CHAIR:** Yes. It's an interesting point. I mean, obviously the trust deed, there must be some sort
7 of third-party liability though, I mean, I'm just thinking, what if a burglar came on the
8 property and injured himself I don't know. Think about it.

9 **MR BARKER:** Yes, it is a hard -- it is a difficult issue.

10 **CHAIR:** It's a difficult issue, but you can see, can't you, just from the problem of one man, one
11 survivor who literally fell through the cracks and mercifully has been saved, well, picked
12 up by the Anglicans, but not all will possibly be in that boat. So I think it is something
13 that's worth looking at, thank you.

14 **MR BARKER:** Yes. There was a criticism made about -- by Mr Firth about not seeking to
15 correct statements in public. I'm not sure it's something that needs to be responded to by
16 Dilworth because I think it will be pretty obvious as to why that's not appropriate. But just
17 to emphasise that it is Dilworth's very strong view that it is not appropriate to challenge
18 these experiences that are expressed in the press and other processes, that survivors are
19 entitled to share their experience in whichever way they like and it's not Dilworth's job to
20 come and then try and criticise that or otherwise. There are forums, such as the Inquiry,
21 where these things can be investigated more deeply, but it's very much not Dilworth's
22 attitude to these matters.

23 And the final point was just a point about the consultation process, and
24 Commissioner Alofivae said -- asked a question about how that consultation worked. Just
25 in broad terms -- it's covered in Mr Snodgrass's statement -- there was the initial period of
26 about some four months where there was a lot of dialogue with primarily the Class Action
27 Group but then that led to a public consultation where there was a substantial website set up
28 with Q&As and information about the programme and interactive questionnaires you could
29 fill in and so on and so forth.

30 One of the things I might try and get for you is, we tried for Mr Snodgrass's
31 statement to get the actual website links, but they've all been destroyed or replaced, sorry,
32 with the new updated redress programme, so that information was sent through to the
33 Commission at the time but unfortunately we can't recreate it at the moment, so I might see

1 if I can do that just so you can get a feeling as to what the process for consultation was,
2 because it was quite extensive on that aspect.

3 But unless the Commissioners had any questions or areas that you would like me to
4 come back to you on.

5 **CHAIR:** Thank you very much, Mr Barker. Thank you for your appearance at the hearing and for
6 representing the Dilworth Trust Board. We very much appreciate your efforts -- and your
7 team, obviously, behind you.

8 **MR BARKER:** Thank you.

9 **CHAIR:** Now, our next submitter is the Anglican Church. Thank you, Mrs Guy Kidd.

10 **CLOSING STATEMENT BY THE ANGLICAN CHURCH**

11 **MRS GUY KIDD:** Tēnā koutou katoa, the Anglican Church, our care organisations and schools of
12 an Anglican nature very much look forward to your future recommendations.

13 In the Archbishops' statement to you, or the response to the section 20 notice, they
14 said at para 9:

15 "Our experiences with the Royal Commission have also taught us a sharp lesson
16 that we were too trusting of individuals. It was this trust and presumption that everyone
17 within the Church is good at heart that contributed to the failure to address our mistakes
18 sooner."

19 They were not alone in that failing, and much of the evidence of the last few days
20 has dealt with paedophiles. And people who sexually abuse children are by their nature
21 cunning, manipulative, sometimes charming. We heard the reference to the offender with
22 the gift of the gab. They don't come with big flashing lights and warning signs. They
23 quietly move. They will always exist in our society and they are attracted to places where
24 there are potential victims, and I know you have dealt with cases like Marylands, places
25 where there are particular vulnerabilities

26 So how does one assess character of people we put into these places? How do you
27 identify a paedophile? It's almost impossible at the outset. It is not easy. Everyone always
28 has a first time, as we know.

29 As this Royal Commission has learned, their victims are also often those who are
30 least able to stop what is happening, they are often isolated, threatened, scared, ashamed.
31 That is how paedophiles operate.

32 So what I wanted to address, and these were just some reflections about how we can
33 prevent abuse, and I'd suggest it is about a number of things. Firstly, reducing or
34 eliminating opportunities for people to offend. Really importantly, it's about increasing the

1 knowledge and the capacity of the faith community as a whole and indeed community as a
2 whole so that we can identify and look out for suspicious behaviour when we see it, so we
3 can protect our young and vulnerable, so that we can be open to hearing about it and
4 believing it.

5 Not all of us have grown up or been involved in work where this is what we do and
6 who we know. What we need to do to prevent abuse is to educate all New Zealanders
7 about abuse and sexual abuse and its dynamics, how it works. Simple things just as the
8 delay in reporting.

9 We also believe that what is needed is a deep understanding of Māori, Pasifika and
10 other cultural beliefs and frameworks, how people view the world, because that affects why
11 abuse happens, why it is not stopped, why people don't speak up.

12 So people in positions of power and governance, and all of us, need to understand
13 that.

14 And where there is a legitimate need for and an interest in communications about
15 abuse, and I'm talking about situations that we've heard about today between a school and a
16 Bishop, between parents and a school, with the Police, what needs to be is that there's
17 honest and frank communications about what has happened. Not euphemisms, not
18 suggestions and innuendo, but flex(?) that we feel comfortable to talk about this where it is
19 needed. So there are not barriers in the way of honest communications.

