

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY  
FAITH-BASED REDRESS INQUIRY 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 Andrew Erueti  
Ms Sandra Alofivae  
Ms Julia Steenson

**Counsel:** Mr Simon Mount QC, Ms Katherine Anderson, Ms Kerry Beaton, Ms Lorraine MacDonald, Ms Kirsten Hagan, Ms Jane Glover, Mr Michael Thomas and Ms Echo Haronga for the Royal Commission  
Mrs Fiona Guy Kidd QC, Mr Jeremy Johnson and Ms India Shores for the Anglican Church  
Ms Sally McKechnie, Mr Alex Winsley and Mr Harrison Cunningham for the Catholic Church  
Ms Sonja Cooper, Dr Christopher Longhurst and Ms Kate Whiting for SNAP

**Venue:** Level 2  
Abuse in Care Royal Commission of Inquiry  
414 Khyber Pass Road  
AUCKLAND

**Date:** 22 March 2021

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**TRANSCRIPT OF PROCEEDINGS**

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1 **Hearing opens with waiata and karakia tīmatanga by Ngāti Whātua Ōrākei**

2 (10.03 am)

3 **CHAIR:** Tēnā koutou katoa. Nau mai hoki mai ki tēnei hui tūmatanui koutou kua tae mai ā tinana  
4 oti rā, koutou e mātakitaki mai i tā wāhi. Tēnā koutou katoa. Mōrena Ms Anderson.  
5 Mōrena te Archbishops.

6 **MS ANDERSON:** Good morning, Madam Chair, before I commence with the questioning there's  
7 a matter that my colleague Ms Guy Kidd is going to resolve in relation to an aspect of an  
8 apology that is just going to be read a second time into the record due to some technical  
9 issues.

10 **CHAIR:** Thank you Ms Guy Kidd. Good morning.

11 **MRS GUY KIDD:** Good morning Commissioners.

12 Archbishop Philip, you wish to speak to Robert Oakly.

13 **ARCHBISHOP PHILIP:** I do. I want to speak to the evidence of Robert Oakly. This evidence  
14 had a particular and personal impact on me. The abuse that you suffered was violent and  
15 horrendous. You suffered at the hands of a senior leader of our Church. Some of the  
16 evidence that I have read suggests that the Church did not know until Archdeacon  
17 Jameson's conviction.

18 These things happened in a small community, small communities are aware of what  
19 is happening. I simply don't believe that the Church did not know. I don't understand why  
20 following conviction Archdeacon Jameson wasn't deposed from Holy Orders and was able  
21 to continue to represent himself as a priest of the Church. To you, Mr Oakly, there are no  
22 words that can in any way be an adequate response to what you have suffered and the  
23 impact of that abuse on your entire life. But for the fact that we failed you, we failed to  
24 believe you and we failed to act against your abuser, I do apologise.

25 **MRS GUY KIDD:** Kia ora.

26 **CHAIR:** Thank you Archbishop. Yes Ms Anderson.

27 **QUESTIONING BY MS ANDERSON:** Kia ora and good morning.

28 **ARCHBISHOP PHILIP:** Good morning.

29 **MS ANDERSON:** You'll be familiar with the process that you will have observed through the  
30 first part of this hearing where there'll be a series of questions moving from theme to theme  
31 or topic to topic, and as will be the process in relation to the questioning of you.

32 The first topic that I wanted to raise, perhaps not to spend too much time on at this  
33 point, but you made a number of comments in your evidence on Friday when we left off  
34 relating to the topic of reconciliation and the role of reconciliation overall in relation to

1 matters of abuse.

2 One of the comments that you made, just to refresh your memory, was that you said  
3 that reconciliation is not possible without justice and that without justice and redress  
4 reconciliation is not possible. So that's an articulation which I think, am I right, very  
5 strongly emphasised, you articulated your view at that point.

6 Then we had Archbishop Tamihere said that reconciliation must be viewed also as  
7 being within the prerogative of the survivor. It's not something that can be imposed and it's  
8 also theirs to interpret and apply. It may be that reconciliation with a person that wronged  
9 them — sorry, I'll just read that again. It may be reconciliation with a person that wronged  
10 them, but that cannot be made an expectation.

11 Is there anything else you think you want to mention in terms of your understanding  
12 of reconciliation in addition to the comments that have been communicated on Friday?

13 **ARCHBISHOP DON:** Just as a response to your question and I think — thank you for repeating  
14 what we said on Friday. That represents quite clearly our understanding. I'm not sure  
15 there's much more we can add to that other than to say that reconciliation and concepts like  
16 that for us are part of the vocabulary of our faith and draw not only on biblical  
17 understandings but our understandings of tikanga practice as well. There are times, I guess,  
18 where the general understanding held by the public might be slightly different, but I think  
19 in the end the way that we sought to clarify that in relation to this kaupapa was about  
20 ensuring it needed to be understood in relation to the survivor and their prerogative first.

21 **MS ANDERSON:** Thank you for clarifying that. I think that's what I took, that it had a sense of  
22 how the word might be understood both in the Church context primarily but also a  
23 recognition that the word might have different meanings in other contexts. But we'll come  
24 back later on to how this plays out in a redress context.

