

Witness Name: Aleyna Mary Hall

Statement No.: [WITN0275002]

Exhibits: [WITN0275003 – WITN0275022]

Dated: 22.04.2021

ROYAL COMMISSION OF INQUIRY INTO ABUSE IN CARE

WITNESS STATEMENT OF ALEYNA MARY HALL

Dated this 22nd day of April 2021



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Statement No.: [WITN0275002]

Exhibits: [WITN0275003 – WITN0275022]

I, **Aleyna Mary Hall**, Deputy Chief Executive of the Medical Council of New Zealand, will say as follows:

1. I provide this witness statement at the request of the Royal Commission,¹ as a condensed version of my statement ('WITN0275001') in response to parts of the Royal Commission's Notice to Produce No. 3, issued to the Medical Council of New Zealand on 14 December 2020. My statement should be read alongside those of David Dunbar, Gay Fraser, Lynne Urquhart and Daniel Dowsett.
2. I have been employed by the Medical Council since 2015, initially as a senior legal adviser. In 2017 I was appointed Deputy Registrar of the Medical Council, and in April 2020 I was appointed to the role of Deputy Chief Executive.
3. The Medical Council has previously provided material to the Royal Commission in response to the Notice to Produce No. 1 and No. 2. I have filed two affirmations to respond to the questions contained in those Notices, including stating that some material sought by the Royal Commission could not be located, either because it never existed or because it was not retained or stored appropriately at the relevant time. Where necessary, I have produced the relevant document(s) (as previously produced by the Medical Council in response to the Royal Commission's Notices to Produce No. 1 and 2) as an exhibit to this statement.
4. The scope of the Royal Commission's Notice to Produce No. 3 is very broad and requests an account explaining various matters over a 70 year period. I am only able to give evidence on matters within my knowledge, and based on my reasonable inquiries with current

¹ Email from Andrew Molloy dated 16 April 2021.

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Medical Council staff and information retained by the Medical Council.

5. No member of staff at the Medical Council has been employed over the entire time period of the scope of the request. I have not been able to identify any other individuals with the appropriate knowledge and experience to respond fully to the questions posed by the Royal Commission.
6. I wish to say at the outset that I have responded to particular questions in the Notice to Produce no. 3 to the best of my ability given my experience, knowledge and the information available after reasonable searches have been undertaken. It has not been possible for me to fully address these questions given the historical nature of the explanations sought, and because information that may have assisted in responding to those questions cannot be located.

Response to Notice to Produce No. 3 – Schedule A

7. The responses that I am able to provide to the Royal Commission's questions numbered 2 and 4 is set out below.

2. List all complaints made against Dr Selwyn Leeks, from the time he became a registered medical practitioner in New Zealand until the present day, including:

- a. the name of the complainant;***
- b. the ground(s) of the complaint and the relevant statutory or regulatory provisions;***
- c. the clinical or therapeutic environment in which it arose;***
- d. the process followed with respect to the complaint;***
- e. Dr Leeks' response to the complaint;***
- f. The outcome of the complaint; and***
- g. Any sanction applied.***

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8. The Medical Council records show that Dr Leeks was first registered as a medical practitioner on 4 January 1961 (marked **WITN0275003**) and he was approved to the Register of Specialists under the speciality of 'Psychological Medicine or Psychiatry' on 29 October 1971 (marked **WITN0275004**).
9. The Medical Council records show that on 1 July 1999 the Council wrote to Dr Leeks advising that as he had been out of New Zealand for longer than three years, his name would be removed from the register under s 45(1)(c) of the 1995 Act unless he advised the Council that this provision did not apply in his case (marked **WITN0275005**). By way of a letter dated 7 October 1999, the Council advised Dr Leeks that his name had been removed from the Register with effect from 10 September 1999 (marked **WITN0275006**).
10. Based on my review of the material provided by the Medical Council in its response to the Commission's Notice to Produce No. 1 and No.2, I have identified three complaints against Dr Leeks. The information is limited and therefore I am not able to provide all of the details requested by the Commission. I am not able to provide a first-hand account of any of the complaints, or complaint processes, relating to Dr Leeks.