20 We need to strengthen and embolden our tamariki so they can speak up and know
21 they will be supported. That's -- all of us need to do that as parents, as leaders in a church,
22 leaders in our community.

23 We believe, and I know that I echo the view of one of the survivors' groups in
24 relation to faith-based institutions, that the State must take an interest in children wherever
25 they are. An equal interest. It is always the State's responsibility to ensure the welfare of
26 New Zealand children.

27 One example of that is Mr Reddiex, the headmaster today supporting the suggestion
28 that there should be the same ERO report, same extension to children who are in
29 independent schools as there is to children in State schools.

30 Finally, and most importantly, we must place our children and our vulnerable
31 people at the centre of all of our decision-making. They must be the centre of, when we
32 make decisions, we think about how will it affect our children, we must keep their interests
33 central.

1 In that regard on this topic of preventing abuse, we have learned today of the
2 petition that you have received, and I've only had an opportunity to speak to the Primate,
3 but they personally, the two Archbishops, support the request in the petition for a law
4 change requiring mandatory reporting of abuse.

5 There will be an education process that needs to go with that, that's a sweeping
6 change, but it's supported by them.

7 Now I turn to redress. Where abuse happens there must be healing. There must be
8 restoration of the tapu and mana of the person. We believe this will only occur in a context
9 of deep respect for survivors.

10 What needs to be sought and created in a redress process is a sense of healing and
11 wholeness for the survivor. It is not easy.

12 Sometimes for survivors of abuse within faith-based settings, the survivor wants to
13 reconcile to their faith, and for them that has a significant spiritual aspect, or at the very
14 least reconnect with places and people of significance in their life.

15 We do hope that the State system will have the mātauranga needed to effect full
16 redress to enable survivors to fulfil their potential in life. We have identified our concerns
17 in the hope that those who are entrusted to engage and create this important new process
18 hear and embrace what is needed, so that it is much, much more than another system
19 without soul that survivors will engage with.

20 With that we leave you, we thank you for your work.

21 **CHAIR:** Thank you very much, Mrs Guy Kidd, and thank you, as for everybody else, for your
22 appearances throughout the Commission's work and for the other members of your team,
23 Mr Gray, who's not here today, but the other members who have supported you and your
24 clients. Thank you very much indeed.

25 **MRS GUY KIDD:** Thank you.

26 **CHAIR:** Our final closing today is from the Catholic Church. Welcome back, Ms McKechnie.

27 And Sister Sue France is joining us as well.

28 **CLOSING STATEMENT BY THE CATHOLIC CHURCH**

29 **MS McKECHNIE:** Thank you, ma'am. I understand that you should have a copy of my written
30 submission.

31 **CHAIR:** Yes.

32 **MS McKECHNIE:** And this will be available on the Te Rōpū Tautoko website now, I
33 understand, for those watching at home and also I understand will be published later on the
34 Royal Commission website.

1 Chair, Commissioners, these are the closing submissions on behalf of Te Rōpū
2 Tautoko who represent the Bishops and Congregational Leaders of the Catholic Church of
3 Aotearoa New Zealand.

4 **CHAIR:** Just before you go on, I don't think we have got your submissions.

5 **MS McKECHNIE:** One moment, please, ma'am. I suspect they are sitting in the public gallery at
6 the moment waiting to be delivered.

7 **CHAIR:** Somebody will come racing -- look at that.

8 **MS McKECHNIE:** Apologies, ma'am, I thought they had already come to you during the
9 adjournment.

10 **CHAIR:** We only need three copies up here. I don't know if they've been emailed to
11 Commissioner Gibson.

12 **MS McKECHNIE:** They certainly will be, if they haven't already, ma'am.

13 **CHAIR:** If that could be seen to --

14 **MS McKECHNIE:** Immediately?

15 **CHAIR:** -- immediately please. He relies on his computer, of course.

16 **MS McKECHNIE:** Ma'am, Commissioners, there's a written document here and a number of
17 appendices and what I'm going to do today is summarise some reflections of Tautoko and
18 the Catholic Church in Aotearoa from this hearing and from the previous hearings that we
19 have participated in. We are very conscious this is the last time that we will speak to you in
20 a public forum.

21 **CHAIR:** Yes.

22 **MS McKECHNIE:** Before focusing on the Church responses, however, Tautoko wants to
23 acknowledge of course the survivors who have provided their experiences to the Inquiry.
24 Thank you for your bravery and courage.

25 Tautoko acknowledges that abuse has been perpetrated by people in the Catholic
26 Church, people that you trusted and that you should have been able to trust. You have been
27 heard.

28 Tautoko understands from survivors that the Inquiry has heard from the frustration
29 that you feel about the way Church processes have failed you. The Church leaders know
30 that this frustration comes from a place of deep pain and hurt. They are committed to
31 ensuring a safe Church, to learning how to put survivors and their whānau at the centre of
32 their decision-making rather than focusing on Church systems and culture.

33 Commissioners, as you have heard now over many days and a number of different
34 hearings, the Church's responses to these issues has been a process of the last 30 years. It

1 has been a journey of learning, of sharp lessons, to borrow Ms Guy Kidd's phrase, and of
2 reflection and change. And it has been a difficult journey, Commissioners.