25 **ARCHBISHOP PHILIP:** If I could just add what was in my mind in speaking to that, was the  
26 clause in the Canon, particularly pre-2020, that there's an obligation on the bishop to seek  
27 to reconcile the parties and I think that that has been problematic in our experience,  
28 certainly as a bishop, I think we've tended to try and make it good or make it right without  
29 necessarily therefore putting the needs and the perspective of the survivor first.

30 **MS ANDERSON:** Thank you for that. Commissioners, that's a reference in some of the earlier  
31 versions of the Canons. You've already heard that under the Canon disciplinary process  
32 there could be a track via mediation, so a bishop could direct something to mediation or  
33 could direct to a determination track. But there was a preceding requirement as a first step  
34 that the bishop attempt to reconcile the parties.

1 I think what we've seen in the evidence, even if the language of the Title D hasn't  
2 happened when a complaint's come in, what we've seen is that focus on reconciliation,  
3 trying to make it good as Archbishop Richardson has just identified through the language  
4 he's used.

5 We're going to play a clip now. You'll recall the evidence of Reverend Louise  
6 Deans. You'll recall that she refers in her evidence, just to orientate everyone to the clip,  
7 this is the second meeting that she's having with the bishop in Christchurch. She talks  
8 about this on page 40 of her brief, we don't need to go to that, but what she says is that  
9 Bishop M opened the meeting with a bible reading and with prayers for hearing each other  
10 with open hearts and for reconciliation. And we're just going to play the clip now.

11 (Video played).

12 So just in relation to the comments there, this is somebody who's inside the church,  
13 familiar with the language of use of reconciliation in the Church context, and you can see  
14 the clear expression of both surprise that reconciliation is a focus of the meeting, and  
15 secondly confusion about what reconciliation might entail in that context.

16 Have you got any reflections to make on the expectations being put on a survivor  
17 coming into a conversation with a senior Church leader with that focus on reconciliation,  
18 recognising of course this happened 30 years ago?

19 **ARCHBISHOP PHILIP:** Thank you. I mean it's pretty hard to argue with everything that Louise  
20 said, it's very clear and it's absolutely correct. I'm not wanting to suggest that this is the  
21 intent, but my sense of it, with the hindsight of 30 years, is that is spiritually manipulative  
22 and it re-traumatises those who have suffered abuse. It's a very explicit example of what I  
23 was saying earlier in response to your question about the nature of reconciliation, that if it's  
24 about the need of the institution or the leadership to hear words of forgiveness or, you  
25 know, recognition, then that's not serving the need of the survivor at all. It seems to me that  
26 was being played out in this situation.

27 **MS ANDERSON:** And in terms of that spiritual manipulation and re-traumatising, do you agree  
28 that as we heard Louise's evidence, which of course does not include everything that's in  
29 her book, that that attempt to make her focus on reconciliation has been very damaging in  
30 the meeting at that time?

31 **ARCHBISHOP PHILIP:** Yeah, I would suggest not just in the meeting at that time, but that that  
32 was the kind of overlay that the women who were abused by Mr McCullough experienced  
33 for years to come.

34 **MS ANDERSON:** How confident would you be in the Church in modern day that no-one else

1 would experience that pressure to reconcile that Reverend Louise Deans has demonstrated?

2 **ARCHBISHOP PHILIP:** I could not be confident. I think that we have worked incredibly hard  
3 around things like discernment processes, psychological testing, all of those sorts of things.  
4 We have worked really hard around processes and I'm sure we'll come to it, but the 2020  
5 Title D changes which take things out of the hands of bishops.

6 So what I'm really saying is that there is this kind of imperative in us as people of  
7 faith to try and make something right, to try and reconcile —

8 **MS ANDERSON:** There's a wide range of possibilities of what is right.

9 **ARCHBISHOP PHILIP:** That's what I was going to go on to say, is that that imperative, I'm not  
10 convinced that that wouldn't still get in the way of the handling of a situation, which is why  
11 I think the independence is so critical.

12 **MS ANDERSON:** And in terms of doing what is right, you made a reference in the response  
13 you've just given me that the needs of the institution perhaps prevail over the needs of the  
14 survivor when there's a focus on reconciliation.

15 **ARCHBISHOP PHILIP:** I believe that is clearly evident in the example that we've just watched.  
16 I would hope that that is less and less so, that there is a higher level of consciousness about  
17 the nature of power, the way power is used, the way power is associated with role and  
18 position, and that our processes are significantly better than they were. But I'm not  
19 prepared to exclude the possibility that our drive to seek to make things right might not get  
20 in the way of the need of a survivor. That's the point that I'm making.

21 **MS ANDERSON:** Thank you. I think your evidence is very candid in those kinds of admissions,  
22 and contains admissions of the sort that you've just articulated here. So would I be right to  
23 characterise the way the church is interacting with the Inquiry at this point is to be very  
24 accepting of the fact that things have not worked well in the past from a survivor's  
25 perspective?

26 **ARCHBISHOP PHILIP:** Absolutely.

27 **MS ANDERSON:** You say in paragraph 15 of your written statement, I'll just read it out so  
28 you've got it — perhaps you'd like to read it out if you've got that there.

29 **ARCHBISHOP PHILIP:** I'm happy for you to read it thank you, I'm just finding it.