Complaint of **GRO-A Mr DD**

11. I understand from reviewing the documents that **GRO-A Mr DD** made a complaint to the Department of Health in 1977 about the treatment he received from Dr Selwyn Leeks during his time at the Lake Alice Child and Adolescent Unit in Marton (marked **WITN0275007**).
12. It appears that **GRO-A Mr DD** complaint was considered by the Central Ethical Committee (CEC) of the New Zealand Medical Association

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in 1977 (marked **WITN0275008**), following a referral by the Department of Health (marked **WITN0275009**). Dr Leeks responded to the CEC about the complaint by **GRO-A Mr DD** (marked **WITN0275010**). The CEC determined that the complaint was one of disgraceful conduct and it was referred to the Medical Council to be investigated by a Penal Cases Committee (PCC) (marked **WITN0275011**).

13. From my review of the available material, it appears that:

(a) The Secretary of the Medical Council then made contact with the Convenor of the Penal Cases Committee requesting that it investigate the complaint (marked **WITN0275012**).

(b) The Penal Cases Committee made contact with Dr Leeks, informing him that a complaint had been received from **GRO-A Mr DD** (marked **WITN0275013**). That letter attached a Notice specifying the substance of the complaint pursuant to Section 56(2)(a) of the Medical Practitioners Act 1968 (marked **WITN0275014**).

(c) Dr Leeks responded to the Penal Cases Committee, providing information about the complaint and requesting that he be heard on the matter (marked **WITN0275015**).

14. I understand from subsequent correspondence, including a letter from then Registrar Tania Turfrey dated 9 January 2006 (marked **WITN0275016**), that no charges were laid by the PCC.

Complaint of **GRO-B**

15. Information previously disclosed by the Medical Council shows that on 29 January 1999 **GRO-B** made a complaint against Dr Leeks by way of a letter that read (marked **WITN0275017**):

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To Whom It May Concern,

This note is to say that you may use this information to start an investigation into the INCIDENTS OF ABUSE FROM Dr S. Leeks formally practicing out of Lake Alice Hospital as well as the unit in Palmerston North by the name of Manawaroa Hospital in the early to late '70's.

16. It appears that a Complaints Assessment Committee (**CAC**) was appointed to investigate this complaint. For the reasons outlined in the CAC's letter to the President of the Medical Council dated 21 January 2000 (marked **WITN0275018**), the CAC was "*firmly of the view that the appropriate determination is one under s 92(1)(e) that no further steps should be taken under the Medical Practitioners Act 1995 in relation to the complaint.*"
17. As far as I am aware, there is no further information relating to this complaint or complaint process, and all documents held by the Council that relate to **GRO-B** complaint have already been produced.

Complaint of **GRO-B**

18. I refer to my affirmation, dated 28 August 2020, and confirm that to the best of my knowledge the Medical Council has no record of a complaint by **GRO-B** or any documents relating to this.
19. I have since spoken with Gay Fraser, the Executive Officer of the Health Practitioners Disciplinary Tribunal, who was formerly the Secretary of the Medical Practitioners Disciplinary Committee (MPDC). She has reviewed documents that she holds from her time with the MPDC and has advised that the MPDC did have one complaint against Dr Leeks in 1991 from a complainant recorded as **GRO-B**. Ms Fraser is providing a witness statement that will address this complaint.

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20. These are the only complaints that I can accurately identify as being made against Dr Leeks from the time he became a registered medical practitioner in New Zealand until the present day. However, I understand that Dr Leeks' legacy file (that is, the hard copy of his Medical Council file) may be incomplete due to previous document retention practices.

4(a) Provide an account explaining why, in its response to Notices to Produce numbers 1 and 2 the New Zealand Medical Council disclosed no documents relating to the hearing, decision or outcome of a complaint laid by [GRO-B Mr DD] in respect of Dr Leeks.

21. The Commission's Notices to Produce No. 1 and 2 asked the Medical Council to disclose:

All correspondence, reports, affidavits, and/or statements prepared by an registered practitioner, or employee of the Council in respect of any complaint, inquiry or proceedings between 1970 and 1978 relating to Dr Selwyn Leeks' practice in New Zealand during that time period.

This includes but is not limited to the following complaints:

- a. September 1977 complaint made by [GRO-A Mr DD]...and the proceedings that followed, including the transcript, or notes made, of any evidence at that proceeding and any decision issued. It also includes copies of any non-publication or destruction orders made.

