

## STATEMENT OF JAMES FREDERIC ALAN PACKER

### 1 Introduction

- 1.1 My name is James Frederic Alan Packer. I was born on GRO-C GRO-C 1970, and I am now 49 years old. I was born in Te Kuiti and was raised initially in the Waikato-Bay of Plenty area. I went to Christchurch for work when I was a young adult at about 21 years of age. I am Māori and I am from Ngāti Maniapoto.
- 1.2 When I was in Christchurch I was a fully functioning adult. I had a job as a full-time groundsman, and played a lot of sport. I had my driver's licence and owned my own car. I was fully involved in the Deaf Association and attended all of their social activities. I was fit and healthy.
- 1.3 This evidence is about the abuse I experienced while at Kelston School for the Deaf and Sunnyside Psychiatric Hospital, and my attempts to get recognition for the abuse that happened to me there. I hope that in giving this evidence others will not have to go through the same difficulties that I encountered. The stress on me personally, and my family, has been unbearable. It has taught me that the system is unfair. The way I have been treated is unfair and should happen to no one.
- 1.4 I am only able to give this evidence with the support of my mother Cheryl Munro. My mother has been a critical support to me emotionally in my life. She continues to advocate for me. I am the only Deaf member of my immediate family, and suffer from Aspergers syndrome. I have asked her to give this evidence on my behalf, as I would find it too distressing to speak about this in person at

a public hearing. But this is my evidence, and I confirm what is described is true and accurate.

- 1.5 In this evidence I wish to focus on the process of redress for my claims and what I did to get help and recognition. I want to focus mainly on my experiences at Kelston School for the Deaf but will also discuss aspects of the redress process for what happened at Sunnyside Psychiatric Hospital.

## **2 Kelston School for the Deaf**

- 2.1 I attended Kelston School for the Deaf between approximately 1983 and 1987 as a boarding student. There was a teacher there who all the students were afraid of. I understand that he has had several claims made against him by others who attended Kelston.

- 2.2 While I was at Kelston, I suffered numerous instances of physical and emotional abuse at the hands of that teacher. There are too many instances to remember, but the ones that stick out to me are:

- a Being smacked open handed around the head and pushed hard in the chest in the classroom;
- b Being punched in the stomach on one occasion at a swimming pool;
- c The teacher hitting me when I was using Sign Language to communicate with other students. I also witnessed him hit other students who used Sign Language on several occasions;
- d Having to watch the teacher assault other students, and also being intimidated and discouraged not to use Sign Language or risk being further assaulted;

- e Having to witness the teacher break the arm of another friend of mine. This was very upsetting to me and distressing;
- f Being hit in the head with a wooden duster, and having it thrown at me on numerous occasions; and
- g Being repeatedly hit on my hands with a ruler.

2.3 While I was a student, I disclosed this abuse to my mother. My mother contacted Kelston staff about these instances and spoke with the Deputy Headmaster or the Headmaster. Due to the length of time, I cannot accurately recall exactly who it was. But in any event these complaints were not investigated. Neither me nor my mother was questioned further about these complaints. Nothing was done to stop the teacher's behaviour towards me or other students at Kelston, so it continued.

2.4 On one occasion the boarding matron phoned my mother, and voiced concern about the treatment I was receiving at Kelston. I believe that at least some of the staff were aware of the abuse and did nothing to stop it from happening. I felt powerless and it was difficult to communicate what was happening because I was so afraid. My mother tried to get answers but was always pushed aside.

### **3 Sunnyside Psychiatric Hospital**

3.1 I also was a patient at Sunnyside Psychiatric Hospital from about June/July 1992, when I was about 21 years old. I stayed at the hospital on and off for a period of about 11 years, from 1992 until about 2003.