30 **MS ANDERSON:** "The path towards reconciliation and healing is one that the Anglican Church  
31 has committed itself to and will continue to walk through the duration of the Inquiry and  
32 beyond."

33 Just interested in the sense of which you've intended to use that word  
34 "reconciliation" in that paragraph of your witness statement?

1 **ARCHBISHOP PHILIP:** It's a fair question, given the confusion that we've been exploring  
2 around the nature of the word and its use both in common parlance and theologically, if you  
3 like. Certainly in this clause I'm using it in the theological sense that we've been  
4 describing. In saying that, acknowledge that that doesn't necessarily communicate well and  
5 immediately.

6 **MS ANDERSON:** So in that theological sense, what would you be asking a survivor to read into  
7 that?

8 **ARCHBISHOP PHILIP:** I would be asking a survivor to read no more than that the Church is  
9 committed to the kind of scrutiny and the kind of changes that can provide an environment  
10 where the justice that precedes reconciliation is done and that that is driven by the needs of  
11 the survivor. Now that's taken me four sentences to explain and so clearly what I said in  
12 clause 15 doesn't help very much, does it.

13 **MS ANDERSON:** No, but it's helpful to have had that clarification. Just got one further question  
14 on the topic of reconciliation before we move on to another topic. The new Title D 2020,  
15 and I think we're all very clear, so correct me if I'm wrong, this is a mechanism for  
16 disciplining the relevant clergy or office holder?

17 **ARCHBISHOP PHILIP:** For the handling of complaints and discipline, yeah.

18 **MS ANDERSON:** And it's not been described and you're not intending to say that it is in itself a  
19 redress process?

20 **ARCHBISHOP PHILIP:** Correct. Presumably, however, some aspect of a perpetrator being  
21 held accountable might contribute to the experience of redress.

22 **MS ANDERSON:** And some survivors do want that, don't they, they want accountability of the  
23 individual and sometimes they want the accountability of the institution as well?

24 **ARCHBISHOP PHILIP:** Correct.

25 **MS ANDERSON:** And what Title D delivers is really the accountability of the individual.

26 **ARCHBISHOP PHILIP:** Correct, there's no institutional accountability in that.

27 **MS ANDERSON:** In — and we don't need to go through it on the screen — but the outcomes, if  
28 there is — just to, sorry, step back a minute. If something's been characterised as  
29 misconduct it goes down the disciplinary route under the Title D?

30 **ARCHBISHOP PHILIP:** Correct.

31 **MS ANDERSON:** And the outcomes of that that can be imposed upon the relevant individual  
32 who's caused harm are admonition, suspension, deprivation or deposition. So those are all  
33 varying degrees of penalty effectively, aren't they?

34 **ARCHBISHOP PHILIP:** Correct.

1 **MS ANDERSON:** There's a provision in the new Title D, I'm just going to read it out into the  
2 record. It says "Any of the outcomes — so this is referring to the four outcomes — may  
3 include a process of reconciliation carried out in accordance with the principles of the  
4 relevant tikanga."

5 I'm just curious to understand what you say is the role of the reference to  
6 reconciliation in this outcomes part of a disciplinary process statute?

7 **MRS GUY KIDD:** If I could just assist, because Counsel Assisting has only referred to the  
8 outcomes of a. to c. If those could be identified for the witnesses because there's an  
9 important one that is excluded from those processes, so we all understand what it means.

10 **CHAIR:** All right, a. to c.

11 **MS ANDERSON:** This is the admonition, suspension or deprivation of office of ministry.

12 **CHAIR:** Is there anything other than that in a. to c.?

13 **MS ANDERSON:** No and the d. to which this reconciliation does not attach is in relation to  
14 deposition, so effectively when somebody's removed from the ordained status. So for the  
15 three penalties up until that point, this permissive provision, because it's "may", it's not  
16 mandatory, it may include a process of reconciliation.

17 **CHAIR:** Thank you.

18 **ARCHBISHOP PHILIP:** Thank you, I want Archbishop Don if he is willing to respond, but  
19 simply to say that one of the reasons for this provision is because of the tikanga nature of  
20 the Church.

21 **ARCHBISHOP DON:** In context, an application Title D is a disciplinary process that  
22 contemplates generally Church matters. So, for instance, it can capture things like if a  
23 priest offers a particularly terrible sermon that causes offence, let's say. So in that context  
24 part of the resolution would be reconciliation obviously because that would be appropriate.

25 What Title D isn't, and should never contemplate, is the management of criminal  
26 matters. So in that case, you know, if a finding of Title D is somebody's worthy of  
27 deposition to have their ordination removed, then that's not a reconcilable outcome, that  
28 that has to become a permanent fact.

29 **MS ANDERSON:** So just picking up on that distinction between a complaint about a type of  
30 sermon, is that something you would say would come into the category of misconduct that  
31 comes through to these penalties, or is that something that's unsatisfactory conduct that  
32 would be referred back to the bishop?

33 **ARCHBISHOP DON:** Generally unsatisfactory but captured by the same Title D process.