22. As acknowledged in my 28 August 2020 affirmation, a number of the documents requested by the Commission were not able to be located. No information beyond that which has already been disclosed relating to Mr [GRO-A Mr DD] complaint against Dr Leeks has been located.

23. The available documents show that the Council has on a number of occasions engaged in correspondence with Mr [GRO-A Mr DD] about his

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complaint regarding Dr Leeks and any documentation the Council has relating to this. Regrettably, it appears that there is no tape recording, transcript, or decision, in relation to the complaint by

[GRO-A Mr DD]

24. My understanding is that in November 1977 the Penal Cases Committee issued its finding and this included a conclusion that it would not refer the matter to the Medical Council (marked **WITN0275019**). It appears that any information relevant to the Penal Cases Committee has either not been retained by the Council, or was never in the Council's possession. I have also been made aware from discussions with longstanding employees of the Council, that all documents relating to a complaint that did not proceed to a hearing were destroyed over 20 years ago.

4(b) Provide an account explaining any involvement the New Zealand Medical Council had with respect to the ability of Dr Selwyn Leeks to practise medicine in Australia. In particular:

- i. any application made by Dr Leeks in that regard*
- ii. any steps taken by the Medical Council in response;*
- iii. any communications between the New Zealand Medical Council and any professional body in Australia in connection with Dr Leeks' ability, eligibility, competence or suitability to practise medicine in Australia; and*
- iv. the issuance of a certificate of good standing (or any applicable equivalent) in respect of Dr Leeks.*

25. Based on a review of the documents previously disclosed to the Commission in response to its Notice no. 2, I understand that Dr Leeks applied to the Council on 15 December 1977 for a Certificate of Good Standing (marked **WITN0275020**). His application stated that he sought the letter for the purpose of becoming registered in Australia.

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26. I am unable to comment on any specific steps taken by the Medical Council in response to Dr Leeks' application as I was not involved in this process and have not been able to identify any current Council staff member who was personally involved. However, it appears, based on a letter from Dr Leeks dated 4 January 1978, that the Council issued the Certificate as requested by Dr Leeks (marked **WITN0275021**).

27. I am not personally aware of any communication between the Medical Council and any professional body in Australia in connection with Dr Leeks' ability, eligibility, competence or suitability to practice medicine in Australia. I am only aware of communication sometime after Dr Leeks began practising in Australia, when concerns were raised about his practice (marked **WITN0275022**).

Statement of Truth

This statement is true to the best of my knowledge and belief and was made by me knowing that it may be used as evidence by the Royal Commission of Inquiry into Abuse in Care.

Signed: _____

GRO-C

Aleyna Mary Hall

Dated: 22 April 2021

Witness Name: Aleyna Mary Hall

Statement No.: [WITN0275023]

Dated: 14.05.2021

ROYAL COMMISSION OF INQUIRY INTO ABUSE IN CARE

WITNESS STATEMENT OF ALEYNA MARY HALL

Dated this 14th day of May 2021



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Statement No.: [WITN0275023]

I, **Aleyna Mary Hall**, Deputy Chief Executive of the Medical Council of New Zealand, will say as follows:

1. I provide this further witness statement at the request of the Royal Commission,¹ to comment on aspects of the decision of the United Nations Committee against Torture (**the UN Committee**) dated 23 January 2020, in respect of a complaint by Paul Zentveld.²
2. I note at the outset that I am not familiar with the UN Committee's report, and based on inquiries made by Council staff, it appears that the Council was not involved in the UN Committee's investigation and had no knowledge of that investigation at the time it was conducted.
3. I have been asked to comment on the following extracts from the UN Committee's decision.

"Evidence of criminal behaviour"

4. The UN Committee comments, at footnote 12, that "*The Medical Council did not find evidence of criminal behaviour.*"³
5. All I can say, in response to this comment, is that it is not the Medical Council's role to assess or make findings about what amounts to "criminal behaviour". As I understand it, this is a standard reserved for investigations by the Police and prosecutions within the criminal jurisdiction.

Record(s) of Mr Zentveld's complaint

6. Paragraph 4.3 of the UN Committee's report states that "*...in 2010, the complainant brought his complaint about Dr Leeks to the*

¹ Email from Andrew Molloy dated 16 April 2021.