3 Pope Francis recently spoke about the multitude of crises for the Church and the
4 world and one of the crises he identified was the genesis of this Inquiry, abuse in care. And
5 to address these crises within the Catholic faith globally, Pope Francis has asked the whole
6 Church to undertake a synod. A synod can be translated as meaning a journey or a road to
7 be travelled on together, or, in Aotearoa in te reo Māori, a hui or a hikoi.

8 This worldwide synod called by Pope Francis has the aim of deepening
9 understanding of how we can walk this road together supporting each other and acting for
10 change where it is most needed in all areas of church life. The Church around the world
11 and certainly Church leaders here recognise that these issues that you are addressing is one
12 of the areas where that journey is hard and important.

13 I have quoted there at paragraph 10, Commissioners, from the National Synod
14 documents sent back to the Vatican in 2018 which acknowledge that very point, that this
15 process that you are undertaking and we are undertaking with you is an important stage in
16 that synod.

17 Tautoko see their involvement in this Inquiry as a critical moment of change in this
18 journey, and an opportunity to learn lessons. This opportunity and this Inquiry will assist in
19 formulating new ways to respond to reports of abuse with care and compassion.

20 Commissioners, over the next few pages of the submissions I have briefly
21 summarised the history and scope of education and care within the Catholic Church. You
22 have much evidence, the good and the bad, in relation to these matters. So I propose to turn
23 forward to page 5 and paragraph 22 for those following along.

24 There have been three key pathways of the Church's response in the last 30 years.
25 The first, Commissioners, is safeguarding. A safe church is a fundamental priority and the
26 Catholic Church is now firmly focused on safeguarding for all. To ensure that the Church's
27 care is protected from harm is fundamental.

28 As the scale of abuse within Catholic care settings has become clearer, both globally
29 and in New Zealand, these safeguarding measures have strengthened. This takes many
30 forms, Commissioners. Improvements in the formation of priests and Religious,
31 safeguarding training for Catholic Clergy, Religious, and very importantly Catholic
32 communities, implementation of safeguarding practices such as screening and vetting,
33 fostering a speak-up culture, and translating the materials which support this work into a
34 number of the key languages of the Catholic community in New Zealand.

1 Secondly, Commissioners, receiving reports and disclosures. As we now know, and
2 as Ms Guy Kidd touched on, it's accepted it can take many decades for people to be able to
3 speak up and speak the truth about what happened to them. This is reflected in the Catholic
4 records, Commissioners, which you now hold. The average time from the records the
5 Catholic entities hold from the date of abuse to the date of disclosure is 38 years -- sorry,
6 34.8 years.

7 So for Catholic entities, Commissioners, individuals began to approach the Church
8 in small numbers in the mid to late 1990s and then a very significant number of reports
9 started to come forward from 2002. Those are what has been referred to in this Inquiry, of
10 course, as historic claims.

11 But Church entities acknowledge, Commissioners, that records do show that some
12 disclosures were made at the time that the harm was occurring. And we now know the
13 bravery and courage that that must have taken. With hindsight, it has been acknowledged
14 by witnesses from Catholic entities before you that the responses to some of these early
15 reports were lost opportunities.

16 Catholic witnesses in this hearing have acknowledged their early leaders were naive
17 about the nature of recidivist offending. In responding to complaints in the 70s,
18 psychological assessments and advice was sought from experts. This advice was relied on.
19 Commissioners, those experts and that advice was reputable at the time and sadly it has
20 now been shown that it was wrong.

21 Thirdly, Commissioners --

22 **CHAIR:** Before you go on to your third point, you make a very important observation about the
23 time it takes for disclosure and we've been talking across the -- amongst ourselves and
24 across the Inquiry -- roughly of 20 years, but this figure of 34.8 years is even
25 more -- I mean, three days is terrible, but 34 years is shocking. I wonder, given that, what
26 the Church, and you might not be able to answer this so maybe later, what the Church's
27 response is to that, because we all know and we've heard so much about the barriers to
28 reporting. So I'm just wondering if there's an institutional response from the Church to
29 break down those barriers to understand why it takes so long and what is being done about
30 it.

31 **MS McKECHNIE:** Chair, to draw some of the threads of the evidence together, my response
32 would be there's -- certainly there is a response and in many ways that figure itself
33 demonstrates that the barriers to disclosure are coming down, the barriers have persisted for

1 a long time, sadly for many people, but they are now coming down and the scale of people
2 who have approached Catholic entities since 2002 demonstrates that.

3 **CHAIR:** That would need some numbers, I would have, thought because it's the gap between the
4 date of the offence and the time of reporting; wouldn't it be interesting to know whether
5 that gap has changed?

6 **MS McKECHNIE:** Yes, ma'am, and you have that data and while I don't have it in front of me,
7 my memory of the data is that the gap is shrinking.

8 **CHAIR:** It's shrinking.

9 **MS McKECHNIE:** So it is not a consistent 34 years, it is more that from 2000, approximately, a
10 number of disclosures have been made and a significant number of disclosures for Catholic
11 entities, ma'am, are from the 1960s and the 1970s and a number from the 1950s. There
12 have been considerably fewer disclosures in more recent years.

13 Now, we don't know, of course, whether they themselves will come forward in the
14 future.

15 **CHAIR:** That's my point, Ms McKechnie, that's my point.

16 **MS McKECHNIE:** Yes, ma'am.