34 **MS ANDERSON:** And if there was an example where somebody's come forward with a



1 complaint of a serious abuse, say take the Robert Oakly example, heading into that you  
2 don't know what the outcome might be, so just can we make an assumption in the  
3 current — on an assumption, circumstances of offending of the nature that Robert  
4 experienced and there is an upholding of finding that the abuse occurred and the penalty  
5 imposed is deprivation of office, for example, how do you see reconciliation in accordance  
6 with the principles of the relevant tikanga coming into effect in that factual scenario?

7 **ARCHBISHOP DON:** Reconciliation doesn't remove the need for consequence. So within our  
8 theological framework, as I said, forgiveness is the prerogative and the domain of the  
9 survivor. Repentance is the obligation of the perpetrator. Those two things have to exist  
10 before reconciliation can be contemplated. So on that basis just in relation to what we've  
11 been talking about, reconciliation is not assumed to be imposed or mandatory at any point,  
12 it stays there as a unique possibility if the other conditions are fulfilled.

13 **ARCHBISHOP PHILIP:** One of the things this was trying to do was acknowledge the collective  
14 nature of both Tikanga Māori and Tikanga Pasefika as well. In the example of Robert  
15 Oakly, I just want to reinforce that I think the, if proven, deposition is the appropriate  
16 response. I think I made the point on Friday thinking about this need that the Church has to  
17 try and hold people in the extended family, that baptism is the basis of that. So I think we  
18 need to have a much lower bar for deposition than we have had.

19 **MS ANDERSON:** In terms of raising that bar, just moving forward to the point that the  
20 Australian Royal Commission's recommendations, that if somebody has been removed  
21 from ministry that it's a permanent removal and they can never come back.

22 **ARCHBISHOP PHILIP:** Mmm.

23 **MS ANDERSON:** What's your view in relation to the recommendation from the Australian Royal  
24 Commission and its appropriateness in the New Zealand context?

25 **ARCHBISHOP PHILIP:** There is no coming back from deposition. Once a priest is deposed,  
26 they can't be re-ordained, they are deposed, they cannot be a priest. And I'm saying that I  
27 think that that needs to be — I think the bar for that needs to be lowered in the sense that  
28 deposition must be applied more rigorously and more frequently.

29 **MS ANDERSON:** But if the penalty imposed was —

30 **ARCHBISHOP PHILIP:** Deprivation.

31 **MS ANDERSON:** — deprivation, because I don't think we've seen any examples at all of  
32 deposition have we?

33 **ARCHBISHOP PHILIP:** There are some examples but they are few and far between.

34 **MS ANDERSON:** If the penalty is to remove the person from ministry, do you think that there

1 should be an ability to come back into the ministry at a later point, or do you think it should  
2 be the position here in New Zealand as the Australian Royal Commission said that it should  
3 be permanent removal?

4 **ARCHBISHOP PHILIP:** It's difficult to answer that question honestly without knowing what the  
5 circumstances are. I'm finding it difficult to imagine a situation where a person who has  
6 committed abuse of the kind of nature that they should not be allowed back in the ministry,  
7 why they wouldn't be deposed. That's my point really, is that I think deposition should be  
8 used fully and finally and that's the end of it.

9 I think if someone is deprived of their office, then that implies that they could be  
10 reinstated to an office. And I think if we don't get that right, and I don't think we have got it  
11 right in the past, then we will continue to have problems.

12 **MS ANDERSON:** Thank you.

13 **COMMISSIONER ERUETI:** May I just raise a quick question, Counsel. Referring to the  
14 tikanga matter you referred to, Archbishop, about collective perspective, I think you said,  
15 but I wonder whether in this context whether concepts like utu and mana are more apt about  
16 the principle of reciprocity and restoration of mana of survivor and indeed the mana of the  
17 Church?

18 **ARCHBISHOP DON:** Could you rephrase the question?

19 **COMMISSIONER ERUETI:** Thinking about the concept of reconciliation, we've seen it's  
20 recognised how inappropriate it can be in engaging with survivors, but the reference here is  
21 to any of the outcomes may include reconciliation with reference to relevant tikanga,  
22 Tikanga Māori. I wondered whether that would import concepts of utu, mana, restoration  
23 of mana?

24 **ARCHBISHOP DON:** Absolutely, so for instance, I think an example of a reconciling process  
25 within Tikanga Māori would be the concept of hohourongo [?]. This is where the English  
26 falls over a little bit. It's reconciliation but probably more apt to describe it as a restorative  
27 process. It's at that point you begin to identify each of those principles; the mana that has  
28 been diminished and affected be restored, can the tapu that's been affected be restored.

29 The concept of utu, the most benign way to translate that is as you have done is  
30 reciprocity. But also again, these things have a theological context for us, so all of this is  
31 held in a wānanga and a dialogue and discourse with our gospel principles. So it might be  
32 that utu's been considered, but how is that altered according to the principles of the gospel,  
33 tika, pono, aroha. So it might be in the process of a restorative discussion that the affected  
34 party might say "I would like, you know, punishment is deserved, but aroha asks me to

1           behave in another way." So these are all possibilities, once you engage in a tikanga  
2           context.

3   **COMMISSIONER ERUETI:** Thank you counsel.

4   **MS ANDERSON:** Archbishop Richardson, turning to the apologies. So you've got some specific  
5           apologies in your witness statement, you've got a reference in a document that was given to  
6           the Inquiry at the beginning of the survivor voice hearing which talked about the need for  
7           an unequivocal apology and then we're also coming later today to the Primate's statement  
8           which provides an apology.

