

Under the Inquiries Act 2013
In the matter of the Royal Commission into Historical Abuse in State Care and in the Care of Faith-based Institutions

Ministry of Social Development: Brief of Evidence of Barry John Fisk for Institutional Response Hearing

8 August 2022

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Brief of evidence of Barry John Fisk

I, **Barry John Fisk** of Wellington, General Manager of Te Kāhui Kāhu state:

1 Introduction

- 1.1 I am the General Manager of Te Kāhui Kāhu at the Ministry of Social Development (**Ministry**), a role I have held since 26 July 2018.
- 1.2 In this role, I am responsible for the strategic oversight and management of the social services accreditation function. Responsibilities for this role include providing government and communities with the independent assurance that social sector providers have the capacity to deliver safe, quality services to New Zealanders. We do this by working with approximately 2,000 social service providers to ensure they meet appropriate Accreditation Standards.
- 1.3 Prior to becoming the General Manager of Te Kāhui Kāhu, I held a number of different roles in the Ministry and its predecessor agencies.
- 1.4 I joined the Ministry in 1976 as a cadet and have worked mostly in corporate focused roles, although I have worked closely with people in the care and protection function when that has been part of the Ministry over the years. Key roles I have held are:
 - (a) Assistant Director Corporate Services for Manukau District. There were three Assistant Directors, one for Social Work and another for Benefits and Pensions. As part of the role of Assistant Director Corporate Services, I was responsible for paying board to foster parents and family home foster parents, approving the purchase of clothing for children in care and the refurbishment and management of the assets in family homes;
 - (b) Regional Executive Officer, South West Auckland Region. In this role I was responsible for the management and oversight of Corporate Services for the South West Auckland Region, including Human Resources, Property, Information Technology and Finance; and
 - (c) Regional Commissioner for Social Development, Auckland. In this role I was responsible for the efficient response to and quality of services provided to all beneficiaries/superannuitants, and placing unemployed people into work. My span of control covered services over 18 locations and 500 staff.
- 1.5 I have also held a variety of corporate roles in the Ministry's Service Delivery (Work and Income) service line, which held no specific responsibilities or association with care and protection services.
- 1.6 To the extent I was not involved in an event referred to in this brief of evidence I have relied on the relevant material held by the Ministry. In particular, I note that much of the discussion of events prior to 26 July 2018 relates to previous iterations of the accreditation function, prior to me becoming the General Manager of Te Kāhui Kāhu. Therefore, I may have limitations as to the extent of my knowledge about historical matters dating back to the 1950s. Further,

information regarding particular cases will be held on the individual case files which are not under the control of Te Kāhui Kāhu.

2 The Ministry's position statement

- 2.1 The Ministry wishes to make overarching comments about the accreditation system.
- 2.2 I would like to begin by acknowledging the work of the Royal Commission (the **Commission**), and in particular, the survivors who have come forward to share their experiences.
- 2.3 It is a privilege to lead a unit that can provide an independent assessment of the suitability of providers to deliver safe quality services. New Zealanders have a reasonable expectation that when they access services funded by the Government, that these services have met standards that give them confidence to use them. The assessments we complete can cover the breadth of the social sector where a provider (legal entity) who holds multiple contracts for different services across multiple agencies obtains one accreditation. This provides transparency for the Government and communities, and places the organisation (Te Kāhui Kāhu) in a unique position of having a 'whole of system' view.
- 2.4 The process of accreditation is completed on a regular review cycle, based on risk. This means that at the time an organisation is accredited, it is judged to be fit for purpose and appropriate for the services it offers. It does not mean that accreditation monitors the quality and performance of services. This is the responsibility of the ministries or departments who contract for those services.
- 2.5 It is my hope that our work to continue to refine, modernise and introduce te ao Māori in our approach to accreditation will lead to improved outcomes for all whānau, families, individuals and communities, especially Māori.

3 Scope of evidence

- 3.1 I understand that the Commission has recently identified that the focus of the Ministry's evidence is to be the accreditation of care providers, as well as the role of the Independent Children's Monitor (**ICM**).
- 3.2 My evidence will be focused on accreditation issues.
- 3.3 The Ministry has provided the Commission with information relevant to accreditation, as follows:
 - (a) The Ministry's response to NTP 418 dated 10 June 2022 (**NTP 418 Response**). The Ministry addresses issues relating to accreditation processes for third party providers at paragraphs 6 and 7 of the NTP 418 Response.
 - (b) On 9 July 2021, the Ministry provided the Commission with documentation and information about Te Kāhui Kāhu (then Social Services Accreditation) in response to Notice to Produce No. 14.