- 3.2 I was visually misdiagnosed with schizophrenia and medicated accordingly. At no time was an interpreter used to ask me how I felt and what was happening to me. There was no support in terms of information and discussions with family at all. During this time I was heavily medicated with a cocktail of antipsychotic drugs which left me crawling on the floor, unable to walk. It took over two years before I was correctly diagnosed with Aspergers syndrome. We had to bring in a clinician from Australia, who was internationally recognised for his work in autism. The clinicians at Sunnyside Psychiatric Hospital did not recognise this diagnosis and continued to medicate me for schizophrenia.
- 3.3 At Sunnyside I was physically assaulted, punched by the staff and pulled out of bed by other patients. On one occasion my mother and brother also saw me being punched and pushed up against a wall. I was also locked in an isolation room by myself and medicated as punishment when I used Sign Language, because staff said they had to know what I was saying at all times. I was restrained and given a lot of medication, including injections, without any explanation as to what it was for. The side effects this had on my body included a slack jaw, constant dribbling and a loose arm.
- 3.4 I brought a claim originally through Johnston Lawrence Lawyers against the Crown Health Financing Agency. The file was transferred to Sonja Cooper at Cooper Legal.
- 3.5 The claim was settled after about two years, in 2012. The settlement required us to keep the terms confidential. But I understand and am grateful that the Crown has waived confidentiality for the Royal Commission where the claimant wishes to disclose. As part of our settlement we received

\$18,000.00, a letter of apology and payment by the Crown Health Financing Agency of legal aid costs to release me from any debt to the Ministry of Justice Legal Aid Services. A copy of the settlement agreement is annexed and marked as '**Appendix A**'.

3.6 In this evidence I wish to focus more on the redress process as it relates to my experience at Kelston.

#### **4 Attempts to seek redress from Kelston**

4.1 I have over many years tried to seek redress. This has been a lengthy, drawn out process. It has caused unbearable stress to me and my mother. It also affected my extended whānau. My siblings lost their brother and my parents lost a son. It fractured our family.

4.2 The process has been retraumatising, not only because I have to relive my experiences of abuse, but also because of the uncertainty. It was never clear who I could or should speak to. It was never clear if people would listen to me or take me seriously. This compounded my feelings of anxiety and disillusionment. It has only been because of the determination and advocacy of my mother that I got through the process at all.

4.3 I was so traumatised by the teacher that I couldn't talk about the abuse for long periods of time or in extended interviews. This made the process more difficult. I still push clothes against my door at night to stop the teacher from coming into my room and abusing me.

#### **Political channels**

- 4.4 While at Sunnyside my mother contacted mental health specialists from the UK and Australia but Sunnyside Psychiatric Hospital would not engage with them or allow them into the building.
- 4.5 I sought help from many people in relation to my abuse at Sunnyside. For years we tried to get answers from the hospital staff. We even went to other clinicians, all to no avail. Finally the only option was to use political channels. My mother talked to my local Member of Parliament as she was the only person who we felt we could turn to. Initially this felt really good. She was the only one who listened to me apart from my doctor. But no proper outcome resulted and we eventually became frustrated. It felt like we were going around and around in circles.
- 4.6 We wrote a letter to the then Prime Minister, Jenny Shipley, seeking answers. We never even got a short response. This was disheartening as I felt like the Prime Minister, and therefore the Government, who were supposed to look after us, couldn't care less. We had to use this to our advantage so my mother approached Ruth Dyson, a senior Member of Parliament for the Opposition at that time. Ms Dyson raised the matter in Parliament bringing some attention to the issues of abuse.
- 4.7 Only after it became a 'political football' in Parliament did I start to get some traction. We were able to approach the Ministry of Health to get some funding to get families together to talk about mental health issues. We started to get a lot of public attention and were able to shed some spotlight on my claims of abuse, and others' as well. But this did not result in any acknowledgement of the wrongs

that happened to me, or any redress. I will talk more about the redress process for my Sunnyside claim later on.

### **Legal avenues**

- 4.8 In relation to what happened at Kelston, I always felt powerless and unable to do anything. My mother went to the Deputy Principal and the Principal but never got any answers. I didn't know who I could turn to. We didn't even know how to go about making a claim. There was no government department or central person designated to support me or families like mine, who would have wanted to bring claims.
- 4.9 I heard about Sonja Cooper at Cooper Legal in Wellington and my mother decided to reach out to her. I did not know at this point that it would be many years, and a long struggle, to get any kind of recognition. The process was very unclear and uncertain.
- 4.10 Before lodging a claim in the courts, we decided to first try to get whatever information and records we could get our hands on. There were several meetings and letters exchanged between our lawyers and the Ministry of Education to do this. It was difficult going. A copy of some of this correspondence is annexed and marked as **Appendix B**.
- 4.11 Our lawyers initially met with the Ministry of Education's representatives on 20 March 2013. They followed this up by a letter to the Ministry dated 3 April 2013 (a copy of this letter is annexed and marked as **Appendix C**). That letter set out the allegations I make above.