9                    But I had some questions arising out of the specific apologies that you've provided.  
10           I think I'm right from comments you expressed at the time of being here during the  
11           November/December hearing that somehow hearing the person giving their evidence even  
12           had a different impact on you than simply reading their witness statement, am I right?

13   **ARCHBISHOP PHILIP:** It's hard not to be impacted by what we heard.

14   **MS ANDERSON:** But you had the same information in the written statement before the person  
15           gave evidence, didn't you?

16   **ARCHBISHOP PHILIP:** I can't remember whether there was anything additional, there was  
17           certainly, I think in the leading of the witness through their evidence, there was an  
18           emphasis and a coherence around what was communicated. And it's impossible not to be  
19           impacted by just the sheer impact of that enduring lifelong suffering and that  
20           communicated powerfully.

21   **MS ANDERSON:** So there's something, potentially something there, I'm not going to explore  
22           them, but just to leave them with — to see whether you accept the propositions that there's  
23           something in the supported way in which the survivors were assisted by the Inquiry to put  
24           their evidence before you that perhaps created a point of connection with that evidence that  
25           might be quite different from somebody sending an e-mail in.

26   **ARCHBISHOP PHILIP:** Absolutely. I mean at a number of levels it raises some issues. Firstly,  
27           it was clearly incredibly well-supported; secondly, we cannot anticipate that the way we  
28           receive a complaint in the first instance is going to communicate the depth of what is  
29           behind it.

30   **MS ANDERSON:** And being able to actually hear the person meant that you received the  
31           information and it had an impact on how you wanted to respond, which is quite different  
32           from a paper-based system?

33   **ARCHBISHOP PHILIP:** Yes, yes, I think there's a lot of learning in that. I was approached  
34           yesterday after the service in Hawera by a survivor who said that watching the briefs of

1 evidence had given him a sense that he needed to come forward, but he wanted to know  
2 would it be safe and I was able to unequivocally say that the way that is held and supported,  
3 whether ended up giving evidence in front of the Commission or not, was a safe  
4 environment. That's salutary for us, you know, what is the kind of safe environment that  
5 we help to create for survivors.

6 **MS ANDERSON:** So safe in terms of people coming to the Inquiry but also safety when they  
7 come to the Church?

8 **ARCHBISHOP PHILIP:** Absolutely, that's exactly what I mean.

9 **MS ANDERSON:** There were some of the survivors who gave oral evidence, including one  
10 whose witness statement was read out, that you didn't include a personal apology in your  
11 witness statement and so that included Maggie Wilkinson, Ms M and Mrs D. And I was  
12 reflecting that those are persons who were in care in an institutional context and I wondered  
13 whether the setting in which their abuse occurred had influenced your decision-making  
14 about whether to offer your own specific apology to each of them in your witness  
15 statement.

16 **ARCHBISHOP PHILIP:** Yeah, so what was the basis of my selection. Quite simply those  
17 witness statements — I mean I found all of the testimony profoundly impactful and some of  
18 the examples that you've just cited were equally horrendous. In a number of the cases that  
19 I spoke to we had a situation where an abuser committed abuse across a number of  
20 Dioceses or a number of institutions.

21 Understand my role here is as Archbishop and Primate speaking across the whole of  
22 the Church. So my view, rightly or wrongly, is that the evidence that I responded to, the  
23 individuals that I responded to, had that dimension to it, where there had been a whole of  
24 Church failure in the practicalities of it, and I wanted to name and identify those failures.

25 One, I think, being the fact that the siloing Diocese by Diocese or episcopal unit by  
26 episcopal unit meant that a person could move from one place to another and not be held  
27 accountable in the way that then had a huge impact on people.

28 **MS ANDERSON:** Well, a huge impact in the sense that abuse could continue and people who —

29 **ARCHBISHOP PHILIP:** Thank you.

30 **MS ANDERSON:** — might not otherwise had suffered abuse were abused.

31 **ARCHBISHOP PHILIP:** Exactly, that's unacceptable in every sense, isn't it.

32 **MS ANDERSON:** I've got a question for you about the Church's response as opposed to  
33 individual by individual, the propositions around collective forms of redress and you'll  
34 recall that Stephen Winter in his paper, his evidence for the Inquiry, refers to the need at

1 times, you know, a collective form of redress will be appropriate. It talks about the two  
2 strands, individual and collective.

3 I'm just going to call up on the screen an extract from Maggie Wilkinson's second  
4 brief of evidence where she's proposed effectively a collective form of redress. It's just  
5 coming up on the screen in front of you. Can we just call up paragraphs 3 to 5. Could I ask  
6 you to read that out please.

7 **ARCHBISHOP PHILIP:** Sorry for me to read it out?

8 **MS ANDERSON:** Yes please.

9 **MRS GUY KIDD:** Madam Commissioner, I think when it's a survivor's voice I would be  
10 concerned whether they are traumatised by hearing someone from the organisation reading  
11 it. I'd just like your direction about what the appropriateness of, or whether it should come  
12 from Counsel Assisting.

13 **MS ANDERSON:** I'm happy to read that out if that's a concern.