² CAT/C/68/D/852/2017.

³ At footnote 12 of its decision; incorrectly cited as footnote 14 in the Request.

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Medical Council of New Zealand". I have been asked to provide an explanation as to why no records exist in respect of this complaint.

7. Based on reasonable searches conducted by Council staff on my behalf, the Council has no record of receiving a complaint from Mr Paul Zentveld.
8. The only information the Council has in relation to any complaint by Mr Zentveld against Dr Leeks is an article from the New Zealand Herald in 2005, which makes reference to Mr Zentveld preparing a complaint (previously provided and marked **WITN0275024**).⁴ It appears that Mr Zentveld's complaint was either never received by the Council or, if it was received, no record of it has been retained.
9. I note that footnote 15 of the UN Committee's report refers to a letter dated 22 June 2012, regarding an investigation process initiated in 1977. As far as I am aware, that letter relates to the complaint made by **GRO-A-Mr DD** and not to a complaint brought by Mr Zentveld. The process undertaken by the Council in response to **GRO-A-Mr DD** complaint is referred to at paragraphs [11] to [14] of my statement dated 22 April 2021 **[WITN0275002]**.

Alternatives available to the Medical Council in 1977

10. I have also been asked about a comment in footnote 15 at paragraph 4.3 of the UN Committee's report which states that "*It was also not clear what alternatives were available to the Medical Council in 1977.*"⁵
11. I am aware that David Dunbar's witness statement dated 22 April 2021 **[WITN0276002]** explains that the 1968 Act would have applied to **GRO-A-Mr DD** complaint. I am not personally familiar with the 1968 Act.

⁴ This document was produced in the bundle of documents (at page 577) attached to my affirmation dated 28 August 2020 by way of response to the Commission's Notice to Produce no. 2.

⁵ Incorrectly cited as footnote 17 in the Request.

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12. A Council employee, Lynne Urquhart, explained in her witness statement (dated 25 February 2021 [WITN0278001]) the following process relevant to the 1968 Act:

9. When I started my employment with the Council, there was a three-level disciplinary system in which three levels of seriousness were recognised. In increasing order, these were:

Category 1 Conduct unbecoming a doctor

Category 2 Professional misconduct

Category 3 Disgraceful conduct in a professional respect.

10. If the complaint appeared to fall under Category 1, it was referred to a small regional Divisional Disciplinary Committee of the Medical Association, and enquired into at a less formal level. Category 2 complaints were referred to the Medical Practitioners Disciplinary Committee (**MPDC**), which was run by the Medical Association. Category 3 complaints were looked into by the [Preliminary Proceedings Committee] PPC. The PPC was called the Penal Cases Committee until an amendment to the Act in 1983.

11. The procedural aspects of the PPC's investigatory functions were set out in s56 of the Medical Practitioners Act 1968. It operated as a secretariat and was separate from the Medical Council. It had three members – two members appointed by the Medical Council (one of whom was the Convener), and a solicitor of the High Court. During my time, the solicitor was from Kensington Swan.

12. Written complaints received by the Secretary of the Medical Council were referred to the Convener of the PPC for consideration and a decision on what way they should be dealt with. There was no timeframe within which a complaint needed to be lodged with the Medical Council.

13. The PPC Convener could decide that there was no case to answer and respond directly to the complainant setting out the reasons for their decision. Or the PPC Convener could decide that the complaint be investigated. Alternatively, the Convener could send a complaint to the Secretary of the MPDC. Even if a written complaint had not been received, s 56(6)(A) of the 1968 Act allowed the PPC to investigate the

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matter of its own volition if one of its members had reason to believe that a doctor may have committed an offence which could amount to disgraceful conduct in a professional respect.

...

15. If the PPC decided that the complaint did not require a formal disciplinary hearing, the complainant received an explanation. This set out its findings, the reasons for its decision and if appropriate, suggestions on what other action could be taken by the complainant.
16. After due investigation, if a majority of the PPC decided that the matter should be heard by the Medical Council, it prepared a charge, and referred this to Council's Chairperson.
17. A date would be set for a Council hearing to take place suitable to all the parties. At least five members of the Council who were not members of the PPC, including one lay member, convened as a Tribunal to hear the charges.