- 4.12 Our lawyers followed up in a letter dated 9 June 2014 (a copy of this letter and replies to it are annexed and marked as **Appendix D**). This set out more detail about what happened to me. I also heard that there were several other complaints made against the teacher, and I believe at least some of them related to the time that I was at Kelston. But to the best of my knowledge those investigations were abandoned.
- 4.13 Also, neither the Ministry nor Kelston were able to give me a copy of any relevant records about my time at Kelston. They could not even work out amongst themselves who held my original personal files (see letter to the Ministry of Education dated 9 June 2014 in **Appendix C** and the letter from the Group Manager dated 24 January 2012 in **Appendix D**). This made the redress process stressful and frustrating as I could not be precise about when things happened.
- 4.14 We initially wanted to settle for an apology from the Ministry, a payment for \$35,000.00 plus payment of our legal aid bill. This to me seems a small price given how long I suffered for and the post-trauma stress I experienced and continue to experience.
- 4.15 After getting nowhere our lawyers lodged proceedings in the High Court on 5 November 2015 (a copy of the pleadings is attached and marked as **Appendix E**). We also tried to reach a settlement with the Ministry at the same time.
- 4.16 The Ministry undertook its own investigation of my claims of my experience at Kelston. We received a letter from Crown Law dated 29 July 2016 (see **Appendix F**). It was disheartening. The letter from Crown Law found after the



investigation that there was no documentary evidence of the teacher hitting students before 1990. It says that the complaints were dealt with at the time. We were told that the teacher was disciplined and had to attend a 'refresher course' on appropriate contact with students. We were told he was investigated by the Police, but no prosecution was made because there was no evidence. This was surprising given that the school clearly thought it was necessary to discipline the teacher and attend a refresher course.

- 4.17 It is frustrating that the Ministry is allowed to hide behind its poor record keeping and processes. Also referring to a 'refresher course' as though it should have made everything better at the time, minimised the seriousness of what actually happened. I can't understand how saying that was meant to make me feel. At the end of the day he was allowed to continue to teach. He was allowed to continue to traumatise and abuse me and other students.
- 4.18 The Crown's 29 July 2016 letter accepted that I "was smacked" by the teacher. But it also said that there was no evidence of the other allegations I made. There apparently was no evidence of my mother's previous complaint to the school, nor any evidence that the school did not follow appropriate process. The constant reliance on a 'lack of evidence' has been frustrating to say the least. After more than 3 years of fighting to have my voice heard, I was offered \$5,000.00 in full and final settlement. To me the whole process was defeating and demoralising.
- 4.19 Our lawyer responded to reject this offer on 20 January 2017 (a copy of which is annexed and marked as **Appendix G**). The letter reaffirmed my allegations. I felt like the Crown's initial offer, and the way it was presented,

minimised how serious my allegations were and the effect it had on me. My mother made an additional statement to reconfirm the events that made up my claim. We also talked about how the Ministry seemed to be ignoring similar claims by others in relation to that particular teacher. We sought settlement for \$20,000, a letter of apology and payment of our legal aid costs.

- 4.20 The Ministry's response on 13 July 2017 (see letter from Crown Law dated 13 July 2017 in **Appendix H**) was totally dismissive. It denied any 'direct evidence' but said that the Ministry accepted that I "may have experienced inappropriate and excessive physical management similar to other complaints previously reported". It said that I had not raised any new information that required the Ministry to reconsider their original offer. It felt like after four years or so we had hit a brick wall.
- 4.21 We had no choice but to try to settle our claim at a judicial settlement conference. We wrote to Crown Law on 14 September 2017. Crown Law said on 6 October 2017 that this would be "an exercise in futility" and an inappropriate use of resources (see annexed the Statement of Position annexed and marked as **Appendix I**). This again minimised my complaint and undermined the whole process.
- 4.22 Our lawyers wrote again to the Ministry seeking a judicial settlement conference on 10 August 2018. This was finally agreed to. A copy of my statement is included (as annexed and marked as **Appendix J**).
- 4.23 The judicial settlement conference was frustrating. It did not seem to me that the Crown were willing to engage meaningfully in the process. They seemed to come with a prepared script of what to say and how much to offer to

make it easier for them. It was not focussed on healing or even giving me a meaningful opportunity to say how I felt about what happened or how we got here.