14 **CHAIR:** I think it's a proper concern, certainly thank you.

15 **MS ANDERSON:** "I would dearly love one of the beautiful stained glass windows at the Holy  
16 Trinity Cathedral in Parnell, one of the prominent windows to be dedicated by the Anglican  
17 Church to the many mothers destined to a lifetime of grief and to their children who were  
18 taken/abducted by the judgmental philosophy of the Church. To acknowledge and  
19 remember with sorrow the impact of that action on those who were harmed by faith-based  
20 actions and New Zealand's adoption legislation.

21 Although I would rather a remembrance place not be placed in a building of  
22 religion, I would definitely love an acknowledgment to be in that position of prominence so  
23 that people can mull over a practise that was and is normalised by religion and society.  
24 And so they can begin to think about the harm done by taking a new-born from his or her  
25 mother."

26 So effectively that's a proposal for a collective form of redress. What are the  
27 church's processes, what's your role as Archbishop and/or as primate when people are  
28 coming forward with suggestions as to collective forms of redress, do you have a process  
29 that they would go through?

30 **ARCHBISHOP PHILIP:** That's a process which, again, is by diocese by diocese, but it's a  
31 common process which is that any proposal of that sort for a permanent dedication does  
32 need the approval of the bishop. But it's a simple process.

33 In the example given, it would require that the local governing body of the Holy  
34 Trinity Cathedral in Parnell would need to agree and they would petition the bishop for

1           what's called a faculty to allow a memorial to be put in place. The bishop's concern in that  
2           situation is simply that it is something that is appropriate for the context. So it would be  
3           about design, wording and that sort of thing.

4   **MS ANDERSON:** So before it gets into that decision-making forum that you've described,  
5           somebody has to pick up and decide to put it into that decision-making process.

6   **ARCHBISHOP PHILIP:** Mmm.

7   **MS ANDERSON:** Is that the bishop's responsibility.

8   **ARCHBISHOP PHILIP:** It could be, a bishop could initiate that, others could initiate it, it could  
9           be an idea that is sent by an individual to a bishop and the bishop champions that. Yeah,  
10          I mean I was just reading that and thinking of the situation in relation to the  
11          acknowledgment that was sought in the Christchurch Cathedral to the women who had  
12          been abused by Mr McCullough and the opposition that they faced from a whole range of  
13          quarters.

14   **MS ANDERSON:** That's right, isn't it, I don't think there's anything that we know about from the  
15          Inquiry's side that would be some kind of collective redress outcome that's been actioned.

16   **ARCHBISHOP PHILIP:** That's right, but we know from examples here in Aotearoa and around  
17          the world where pain and suffering is acknowledged in a permanent way that that can be a  
18          place of permanent sort of wānanga, of revisiting the failure. So I think of the stones on  
19          Portsmouth Drive in Dunedin in front of the caves where the Taranaki prisoners were  
20          incarcerated and whenever you go to Dunedin you have to go there and visit those to pray  
21          there, to remember the story. Something like this would be entirely appropriate, wouldn't  
22          it.

23   **MS ANDERSON:** So is that something that might be taken away from this conversation that  
24          perhaps as a leader of the Church that conversations around what might be possible in that  
25          collective form of redress is something that you could be championing. Not specifically  
26          this example, just in a general sense?

27   **ARCHBISHOP PHILIP:** Yes, absolutely.

28   **COMMISSIONER ERUETI:** May I just quickly ask, the sense this is reactive on a case-by-case  
29          basis as it arises from the survivor rather than as an element in a suite of policies about  
30          redress?

31   **ARCHBISHOP PHILIP:** My unthought-through response would be to say I don't see why it  
32          couldn't be both/and. Thinking, for example, in Wellington Cathedral, which although it's  
33          the cathedral for the Diocese in Wellington, stands in the capital city right next to  
34          parliament. There's an extraordinary tribute to the women of the Church. Its placing there

1 was because of its proximity to parliament, women getting the vote, a whole raft of things.

2 So it seems to me that that kind of acknowledgment and recognition, there could be  
3 situations where something that is intensely personal and private would be appropriate.  
4 And there are things that need to be public and more global as in the example that I gave  
5 around the contribution of women to the life of the Church and society in Wellington  
6 Cathedral.

7 **COMMISSIONER ERUETI:** Because the point I'm making is there could be a number of  
8 things, right, that are collective, like a commemoration or the dedication of some form of  
9 real property or personal property in the name of a collective, but it's whether, you know,  
10 the content of that will be determined on a case-by-case basis, but it's whether the principle  
11 has been clearly established and reduced to writing and communicated. It doesn't seem that  
12 so far we have that.

13 **ARCHBISHOP PHILIP:** I guess the closest equivalent in terms of redress would be an example  
14 which is currently, just need to be a little careful, where survivors have asked to be part of a  
15 service of cleansing within the context in which they experienced abuse, and that is being  
16 organised.

17 So in terms of when we talk about redress, the whole raft and range of things I think  
18 needs to be up for consideration. Everything from clearly financial reparation right through  
19 to anything that would assist a survivor to — I think the word "closure" is too quick and too  
20 cheap, but to be able to be supported through that stage of the process.