17 **CHAIR:** And I think we would be very interested to know what steps the Church is taking to
18 make sure it doesn't take 34 years for a child who is abused today to reveal that abuse,
19 because we know the harm that's caused by that. So I'm just raising that for you.

20 **MS McKECHNIE:** And Ma'am, I'd refer you to the evidence filed by Ms Noonan and by
21 Dr Flanagan in this hearing which emphasises that, and the records do show that -- from my
22 memory, the records do show that the disclosure times now are coming down and they're
23 much shorter, but of course we cannot speak to those disclosures that have not been made.

24 So the Church is preparing and undertaking work in anticipation that they may be
25 there, but such statistics we have do show that those periods are coming down.

26 **CHAIR:** All right. Thank you.

27 **MS McKECHNIE:** There are a number of records, ma'am, where the disclosure times were very,
28 very long, and those impacting statistically on the total, men who have come forward in
29 their 70s about harm that happened before they were 10 in children's homes.

30 **CHAIR:** Yes.

31 **MS McKECHNIE:** Which is, of course, tragic.

32 So returning to my submissions, Commissioners, the third theme, of course, is the
33 response and the redress response to these disclosures, made at the time in the context of
34 safeguarding and historically responding to the historic claims.

1 Commissioners, what the history of the Catholic faith in New Zealand shows is that
2 this has been a process underway since 1993. There is a chronology on the back of the
3 submissions, Commissioners, for yourselves and for those who want to see it watching, that
4 sets out the key events in creating Te Houhanga Rongo, A Path to Healing.

5 Catholics entities in Aotearoa were amongst the first Catholic entities around the
6 world to create such a protocol and they also adopted A Path to Healing many years before
7 other faith communities in New Zealand adopted a similar approach. And Commissioners,
8 uniquely in the Catholic context worldwide, here it was adopted by the Bishops and the
9 Congregational Leaders together as a collective response. As far as we know, this is the
10 only country where the Catholic Church has responded in this way.

11 Since the chronology set out in the back of the documents, Commissioners, as you
12 heard from me in opening, reports of statistical information have also been released. They
13 are also attached to the back of these submissions, Commissioners, so they are publicly
14 available both here and on the website which is referred to in the footnotes.

15 Where are we today? Commissioners, I would highlight two key elements of the
16 Catholic faith and the Catholic community's situation in New Zealand as at 2022. And this,
17 of course, has been informed and responds to the work and engagement that we have had
18 with your Commission.

19 First, the standards for creating and maintaining a safeguarding culture which were
20 adopted by Catholic entities in 2019 and revised in 2020. This was covered in some length
21 in Dr Paul Flanagan's evidence and for those who are interested, like all the evidence, that
22 will be available on the Commission's website.

23 Secondly, Commissioners, the road map following the release of your interim
24 redress report and the experience of the Maryland's hearing, the Bishops and
25 Congregational Leaders have agreed a series of actions that will give effect to your
26 recommendations while we wait for you to finish your current processes and for the
27 Government to finalise its responses.

28 That was agreed in February of this year and has been published as a road map,
29 again publicly, so that people know both within the community and those watching from
30 outside what has been committed to and the progress that is being made.

31 These actions focus on reviewing structures, reducing barriers to disclosures of
32 harm, ma'am, to pick up your question from earlier, and improving processes to be more
33 survivor-informed.

1 Commissioners, you have heard from a number of faith groups this week and
2 perhaps for the Catholic Church more than the others, this is happening and the changes in
3 New Zealand against the background of a global church. The Catholic Church in
4 New Zealand has at times and in many cases been innovative, they have deliberately
5 chosen to come together for this hearing and in other contexts in one voice. That, as I say,
6 is unusual.

7 In Aotearoa women in the Church have long been changemakers in society.
8 Women congregational leaders are in leadership positions elected by their own
9 communities and through the Mixed Commission engage with Bishops and male
10 congregational leaders as equals.

11 But, Commissioners, it has to be acknowledged that as members of a global church
12 and subject to Canon Law, change for Catholic entities in Aotearoa is interdependent on
13 change in the global church. That global change is much slower, and can be less
14 innovative. Fundamental structures of the Catholic Church as outlined in Canon Law
15 cannot be changed or easily adapted by the Bishops, Congregational Leaders or Mixed
16 Commission in New Zealand.

17 **CHAIR:** So perhaps that's a subject for a conversation in the synod that's been called by Pope
18 Francis?

19 **MS McKECHNIE:** Yes, ma'am. And as part of global comments by organisations like
20 yourselves calling for issues to be considered.

21 **CHAIR:** Yes.

22 **MS McKECHNIE:** Commissioners, I intend to spend the balance of my closings highlighting
23 some tensions and challenges. There are seven that I will briefly canvass that the Catholic
24 Church feels very deeply and has experienced in its journey and request that you engage
25 with them in your report.

26 We anticipate that you will have identified these but I wish to highlight them now in
27 closing because the Church has not found simple answers to these questions. We anticipate
28 there are no simple answers and we would invite the resources and expertise that the
29 Commission has engaged with to give us your guidance and views in these matters.

30 First, Commissioners, and I realise, Commissioner Alofivae, this is particularly a
31 concern for you, respecting ethnic communities and cultures in the Church in Aotearoa
32 New Zealand.