13. Gabriel Fraser, in her witness statement dated 25 February 2021 [WITN0277001], has also commented on the process under the 1968 Act (at paragraphs 8 – 15), and she also explained that:

21. The Medical Council and the MPDC sat side by side but they had slightly different functions. Both bodies had a disciplinary function, but the Medical Council dealt with the most serious cases (disgraceful conduct) and the Medical Association's MPDC dealt with the less serious (professional misconduct) and DDC's (conduct unbecoming). Both bodies could refer complaints up or down but neither were obliged, nor did they advise the other body if a complaint was received.

Criticism that the Medical Council refused to take action and accepted cancellation of Dr Leeks' registration

14. I have also been asked to address the criticisms made of the Council at paragraph 9.5 of the UN Committee's report, which states:

In its observations, the State party claims that the decision not to prosecute Dr. Leeks was informed by a lack of evidence and a determination that there

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was no other countervailing public interest in proceeding with a prosecution. However, the State party has not demonstrated that it made sufficient efforts to clarify the facts. The State party admits not only that complaints related to treatment at Lake Alice Hospital in the 1970s began to emerge and continued since 1976, but also that as recent as 2018 a Royal Commission of Inquiry was established to look into historic abuses in state care – including the Lake Alice Hospital events – and that new related complaints brought in 2019 are being investigated by the Police. In the absence of convincing explanations by the State party, the Committee fails to see why there is no countervailing public interest in proceeding with a prosecution. The case concerned violence in State care inflicted upon a vulnerable group, and independent bodies cannot be delegated to decide on criminal matters. In that connection, **the Committee notes that the Medical Council also refused to take action by accepting cancellation of Dr. Leeks’ medical practising registration.** The State party endorsed such an act leading to impunity, despite its obligation to protect against abuse of those in a vulnerable position and with no other legal possibility to take further their allegation before competent authorities.

[Emphasis added by the Commission]

15. I am not able to comment on decisions not to prosecute Dr Leeks. As I understand paragraph 9.5 the reference to prosecution is to any police prosecution following police investigations.
16. As to the comment about the Medical Council, I respond in two parts. First, in terms of the comment that the Council “*refused to take action*”, I note that as outlined in my statement dated 22 April 2021 [WITN0275002], the Council has only been able to identify three complaints against Dr Leeks: the complaints of [GRO-A-Mr DD], [GRO-B], and [GRO-B]. As I said in my earlier statement, the Council has no record of the complaint by [GRO-B] or any documents relating to this. It appears from the evidence of Ms Fraser [WITN0277001], that this complaint was made directly to the Medical Association’s MPDC.⁶

⁶ Gabriel Fraser [WITN0277001] at [41].

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17. I will not traverse the processes that were undertaken with respect to each complaint as this is outlined in previous statements.⁷ However, that information shows that each complaint was subject to an inquiry or investigation under the registration Act that was in force at the relevant time, although none of those inquiries resulted in a disciplinary charge against Dr Leeks.
18. Secondly, the process for cancellation of Dr Leeks' registration is outlined in exhibits [WITN0275005] and [WITN0275006] attached to my statement dated 22 April 2021 [WITN0275002]. Dr Leeks' name was removed from the Register from 10 September 1999 on the basis that he had been out of New Zealand for longer than three years. I understand that, in those circumstances, removal from the register was a mandatory requirement under s 45(1)(c) of the Medical Practitioners Act 1995 (i.e. "*the Council ---(d) shall order the Registrar to remove the name of that person from the register and give notice of the removal to the person...*").
19. On this basis, it appears that the UN Committee's comments are not correct. The Council did not refuse to take action by accepting cancellation of Dr Leeks' registration.

⁷ The investigatory process in relation to the complaints are set out in my previous witness statement [WITN0275002]; GRO-A-Mr DD from [11] to [14]; GRO-B from [15] to [17]; and, GRO-B at [18] and [19]. The complaint of GRO-B is explained in further detail in the witness statement of Gabriel Fraser [WITN0277001] at [41].

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Statement of Truth

This statement is true to the best of my knowledge and belief and was made by me knowing that it may be used as evidence by the Royal Commission of Inquiry into Abuse in Care.

Signed: **GRO-C** _____
Aleyna Mary Hall

Dated: 14 May 2021