21 **COMMISSIONER ERUETI:** Yes. Survivors will need to know what the options are, that's  
22 right, and that needs to be clearly communicated. I would have thought, particularly for  
23 ngā amorangi, that in that context this would be an important kaupapa, both in bringing  
24 claims as a collective but also in the type of redress that one would have. I did wonder  
25 whether we have any instances of that historically about redress in the collective form so  
26 far, and also whether that forms part of the suite of remedies, if you like, going forward  
27 under the new process.

28 **ARCHBISHOP DON:** It's hard to think of examples, Commissioner, but certainly the kōrero, the  
29 wānanga, the dialogue is a very active space. So if you think about what some of our  
30 wonderful kahurangi leaders are doing in some of the conversation around Oranga  
31 Tamariki, the ongoing discussions before the Waitangi Tribunal, and I'm thinking  
32 particularly of the claim brought by Dame Areta Koopu and others around the mana of  
33 wāhine.

34 But in each case those principles are being considered and applied, there has to be a

1 space within which we can have, I think in the first instance, the proper, safe dialogue to  
2 find what the resolutions are. I think it's more about creating that tūrangawaewae, the space  
3 within which we can come together and have the conversation in the first place, as opposed  
4 to identifying principles that are kind of pre-determined. Here's a range of outcomes you  
5 can choose from off the shelf. So I think the Māori response has been we prefer a more  
6 dynamic space within which in each instance we can start again and say, okay, what is the  
7 best possible outcome in this situation.

8 **COMMISSIONER ERUETI:** I appreciate that. It seems so far prospective as in we're at the  
9 formative stages of drawing on these different strands of learnings and understandings as  
10 part of the new process going forward.

11 **ARCHBISHOP DON:** Absolutely. And freedom to, you know, we certainly have already  
12 identified enduring principles, aroha, manaakitanga, mana, tapu, ihi. Again, I'd say it's  
13 about, in this case, negotiating the freedom and the right to apply those things.

14 **COMMISSIONER ERUETI:** Kia ora.

15 **MS ANDERSON:** Just moving on to, again, a very short topic before we move into looking at  
16 some documents. What we've heard this morning, and repeated in your brief, is that there  
17 is no redress process currently. That's either there's no written redress process and nor is  
18 there an unwritten redress process. In your witness statement you draw this distinction  
19 between claims on the one hand and complaints on the other with complaints leading to a  
20 disciplinary track and then we've got claims on the other. So in terms of responses to date  
21 and in the evidence relating to claims, do you agree that overall it looks pretty hard for  
22 somebody to get anything out of the Church other than an apology?

23 **ARCHBISHOP PHILIP:** It's not only that it looks that but when you read the evidence it has  
24 been really hard, and the recourse to concerns around liability, recourse to lawyers and that  
25 kind of exchange of protection of space. I mean I understand why that's happened, but  
26 when you look at it evidentially in the story of people's lives, it's pretty hard to see that as a  
27 tenable approach.

28 And I think while our instincts have been significantly better around making sure  
29 that our people are well-trained and are held accountable, that's the primary purpose of  
30 Title D, it's aspirational at one level it, sets the ministry standards, says this is the kind of  
31 life, it's expressed in very positive language, but then it follows immediately with a process  
32 for dealing with failures to meet those standards. It's all about that at one level, it's all  
33 about us.

34 So the redress conversation, you're absolutely right, is kind of almost brand new for



1 us, and you've seen the draft work. But it's very early and I'm sure we'll come to it, but my  
2 view is that we are not well-placed to handle a redress process well, and I do think that  
3 there needs to be a consistency across the whole of our society in terms of both the  
4 principles that would be brought to redress and understandings of what reasonable redress  
5 might look like in that sort of holistic sense of —

6 **MS ANDERSON:** But leaving aside the future state —

7 **ARCHBISHOP PHILIP:** Sure.

8 **MS ANDERSON:** — you know, one of the options that will inevitably be discussed is the  
9 Australian model of this independent —

10 **ARCHBISHOP PHILIP:** Yeah.

11 **MS ANDERSON:** — mechanism or some other variation on that, or alternatives of that where the  
12 response to the individual is effectively not directly actioned by the faith-based institution  
13 that's harmed them. But we're in a period now where you don't know what change might  
14 happen on that international front. So how do you think you can get past the position where  
15 you say you just don't know how to do a redress process in the Church, given that one  
16 option might be that you do need to look at improving your systems and processes?

17 **ARCHBISHOP PHILIP:** Yeah, so I mean we're certainly being proactive around that. One of  
18 the really challenging conversations in the last 12 months has been looking at that draft  
19 redress policy with our school leadership, with principals and with board chairs and others,  
20 and they've engaged pretty energetically with that. But what it revealed, again, was that the  
21 independence of our schools from each other means that we really have to take people with  
22 us in a — we can't — we have no mechanism to require them to legislate for them to take a  
23 common process.

24 **MS ANDERSON:** But leaving aside that institutions that are in a slightly, you know, further from  
25 the centre, like schools; in terms of the Church's own activities over which you do have  
26 control, so there is something that should have been done in the past that hasn't been done  
27 there?

28 **ARCHBISHOP PHILIP:** Yeah, look it's much easier for us to get what we've called the core  
29 Anglican entities working together on this and there is a commitment to do so.