33 Commissioners, one of the big challenges in respecting the ethnic communities and
34 cultures within the Catholic Church is how to address issues which we also recognise are

1 barriers to disclosure of harm. There are a number, a significant number of different ethnic
2 groups in the Catholic faith in New Zealand. These groups all have deep cultural and
3 ethnic routes to the religious expression of their Catholic faith and those are rich and vital.

4 But one of the challenges this presents, Commissioners, is how to address elements
5 of those cultures which are simultaneously barriers to reporting abuse, such as respect for
6 elders, for clericalism.

7 Catholic leaders have taken steps to reduce clericalism in several ways within the
8 Catholic Church in recent times and some communities have seen this as an attack on their
9 culture and on their faith. And this has resulted in a split in a number of communities. This
10 is a very difficult issue, Commissioners, for the Catholic leaders to know how to address
11 this.

12 Further work is being undertaken, of course. Culturally-informed safeguarding
13 training is being provided but these barriers to reporting abuse must be reduced in all
14 communities, including ethnic communities which hold beliefs that create barriers.

15 It needs to be undertaken, my clients recognise, in a way that's respectful to the
16 communities and recognising their rights of self-determination and accordingly we would
17 invite your thoughts and guidance on how these matters can be best addressed.

18 **COMMISSIONER ERUETI:** I could, Ms McKechnie, make one suggestion now. I do wonder
19 whether, just following from the discussion that we had earlier with the Anglican leaders
20 about deep reflection upon underlying values of the faith, but also addressing issues of
21 leadership and governance, and when they last came here, the Archbishops, we talked about
22 the divisions within the Church and the inequality between the Māori Diocese and the
23 Pasifika Diocese and the general diocese and they have embarked upon this journey, as
24 they described, of trying to rectify that.

25 And so if you're seeking suggestions from us, I think that is a good place to start,
26 not only with Māori but also with Pasifika communities and other minorities too. For them
27 to see themselves reflected in the governance structures, membership of boards and so
28 forth, would go a long way towards understanding these issues, stepping inside the culture
29 of another is one way of putting it. I think Reverend Richardson described it earlier today.

30 So I just make that comment because in your closing submissions I note there's no
31 reference to this kaupapa, but it's obviously something that's very important across all the
32 faiths, so I just wanted to relay that.

33 **MS McKECHNIE:** Yes, thank you, Commissioner, and it certainly has been very important in
34 the history of the Catholic faith in New Zealand, as you know, and there is representation

1 and certainly there's a work in progress. I anticipate that my clients will need -- will be
2 looking for more transformational change in that regard.

3 **COMMISSIONER ALOFIVAE:** Ms McKechnie, if I might just comment, we hear you and we
4 fully appreciate those barriers. Some of the most thriving youth groups are actually in your
5 Catholic Pasifika parishes. But across the faiths I think one of the things that we are
6 certainly sensing as a commission is that there's a real drive for a baton change, from the
7 elders to the younger, to kind of drive the social change. And we've been canvassing it
8 with the Methodists earlier on this week, again with the Anglicans and, of course, with the
9 Catholics.

10 So I think it's 2022 going forward, it's a timely discussion for your communities.
11 And I think they're actually open to it, I think there's a maturity that's happening that they
12 just need to be empowered to actually get on and have some of those hard discussions.
13 Because sometimes -- the change has to come from within the parishes as opposed to it
14 being imposed. Certainly we can make some very big and bold comments, but I would like
15 to think that there are many faith-based communities, not just Catholics, where the younger
16 people are seeking the baton change from their elders. Malo.

17 **MS McKECHNIE:** To move to the second theme, and this is one of transparency, and certainly
18 the Catholic entities recognise that transparency is an essential element to the response, but
19 there are particular elements within that that we invite your engagement with, please,
20 Commissioners.

21 A transparent church means a number of things, and, first, I'll touch on records and
22 data collection.

23 The Catholic Church holds extensive records. We cannot know, of course, what
24 was never written down, but much was written down and much is retained. But there are
25 complexities and difficulties in the current law in New Zealand about how those records
26 should be managed, particularly for non-State actors who are not subject to the archives
27 legislation and Public Records Act.

28 Now, one of those, of course, comes from the Privacy Act, and there are significant
29 issues for Catholic entities about how to share data amongst themselves, because for the
30 Privacy Act's purposes they are independent legal entities, how to provide documents to
31 survivors who seek them -- or anyone who seeks their records, when those records are often
32 also filled with the personal details of others, their siblings, their parents, other individuals.

1 How that can all be done -- at the moment, Commissioners, as you'll know, it's
2 difficult to do under the Privacy Act but looking for transformative change, how that can be
3 done ensuring people's legal rights.

4 Tautoko is engaging with the Crown Response Unit in this regard but we would
5 welcome any comments you had, particularly for the older records that Church entities hold
6 because we don't have the same structures that the State has in relation to those older
7 records.

8 Secondly, publication of information.

9 **CHAIR:** Just to ask, is that in relation to sharing files with survivors of their private information?

10 Is that really what you're addressing here?

11 **MS McKECHNIE:** Two themes, ma'am. Firstly, the sharing of information with each other.

12 From a safeguarding perspective there, are complexities because --

13 **CHAIR:** Across different entities within the Catholic Church?

14 **MS McKECHNIE:** Indeed, and across schools and other structures. And, secondly, yes, ma'am,
15 the historic records issues because, as you will have seen from the thousands of pages of
16 these records you hold, they're typically recorded in family groups. And so a single page
17 may have the information of four or five children and particularly in Catholic families,
18 ma'am, you'll anticipate probably more than four or five children.