4 Limitations

- 4.1 Oranga Tamariki – Ministry for Children (**Oranga Tamariki**) was established as a new Ministry on 1 April 2017. Functions now carried out by Oranga Tamariki were previously carried out by the Ministry and by other predecessor agencies prior to that.
- 4.2 I will address the history of Te Kāhui Kāhu. At the outset, I note that the sub-delegation formally assigned to Te Kāhui Kāhu under the Oranga Tamariki Act 1989 (**Oranga Tamariki Act**) for approval of care providers under section 396 of that Act ended on 30 June 2021.¹ From 1 July 2021, an application for approval as a new care partner must be submitted directly to Oranga Tamariki before level 1 accreditation can be assessed by Te Kāhui Kāhu against the Social Sector Accreditation Standards (**SSAS**). This means that prior to 1 July 2021, the Ministry’s approval function included sections 396 to section 402 of the Oranga Tamariki Act. Following this date, most of these delegations transferred to Oranga Tamariki, meaning that Te Kāhui Kāhu no longer have a role in the approving (or revoking the approval of) section 396 providers.

5 Accreditation

- 5.1 Before addressing the role of Te Kāhui Kāhu (which provides a social services accreditation function), I wish to comment on the history of Te Kāhui Kāhu, the scope of its role, its approach to improvements, and its future direction.

Overview of how the accreditation system has changed and evolved

- 5.2 Changes to the system of accreditation have occurred because the Ministry’s role and function of accreditation has increased since 2015.
- 5.3 The Ministry’s current accreditation function has evolved from approving and accrediting third party providers on behalf of the Ministry and Oranga Tamariki to accrediting on behalf of six government agencies through individual service level agreements:
- (a) the Ministry of Pacific Peoples;
 - (b) Ministry of Housing and Urban Development;
 - (c) Ministry of Justice;
 - (d) Department of Corrections;
 - (e) the Ministry of Social Development; and
 - (f) Oranga Tamariki.
- 5.4 Many of these six agencies share providers and therefore a single accreditation can be provided over multiple agencies across the social sector.

¹ I will refer to providers approved under section 396 of the Oranga Tamariki Act 1989 as “section 396 providers”.

- 5.5 The Ministry now approves providers under Part 8 of the Oranga Tamariki Act 1989 under specific delegation from the Chief Executive of Oranga Tamariki.
- 5.6 Since 2015, Te Kāhui Kāhu has accredited the following providers:
- (a) Out of School Care providers (under Regulation 45 of the Social Security Regulations 2018, on the Ministry's behalf).
 - (b) Intercountry adoption service providers under the Adoption (Intercountry) Act 1997 and the associated Adoption (Intercountry) Regulations 1998. This Act requires the exchange of information between the "Central Authority" (Oranga Tamariki is the Central Authority for New Zealand) of each partnership country, who must be satisfied that the adoption is in the best interests of the child. Sections 15 to 19 and 22 of this Act sets out the powers and functions the chief executive of Oranga Tamariki has to accredit an intercountry adoption provider. These powers and functions have been delegated to Te Kāhui Kāhu. To become an accredited body, organisations providing Intercountry Adoption Services are assessed by Te Kāhui Kāhu against the Social Sector Accreditation Standards at Level 2 and the Adoptions (Intercountry) Specialist Standard.
- 5.7 Since 2018, Te Kāhui Kāhu has developed further, including in the following respects.
- (a) Providing:
 - (i) secretariat support for Core Worker Exemption (on behalf of Oranga Tamariki);
 - (ii) Pay Equity Oversight (on behalf of the Ministry); and
 - (iii) investigation and compliance function for unregistered social workers (on behalf of the Ministry).
 - (b) Building the capacity for specific Māori/ Pasifika providers to become accredited (on behalf of the Ministry).
 - (c) Reorganising around a provider-centric operating model allocating work as a single portfolio, establishing a Board that the General Manager reports to, charging fees for services provided to the six contracting agencies.
 - (d) Providing training in relation to the principles of te Tiriti o Waitangi | the Treaty of Waitangi and improvement of cultural competence for all staff.
 - (e) The introduction of provider satisfaction surveys to determine the quality of the interaction with the provider in how Te Kāhui Kāhu completed their assessment.
 - (f) Providing regulatory training for all staff to gain the New Zealand Certificate in Regulatory Compliance.