- 4.24 It also felt like we had been shut out in so many ways. For example, we understand that the teacher was investigated in 2014 by the Police for historic abuse of students (see the letter from our lawyers dated 9 June 2014 at **Appendix C**). We did not know about this before it happened. We were just told about the outcome at a later point in time when Cooper Legal had found out. We were not approached to be part of that process. I understand that the Police decided not to prosecute because it happened so long ago, and because they were only physical rather than sexual assaults, and a lack of concrete evidence (see **Appendix C**). We should have been involved in this investigation. The Ministry should have facilitated us to be able to get Police to ask questions of the teacher rather than conducting its investigation behind closed doors.
- 4.25 We eventually settled my claim at the judicial conference. We settled by way of a memorandum that was signed by us on 28 November 2018. We agreed to settle for the sum of \$10,000 and an apology from the Ministry (a copy of the memorandum of settlement and release is annexed and marked as **Appendix K**). This Ministry also agreed to pay the legal aid costs. However even that had exclusions. They wouldn't pay for the previous proceedings we had to file in the High Court (see **Appendix K** at paragraph 4.2). There were also some delays in receiving our compensation and our funds (see the email from our lawyer to Crown Law annexed and marked as **Appendix L**).

4.26 For me the lack of proper record keeping has been one of the most difficult parts of this process. It also undermines a system of redress if no accurate records are kept. It makes the whole process stressful. Initially, it made it difficult to get the information I needed to provide the necessary details to put my claim together. But it also made it difficult to provide the evidence the Ministry required to take my claim seriously. Relying on a poor system of record keeping and processes to deny the seriousness of my claims makes this whole thing more traumatic.

## **5 Legal aid issues**

5.1 Another difficulty with the process has been no certainty. No certainty if our claim was going to be legally aided, or if a lawyer would take our claim. We were lucky to have Sonja and her team at Cooper Legal to take us on.

5.2 But it seemed like our lawyers had to constantly justify why this claim was important or worthy of spending public money on. It is like the Government was trying to make us feel guilty when our lawyers work really hard to make progress. We don't suppose that the Ministry has to obtain legal aid. So to us the power imbalance feels unfair.

5.3 There needs to be a better way of funding and handling these claims.

## **6 Improvements**

6.1 There needs to be big improvements to the processing of claims for historic abuse. Trying to get recognition should never be this hard. It has never been clear who we should or could speak to get answers. There was no useful publicly

available information. This made the processes so hard to understand, to know what was required, and what outcomes were possible in redress. We knew nothing about eligibility of claims, how they were being assessed and by whom, or what sort of compensation was available. There have been so many delays and no clarity around timeframes.

- 6.2 I would like to say that this has never been about the money for us. Money doesn't even come into it. It is about getting recognition and being believed.
- 6.3 This is family and whānau and they know who these people are.
- 6.4 At one point, we became so disillusioned and frustrated by consent delays that we reached out to Paul Gibson, the then Disability Commissioner at the Health and Disability Commission in the hope he could do something (a copy of the letter is annexed and marked as '**Appendix M**').
- 6.5 The focus of the redress process should be on the survivors. It should be made as easy to engage with as possible, given it is already dealing with vulnerable, traumatised people. It takes a lot of courage to challenge the system and speak up about what happened. Allegations about abuse are not made lightly because they come at such a huge personal cost.
- 6.6 We need to have our voice heard. There should be a designated team in Government whose job it is to help us get answers rather than defend itself against claims. The process of investigation needs to be independent and not carried out by a Ministry that is interested in protecting its conduct and reputation, and those of the teachers. It feels

to us like there is a conflict and so impossible for claimants to truly feel the process is fair and impartial.

- 6.7 The process also needs to be funded and handled better, so that we can all have certainty about what the process means, and move on with our lives.

GRO-C

Cheryl Muffo on behalf of  
James Frederic Alan Packer

13 February 2020  
Dated