19 **CHAIR:** Probably more. And this is a problem that the State has as well, of course, and we've
20 had many anguished cries from survivors who say, "I asked for my records and of 20 pages
21 10 were completely blacked out, or large chunks, and it's that same reason, other people
22 being -- so it's certainly a live and an important issue.

23 **MS McKECHNIE:** The third element, though, ma'am, is also the records of the institutions that
24 are not personal records. So in the context of State institutions, they are governed by
25 legislation.

26 **CHAIR:** Yes.

27 **MS McKECHNIE:** But for private institutions --

28 **CHAIR:** The Archives Act and things like.

29 **MS McKECHNIE:** -- records that -- records that are not personal records, should they be kept, for
30 how long, and in what format, and who's responsible for those records.

31 **CHAIR:** Well, if you've got some suggestions for perhaps proposed legislative change, or other,
32 we'd be very interested to hear about that once you get to the heart of the matter. We would
33 look forward to any assistance on that from you, because it is an important issue.

1 **MS McKECHNIE:** Next, ma'am, Commissioners, is the question of mandatory reporting.

2 Mandatory reporting has been discussed a number of times in this hearing and indeed this
3 afternoon. But on the issue of mandatory reporting to Police, particularly mandatory
4 reporting of complaints by adults where they have not consented to the mandatory
5 reporting, there is a range of views that you've heard from Catholic witnesses in this
6 hearing.

7 Father Tim was in favour of it; Sister Sue, who has great experience in this area,
8 recognises that there are serious pitfalls and problems that can come from it.

9 There is an important issue of consent for an adult in making a disclosure if they do
10 not wish to go to the Police. And Church entities are very aware that there is also a range
11 of views amongst survivors about whether this is appropriate.

12 There is, of course, a limited degree of a type of mandatory reporting at the
13 moment, and I've set that out in the submissions, in part to provide comfort for those who
14 are reading to know that there is a form of this with regards to children but, Commissioners,
15 there is clearly a question about whether that should be expanded, whether it should be
16 completely mandatory, and whether it should include disclosures by adults.

17 The Church, under Vos Estis, does have a form of mandatory reporting and that it
18 has both pluses and minuses, Commissioners, so we recognise these are challenging issues.

19 Related to that, the fourth complex area, confidential disclosures. Again, these were
20 explored with some of the witnesses on Monday.

21 Here, Commissioners, there is clearly a need to maintain the trust of survivors and
22 respect their wishes to keep a disclosure confidential. On the other hand, there are clear
23 safeguarding issues and now Canon Law obligations to act on disclosures and for those
24 where the individual is still alive, there are necessarily natural justice issues as well.

25 Vos Estis requirements have been welcomed by church leaders, Commissioners.
26 This, again, for those who aren't intimately familiar with the Latin, is the new directive,
27 relatively new directive from the Vatican in relation to mandatory disclosure and reporting
28 within Church processes. But already, Commissioners, we have seen that this can make it
29 difficult for Church leaders to participate in some processes. For example, attending a
30 restorative justice wānanga where there is a real possibility that new disclosures may be
31 made, Church leaders are concerned that their attendance may have an effect where
32 survivors don't want to disclose because to do so, the Church is then required by its own
33 processes to take steps.

1 We, again, would welcome further consideration from the Inquiry in relation to this
2 inherent tension of respecting a survivor's wishes and being able to act on what they have
3 disclosed.

4 Commissioners, that brings me to the fifth issue, and that is reporting to Police. As
5 addressed in the evidence from the Catholic entities this week, and the other faiths, and I'm
6 sure you have heard this many, many times in private sessions, there is a reluctance by
7 survivors to go to the Police.

8 Commissioners, Catholic entities consider the Police are best placed to investigate
9 complaints of criminal activity, sexual or physical. They have the independence, resources,
10 investigative skills, victim support and ultimately the power to charge offenders that the
11 Church does not have. Where survivors choose to report now, Church entities cooperate
12 with those processes. Indeed, many of the documents you hold are from those kind of
13 investigative processes that the Church entities have participated in. But it's clear,
14 Commissioners, from my client's own engagement, and I'm sure from yours, that many
15 survivors are reluctant to approach the Police. We understand from those discussions that
16 they find it re-traumatising and disconnected and that there can be extensive delays in the
17 prosecutions. And, Commissioners, we would invite you to encourage a review of the
18 justice system in how it responds to reports by survivors and supports victims so that more
19 victims feel they can approach the Police.

20 The goal must be, and the Church strongly supports this, Commissioners, greater
21 accountability for offenders and ultimately a safer society.

22 And, Commissioners, at 67 I've set out some questions that we would invite your
23 views on: Who should report to Police? When and how should reports of abuse be
24 reported? What information should be shared between Police and Catholic entities? And
25 when should that information be shared? As you will have heard on Monday, Catholic
26 entities are not told at present, and perhaps should not be told, but are not told at present
27 when somebody is convicted who the victim was so no support can be offered and the
28 details are not disclosed from a safeguarding perspective.

29 And the final question is: When should the professional standards and redress
30 processes stop when the Police are investigating?