History of accreditation

- 5.8 In the period before 1999, the Social Services Accreditation function (known as the Community Funding Agency) sat within the Department of Social Welfare, a predecessor statutory child protection agency. The approvals function was created in 1992 to specifically administer the approvals delegations under several pieces of legislation, including the approval of iwi social services, cultural social services, and child and family support services under section 396 of the then Children, Young Persons and Their Families Act 1989 (**CYPF Act**).
- 5.9 The approvals function relating to section 396 of the Oranga Tamariki Act 1989 has only existed since 1989. The function itself was not initially a separate entity but was part of the contracting function within Child, Youth and Family. This function ultimately was separated and located into the Community Funding Agency. An independent view of whether a provider should be approved under section 396 did not exist until the function was transferred to Te Kāhui Kāhu.
- 5.10 Accreditation covers a broader view of assurance and acknowledges that an individual provider may deliver services for a range of contracting agencies, which may also include Oranga Tamariki. For example, a provider (including a section 396 provider) may also deliver family and sexual violence services funded by the Ministry and Ministry of Justice, transitional housing on behalf of the Ministry of Housing and Urban Development, employment services on the behalf of the Ministry, and services not accredited by Te Kāhui Kāhu (e.g. health services). Te Kāhui Kāhu accredits the legal entity, noting the service the accreditation includes.
- 5.11 I **attach as Tab A**, a chronology of the history of accreditation dating back to the 1970s, up to the establishment of Te Kāhui Kāhu in August 2021. The key points of this history are the following.
- 5.12 In the period 1992-1999, the approval as a section 396 provider was primarily based within the funding agreements between the provider and Community Funding Agency.
- 5.13 Following the introduction of the CYPF Act, approval was against New Zealand Community Funding Agency standards under section 396. These standards included intake, placement, quality of care, personnel and management. They were replaced in 2000 by Standards for Approval for Child and Family Support Services and Community Services under section 396(3) and section 403(1) of the CYPF Act, and a new information management system was introduced.
- 5.14 In 2002, the separation of the contracting function and approvals (accreditation) function occurred whilst still part of Child, Youth and Family. This supported enhanced independence of the accreditation function.
- 5.15 In 2006, Child, Youth and Family was amalgamated into the Ministry as a business unit.
- 5.16 In 2014, the Child, Youth and Family approvals function was transferred into the new Ministry Community Investment business group to undertake accreditation for all Child, Youth and Family providers and Out of School Care and Recreation (**OSCAR**) providers funded by the Ministry.

5.17 In 2015, the Government of the time wanted to reduce compliance it placed on organisations in the social sector and recognised that a consistent set of accreditation standards would help to achieve this. Agencies across government took existing Ministry standards and worked together to adjust them, agreeing on ten SSAS and a set of specialist standards to accompany the core standards. These standards have been used to assess organisations since April 2016, and are still in use today. I attach a copy of the SSAS at **Tab B** which contain ten standards topics:

- (i) Client-centred services;
- (ii) Community Wellbeing;
- (iii) Cultural competence;
- (iv) Staffing;
- (v) Health and Safety;
- (vi) Governance and Management Structure and Systems;
- (vii) Financial Management and Systems;
- (viii) Resolution of Complaints related to service provision;
- (ix) Quality Improvement; and
- (x) Client Services and Programmes.

5.18 In 2017, Oranga Tamariki was established. The approvals function moved to the Ministry's Corporate Services, was renamed Social Services Accreditation (**SSA**), and expanded further to other government agencies (e.g. the Ministry of Justice and Department of Corrections).

5.19 On 30 June 2021, the sub-delegation formally assigned to SSA under the Oranga Tamariki Act 1989 for approval of care providers under section 396 ended, as outlined earlier in my evidence.

Te Kāhui Kāhu

5.20 In August 2021, the accreditation business unit was renamed as Te Kāhui Kāhu Social Services Accreditation.

5.21 Te Kāhui Kāhu is an independent accreditation service who report to a board of directors that has a representative from each funding agency (and is chaired by an independent person to ensure fairness and neutrality).