31 **CHAIR:** I'd like to reframe that. I mean, that's obviously a question, but I would have thought the
32 major question is there: How can a survivor be safeguarded in the Church processes while
33 the Police investigation is underway? In other words, survivors and other vulnerable
34 people who might be at risk from the alleged offender. For me, that's a very important

1 question which is one that the Church can answer for itself. What steps do we take why the
2 Police -- I mean, obviously, there's issues about process and what not, that's one issue, but I
3 think for the Commission the issue is, how do, when a person is brave enough to come
4 forward, how are they looked after by the Church?

5 And in that regard it will be no surprise for you to know that survivors are and have
6 been appalled at the sums of money paid out to, not just by this Church, but to others, in the
7 defence of people who are alleged to have abused children and other people inside their
8 churches. I think that's something where churches should take a hard look at themselves
9 about where their priorities truly lie in this area.

10 That's just by way of a comment, which I will leave with you and for your clients to
11 consider.

12 **MS McKECHNIE:** Thank you, ma'am.

13 **CHAIR:** And the other faith-based institutions, I might add.

14 **MS McKECHNIE:** And we would certainly encourage greater information sharing between the
15 Police to the extent they can. In some instances Church entities are not aware of who has
16 approached the Police. There is no way of caring for or safeguarding that victim, and no
17 way of knowing whether they wish us to do so when they're undertaking that process,
18 ma'am. There are many paths and the Catholic entities, all faith entities only see a small
19 part of that path in the context of the criminal justice process.

20 Commissioners, survivor agency over redress outcomes is also of vital importance.
21 Catholic leaders recognise the critical importance of taking a survivor-focused approach to
22 redress processes and to outcomes. This requires respecting the individuals -- the wishes of
23 each individual survivor but that necessarily can create a tension of fairness or perceptions
24 of fairness between individuals about what they -- how they have been treated by the
25 Church and that is an inherent tension in wanting to respond, as my clients feel they should,
26 to the wishes of the individual who is coming before them.

27 Commissioners, Catholic leaders are concerned that the independent redress body
28 may lose the opportunity for the Catholic Church and the survivor to reset their relationship
29 in a restorative manner and, Commissioner Erueti, my clients were buoyed to hear your
30 comment before that the Commission is intending to give more thought to those elements
31 of the redress scheme, and I think that guidance will be helpful.

32 You will have heard much evidence this week, not just from Catholic entities, about
33 the significance of that relationship for those who wish it, and they of course acknowledge

1 that there are many survivors who may not wish a relationship with the Church but for
2 those who do it's a vital element of holistic healing.

3 **COMMISSIONER ERUETI:** I'll just note on that that we do talk about that in the report, about
4 the possibility of maintaining, providing pastoral support or an apology, say, should
5 survivors wish it. So yes, so this is a matter that's addressed in the report, Ms McKechnie,
6 of course.

7 **MS McKECHNIE:** Yes, of course, Commissioner, it's a very rich issue though, as you've heard
8 from the evidence this week and a concern to the faith communities in particular.

9 Commissioner, I've also touched briefly on some immigration issues which you
10 heard -- well, you didn't hear, you were intended to hear evidence about but certainly
11 evidence has been filed.

12 **CHAIR:** And we will be considering those matters, so it's good to hear from you on that.

13 **MS McKECHNIE:** I will just make one comment in that regard, Commissioners. It's a request in
14 paragraph 85 and 86 of my submissions. There have been instances, which you have now
15 seen in the briefing paper we've provided, where a Bishop or Congregational Leader has
16 done everything within their powers to remove an immigrant Clergy or Religious from
17 New Zealand for safeguarding reasons and Immigration New Zealand has granted a visa for
18 that person to stay. Tautoko would like the Inquiry to recommend changes in this area so
19 where a person is directed to leave New Zealand by their Religious superior or authorising
20 entity this decision is weighted heavily by Immigration New Zealand in what, of course, we
21 knowledge is a State decision-making process.

22 There are individuals in New Zealand at the moment who are acting without
23 authority and are ministering contrary to the express direction of Bishops and will not stop
24 and will not leave and at present Catholic entities are powerless to stop them.

25 **CHAIR:** Is this related to abuse in care issues or is it a wider issue for you?

26 **MS McKECHNIE:** There is a particular individual, ma'am, that you have information about --

27 **CHAIR:** Yes.

28 **MS McKECHNIE:** -- you sought information for and we have provided it. There are
29 allegations --

30 **CHAIR:** But is it wider than that?

31 **MS McKECHNIE:** Particularly in this context.

32 **CHAIR:** Particular in that context, okay, thank you.

33 **MS McKECHNIE:** So to conclude, Commissioners, Tautoko has heard from the survivors the
34 call for further changes in its process and policies. When taking these decisions, the

1 Catholic community needs to openly and honestly consider what has happened and how
2 they will change.

3 Commissioner, to pick up on your comments before, this cannot come solely from
4 the top down, from the Bishops and Congregational Leaders. That might give the
5 appearance of quicker change, but to adopt this approach would and -- may, and in some
6 cases most certainly would, exclude the voices of the lay, of women, tāngata whenua, other
7 ethnic groups in the Church, youth, disabled and rainbow communities. It is tempting for a
8 top-down solution, but for transformative change it needs to be deliberative and it needs to
9 be thoughtful. It must be the Catholic communities, to your point before, which I would
10 tautoko completely, to determine the pathways and the support and guidance. With support
11 and guidance from the leaders of the faith, of course, but with wider accountability.