5.22 While it is an independent government business unit, it is a hosted service within the Ministry. This means that the Ministry provides Te Kāhui Kāhu with corporate services such as information technology systems, human resources, payroll and property.

5.23 The Ministry's accreditation process for assessing the suitability of third party providers is run by Te Kāhui Kāhu. Te Kāhui Kāhu is a social sector-wide accreditation body, funded by six government agencies (the Ministry, Oranga

Tamariki, Department of Corrections, Department of Housing and Urban Development and the Ministry for Pacific Peoples).

- 5.24 I **attach as Tab C**, a schedule identifying the delegated authorities which are the responsibility of Oranga Tamariki and those for which the Ministry is responsible, effective as at 1 July 2021.

Summary of the current accreditation process

- 5.25 Since July 2021, organisations providing care services are monitored by Oranga Tamariki through a set of National Care Standards. Additionally, Te Kāhui Kāhu reviews these providers against a set of core standards to ensure that the provider has systems and processes in place for those in care, and can be protected from physical, psychological, sexual abuse, and neglect. These are covered in a range of standards, specifically: Client-centred services; Community Wellbeing; Resolution of Complaints related to service provision; Quality Improvement and Client Services and Programmes.
- 5.26 Te Kāhui Kāhu assesses third party providers against specified accreditation standards within its accreditation framework. The framework has four levels of accreditation that are determined by the scope and risk of the services a provider is contracted to provide. The four levels of accreditation are as follows:
- (a) Level 1: High risk social services (care services for Oranga Tamariki).
 - (b) Level 2: High risk social and community services (family and sexual violence, counselling, reintegration, specialist programmes).
 - (c) Level 3: Medium risk social and community services (OSCAR programmes, early intervention programmes).
 - (d) Level 4: Low risk social and community services (job search and employment support programmes, non-contact adult support).
- 5.27 The decision about what level the provider must be accredited at is determined by Te Kāhui Kāhu and the contracting agency.
- 5.28 The level of accreditation that applies to a provider will determine the requirements that provider must meet to gain accreditation. As I have mentioned, to gain accreditation, a provider will be assessed against the SSAS which are the core standards that every provider must meet to be accredited. In addition to the core standards, specialist accreditation standards are applied to specific service types (specialist standards), including those approved under specified legislation and delegated to Te Kāhui Kāhu. In relation to care providers, this included a Specialist Care Standard (up to June 2021) and the Outdoor Pursuits and Camps specialist standard (still active, and attached as **Tab D**).
- 5.29 Approval through legislation (i.e. under section 396 of the Oranga Tamariki Act) still requires providers to demonstrate that they meet all applicable accreditation standards i.e. the SSAS and any relevant specialist standards. A provider's compliance with each of the applicable standards is assessed using all available evidence which is gathered and assessed by Te Kāhui Kāhu. This may involve an assessor from Te Kāhui Kāhu interviewing staff of the provider, reviewing relevant documentation (operational policies and procedures, audited

accounts, client files and staff files) and conducting site visits (as and where required).

- 5.30 After considering that material, a provider will be found by Te Kāhui Kāhu to either meet, or partially meet, or not meet each accreditation standard. If they partially meet or do not meet a standard, a corrective action will be raised by Te Kāhui Kāhu for the provider to remedy. If a provider cannot remedy their corrective action within the specified timeframe, suspension of their accreditation may be considered. New applications for accreditation, who do not meet the standards at the time of application are declined.

Māori as third party providers

- 5.31 Te Kāhui Kāhu does not determine whether third party providers identify as Māori or non-Māori. The contracting agency determines its provider identifiers and enters these identifiers into its funding and contracting information management system. This creates a placeholder which pre-populates the provider's details in the 'Resource Directory Approvals' (RDA), which is the information management system used to manage accreditation records. Te Kāhui Kāhu does not apply any additional criteria to determine whether a third-party provider is a Māori or non-Māori social services provider. However, Te Kāhui Kāhu may accredit an incorporated body established by its iwi to provide community services, applied at Levels 2 to 4 of the accreditation framework, where a specific mandate is given to a provider by its iwi to deliver community services.

Te Kahui Kahu's role with accredited providers

- 5.32 Once accredited, Te Kāhui Kāhu's ongoing role with providers is determined by the level of accreditation of the framework the provider has been assessed against (either Level 1, 2, 3 or 4). Given the focus of the Commission and its terms of reference relating to abuse in care, I will outline the accreditation requirements for a provider that has applied to provide care services to children under section 396 of the Oranga Tamariki Act 1989, requiring accreditation at Level 1.
- 5.33 Accreditation at Level 1 has the highest level of compliance that providers need to meet, and was relevant to Oranga Tamariki because of its direct relationship to the care of children as defined through the Act. This requires:
- (a) Assessment against 10 social sector accreditation standards (i.e. the SSAS);
 - (b) Assessment against the relevant specialist standard/s; and
 - (c) Visits at least every two years by Te Kāhui Kāhu for the purpose of confirming accreditation.
- 5.34 Once an organisation is accredited, they undergo regular re-assessments by Te Kāhui Kāhu to confirm that they are still meeting the relevant accreditation standards. The frequency of these reassessments depends on an organisation's accreditation level and the outcome of that provider's last assessment. The assessments are completed by Te Kāhui Kāhu at scheduled points in time and can be thought of as a 'Warrant of Fitness' for the organisation to operate safe,

quality services. However, the regular monitoring of the quality service provision is carried out by the Oranga Tamariki Contract Manager and the Oranga Tamariki Quality Assurance team, whose focus is the Oranga Tamariki National Care Standards. Neither the contract monitoring or application of the National Care Standards are delegated to Te Kāhui Kāhu.

- 5.35 Relevant to the role of Te Kāhui Kāhu, providers have obligations that they are required to meet in order to retain their accreditation, including:
- (a) continuing to meet the relevant accreditation standards;
 - (b) an obligation to advise Te Kāhui Kāhu about changes to their organisation that affect their organisation's accreditation (e.g. ownership, physical address, changes to services); and
 - (c) an obligation to advise Te Kāhui Kāhu if there is a serious incident involving a client or staff member.
- 5.36 Depending on the nature of updated information, this may result in an administrative update to Te Kāhui Kāhu's records, or a form of re-assessment against the accreditation standards. If the changes to the organisation mean that the provider no longer meets the accreditation standards, Te Kāhui Kāhu will give that provider advice on how to meet the standards.

Accreditation removal

- 5.37 Te Kāhui Kāhu can remove provider accreditation in three ways:
- (a) relinquishment (where the organisation can ask for their own accreditation to be removed);
 - (b) in circumstances where the organisation no longer meets the eligibility criteria for accreditation; or
 - (c) where issues or concerns have been raised about the organisation's accreditation.

6 Issues or concerns about providers

- 6.1 Where issues or concerns are raised about an organisation's accreditation, Te Kāhui Kāhu informs the relevant contracting agency responsible for the provider of the concerns.
- 6.2 Issues and concerns can be raised to Te Kāhui Kāhu by a formal complaint made directly to Te Kāhui Kāhu by a member of the public, a direct communication from the contracting agency, or in the process of completing an assessment (e.g. staff and client interviews/ observations).
- 6.3 The organisation's accreditation may be suspended if the issue or concern is not addressed. Accreditation may be revoked if there is further inaction by the provider. For an Accreditation Level 1, 2 or 3 provider, the revocation is published in the New Zealand Gazette (that includes Care services for Oranga Tamariki). Examples of when a revocation may occur include where unaddressed issues such as inappropriate staff supervision of children, inadequate staff

vetting, inadequate governance, non-resolution of critical actions or breaches of legislation.

Te Kāhui Kāhu's management of issues and complaints

- 6.4 Where an issue or complaint is made in relation to a provider, Te Kāhui Kāhu apply its Issues and Complaints and Management Policy 2019, attached as **Tab E**, which specifies that:
- (a) All issues and complaints relating to the provider's adherence to the SSAS will be taken seriously.
 - (b) Te Kāhui Kāhu can only respond to issues or complaints related to a provider's adherence to the SSAS.
 - (c) Te Kāhui Kāhu may become involved when the contracting agency has gathered information from all relevant sources and there is evidence to suggest that a provider may be in breach of the SSAS.
 - (d) If Te Kāhui Kāhu is responding to a high-risk issue of complaint, it will conduct an assessment when a statutory investigation has been completed (e.g. where an allegation of sexual abuse has been substantiated against a caregiver recruited by an organisation and a police prosecution was successful).
- 6.5 Prior to 2019 when a formal complaints and issues policy was developed, Te Kāhui Kāhu (Approvals) had undertaken a procedure that is close to what is currently adhered to presently. This procedure has now been formed into the policy document Complaints and Management Policy (2019).