12 So to conclude, Commissioners, much work has been done and Catholic leaders
13 acknowledge that this journey still has a long way to go. If trust is to be regained Catholic
14 leaders in their communities know things much change and continue to evolve. Trust has
15 been lost and relationships need restoration and this will take time and much more is
16 needed than tweaks to protocols and policies.

17 Tautoko, the name that my client was gifted by the rūnanga, means to support, and
18 Te Rōpū Tautoko on behalf of the Bishops and Congregational Leaders see the closing of
19 this hearing and these final comments to you not as an ending but as another starting point
20 or milestone as the Church continues its journey. Together New Zealand communities are
21 building a new road for us all to walk on together.

22 And Commissioners, my clients have asked that the final voice in this hearing is not
23 a lawyer's, it's not appropriate that I should have the final comments, and that it should be a
24 voice from the Catholic community, and so with your leave, Sister Sue France will make a
25 closing comment.

26 **CHAIR:** Thank you very much. And --

27 **SISTER FRANCE:** Yes?

28 **CHAIR:** We only have about three minutes, so is that long enough for you, Sister France?

29 **SISTER FRANCE:** Plenty.

30 **CHAIR:** Thank you.

31 **SISTER FRANCE:** E ngā mana, e ngā reo, e ngā iwi, tēnā koutou katoa. (To the authorities, the
32 speakers and the people, I greet you all). Madam Chair and Commissioners, on behalf of
33 the Congregational Leaders of the Catholic Church I thank you for the opportunity to

1 participate in this hearing and in the Inquiry. It is a humbling experience to stand here as a
2 Congregation Leader, knowing what our history has been, how far we have to go still.

3 I wish to acknowledge, above all, the survivors, your whānau and your networks of
4 support. Listening to the content of the hearing in the past week and in other hearings will
5 have evoked many responses as will have other ways you have engaged in the Inquiry.
6 I acknowledge your courage and commitment, often at personal cost to you and your
7 whānau.

8 I and other leaders in the Church have learned much over the course of this Inquiry.
9 We acknowledge that our journey is far from over. We are committed to walking with you
10 if you wish. We are committed to continuing to build a safe Church where all feel and are
11 welcome. Nō reira, tēnā koutou, tēnā koutou, tēnā tātou katoa (with this I acknowledge
12 everyone present).

13 **CHAIR:** Tēnā koe, Sister France.

14 On that note, Ms McKechnie, may I thank you and your team for being with us
15 through this very long journey, there was a lot of talk about journeys today, but I believe
16 you were there perhaps at the contextual hearing -- you were? -- which is one of our first
17 hearings and on the way through and I acknowledge that and the work and the efforts that
18 you've been put to by our lots of requests and all I can say is that your effort and those of
19 your team have not been in vain. Every question was asked for a good reason and every
20 piece of information we have received will be put to good use and so it's appreciated that
21 we have received them. So thank you very much indeed.

22 Thank you to everybody today. We're going to end, I hope we have a kaikarakia,
23 I'm just looking, hoping, and some will be praying. Here he is, look at that. Tēnā koe
24 matua.

25 **KAUMATUA NGĀTI WHĀTUA:** (Inaudible) ngā waiata.

26 **CHAIR:** Oh my god, ngā manu te oriori.

27 **KAUMATUA NGĀTI WHĀTUA:** Engari te rangatira, (inaudible).

28 **CHAIR:** Nau mai hoki mai ki a koutou katoa Ngāti Whātua. Papa Tem, kia ora. (Welcome back
29 to all of you Ngāti Whātua. Thank you, Papa Tem).

30 **KAUMATUA NGĀTI WHĀTUA:** Kia ora mai anō tātou. Whakarongo ake ahau ki te tangi a te
31 manu nei, a tūi. Tuia i runga, tuia i raro, tuia i roto, tuia i waho, tuia i te muka here tangata,
32 karanga te ao, karanga te pō, te pō uriuri, te pō nakonako, me te rerenga wairua hoki,
33 wairua o tātou tēnei whare, wairua o tātou tēnei marae. Ngā kotahitanga me te wairua, ki a
34 koutou katoa. (Once again I greet all present. I listen to the call of the bird, tūi. Weaving

1 above, below, within and without intertwining the rope of mankind, calling to the day and
2 the night, the intense night, the dark night, and the realm of spirit, to the spirit of this
3 dwelling and of its hospitality. May the fellowship of spirit be with you all.)

4 We listen to the shrill sound of the tui, the beautiful noise that it creates in its
5 singing. Brings in love, brings in wairua and today we have it here in this whare amongst
6 us, so that we share, we share the burden, we share the aroha that we come together as one
7 under the mantle of a the pare back there and the mana of the taumata of our
8 Commissioners and the kotahitanga of all of us here and to all our survivors who have
9 come here today. We are here for one and all. Mō tātou tēnei hīmene. We're going to sing
10 our hīmene Kia Tau ki a Tātou Katoa. I've brought my songbirds along with me and if you
11 can sing better than them, I'll take you with me back to the marae. So, kia kaha mai te
12 aroha, me tīmata. (Waiata Kia Tau Ki a Tātou).

13 **Hearing adjourned at 5.24 pm to Friday, 21 October 2022 at 9 am**