7 Section 396 providers

- 7.1 I have reviewed the documents provided by the Commission in advance of the hearing. I understand that the Commission is interested to hear from the Ministry in relation to events at:
- (a) Moerangi Treks (subsequently known as Eastland Youth Rescue Trust); and
 - (b) Whakapakari.

Moerangi Treks (Eastland Youth Rescue Trust)

- 7.2 Based on the records available to me, I understand that the accreditation and subsequent suspension of Moerangi Treks occurred during the period that the Social Services Accreditation function (known as the Community Funding Agency) sat within the Department of Social Welfare.
- 7.3 I can confirm that Moerangi Treks was assessed and approved under section 396 of the CYPF Act 1989 as a Level One Standard for Approval; Child and Family Support Service on 25 August 1997.
- 7.4 I have reviewed the initial assessment for Moerangi Treks dated 25 August 1997 and it shows that Moerangi Treks was assessed and latterly approved against

the New Zealand Community Funding Agency Standards of the day. The report details a number of conclusions, including that it met the intake, assessment, placement and care standards. It operated in conjunction with Ngati Awa Social and Health Services, had provided care services for CYP&FS since July 1993, operates from a Māori perspective, and that all required management systems were in place. However it does not contain any requirements for improvements.

- 7.5 In the period from 25 August 1997 (date of approval) to 29 May 1998 (the date of suspension), I have seen no records that indicate whether children continued to be placed with Moerangi Treks. There were no required improvements or concerns at the time of the initial approval on 25 August 1997. However, there is no record available to me to confirm the position.
- 7.6 On 29 May 1998, the Chairperson of Moerangi Treks was informed that Moerangi Treks had been suspended under section 399 of the CYPF Act following an investigation finding substantial evidence to suggest that physical abuse was a regular occurrence at Moerangi Treks, and that the abuse was inflicted by staff members and other clients of the programme. The report into allegations of mistreatment at Moerangi Treks was not completed by Approvals within the NZCF Act, but by the Children, Young Persons and their Families Service.
- 7.7 In the period leading to their suspension, I can identify that the approval process for Moerangi Treks was completed prior to allegations of any abuse being made, and its eventual suspension in May 1998.

Whakapakari

- 7.8 Based on the records available to me, I understand that Approvals (the Community Funding Agency) completed assessments of Whakapakari in February 1999 and November 2001. I have not identified any documents that refer to any concerns or suspension from an approval perspective. My interpretation of the available records is that any suspension was the suspension of placements from Child, Youth and Family Service, as opposed to a suspension of the provider from an accreditation perspective.
- 7.9 It is not clear from available records whether revocation of the service was actioned.
- 7.10 In the period leading to their suspension, I can identify that the approval process for Whakapakari was completed prior to allegations of abuse being made, and any eventual suspension.

8 Concluding remarks

- 8.1 As General Manager of Te Kāhui Kāhu, I remain committed to learning from the experience of survivors and the work of the Commission in relation to accreditation matters.
- 8.2 What I have observed is that the level and depth of the approval under section 396 has iterated and strengthened since the CYPF Act came into force.
- 8.3 The role of Te Kāhui Kāhu (under delegation from the CEO of Oranga Tamariki) for section 396 concluded on the 30 June 2021.

- 8.4 Te Kāhui Kāhu continues its role in accrediting of section 402 of the CYPF Act, but also accredits all government ministries that contract with shared providers. There are multiple ministries monitoring services and, as appropriate, any matters of concern are investigated, thereby reducing risks to people accessing social services.
- 8.5 I thank the Commission for providing the opportunity for us to hear directly from survivors about their experiences in care.
- 8.6 I am available to answer any further questions that the Commission may have for me.

A handwritten signature in black ink, appearing to be 'B. Fisk', written over a light blue horizontal line.

Signed:
Barry John Fisk

Date: 8 August 2022