30 **CHAIR:** May I ask, there's a commitment. Has anything started?

31 **ARCHBISHOP PHILIP:** Yes, there is that draft document that's been engaged with by all of the  
32 bishops of the Church, it's been disseminated around the Church for discussion in each  
33 episcopal unit.

34 **CHAIR:** This is not the school unit, this is not the school draft one?

1 **ARCHBISHOP PHILIP:** It's the same.

2 **CHAIR:** It's the same.

3 **ARCHBISHOP PHILIP:** It's the same. What the schools have said, understandably, is that their  
4 context requires some differences and the episcopal unit context requires some differences.  
5 The same with our care providers. But there's some core principles, a core approach around  
6 which we would hope there would be some commonality. That's going to be the huge  
7 challenge for us as a society generally, is how to establish some things that are core and  
8 some things that are sector by sector relevant.

9 **CHAIR:** Where have you got to in relation to the draft one that relates not to the schools but to  
10 the Church?

11 **ARCHBISHOP PHILIP:** That's at very early stages it's been disseminated. The discussion for  
12 the bishops has been around vicarious liability, which is assumed in that redress document,  
13 but it's not been something that has been easily come to.

14 **CHAIR:** Thank you.

15 **MS ANDERSON:** I think you say in your evidence at paragraph 16 that over the last decade that's  
16 been characterised as attempting to get better at dealing with abuse complaints. Although  
17 you've used the language there of complaints, you're effectively meaning disclosures, it's  
18 not about the distinction between a complaint and a claim, is it?

19 **ARCHBISHOP PHILIP:** No.

20 **MS ANDERSON:** I'm just going to take you back further in time in the last decade and move  
21 through some of the activities and actions within the church that relate to this need to  
22 address this area. I'm going to begin in 1989. I'm just going to call up document  
23 WITN0243005. This is a letter from Reverend Patricia Allen to the Archbishop of the day  
24 following up on matters relating to abuse and the recent media coverage. This is clearly  
25 referencing the events in Christchurch, isn't it?

26 **ARCHBISHOP PHILIP:** Yes, it is.

27 **MS ANDERSON:** And over on the second page, the beginning of the second paragraph, I'm just  
28 going to call up the first part of that second paragraph. So what she's saying there is, "I  
29 believe that as a Church going into a decade of evangelism there is an urgent need to  
30 critically examine the underlying issues surrounding this present crisis." That crisis that  
31 she's referring to there, and you haven't had time to read the document, but it is about abuse  
32 in the Church.

33 **MRS GUY KIDD:** Was there a question there, did you want him to read it?

34 **MS ANDERSON:** I'm just going to go through a few documents and then we'll come back with

1 the questions.

2 **CHAIR:** I just want to know, do you accept that this is about — sorry, I'd forgotten how you  
3 described it, Ms Anderson. We got a nod but not a word.

4 **MS ANDERSON:** We got a nod, yes.

5 **ARCHBISHOP PHILIP:** Sorry, yes, I accept that this is in response to the Mr McCullough  
6 situation and the learnings that women were collectively directing towards Church  
7 leadership.

8 **MS ANDERSON:** About the existence of abuse in the Church?

9 **ARCHBISHOP PHILIP:** Correct.

10 **MS ANDERSON:** Not just Rob McCullough but abuse generally in the context of the Church?

11 **ARCHBISHOP PHILIP:** Correct.

12 **MS ANDERSON:** Then we're going to call up a document ANG002742. Just to orientate you to  
13 this Archbishop, which is unlikely to be a document that you'll be familiar with, so I'll just  
14 provide some context for you and for the Commissioners. Nerys Parry is a psychologist  
15 who has been used relatively often by the Church in relation to people who have allegations  
16 against them. At times she's acted as a mediator, so she's had some involvement with the  
17 whole mechanism of the process of responding to abuse. And she's responding to some  
18 specific matters, but you'll see that she identifies a problem at paragraph 2 beginning "I am  
19 inclined".

20 So this is a problem identification that she's — there are potential problems in each  
21 Diocese having a different set of guidelines, and again this is in relation to sexual  
22 harassment. However, some of them may appear to be in content. She identifies certain  
23 dangers of them, including different interpretation.

24 Coming down to the last part of that page she sets up some recommendations. So  
25 you can see that she's proposing that bishops agree on a set of national guidelines, the  
26 structure, potentially with some local variation, to address all three potential pitfalls that  
27 she's identified for regional or cultural differences. She refers to the need for there to be  
28 three distinct but interrelated documents, and you'll see the third one there is a complaints  
29 procedure with a special section pertaining to sexual misconduct being harassment and  
30 abuse. So that's come into Reverend Bruce Moore at that time in 1993.

31 The next document I'm calling up is WITN0049008. Again, just to orientate you,  
32 this is a media article dated in July 2002, where it refers to Anglicans and other faiths  
33 strongly encouraging complainants to go to the Police, indicating a zero tolerance towards  
34 sexual abusers amongst their midst and refers at the bottom of the page, could we just call

1 that up, "A group of women survivors of clergy abuse, however, are pushing for an  
2 independent avenue for complaints within the church, such as an ombudsman for church  
3 affairs."

4 Then we're going to leap forward to a document WITN0265166. We don't have a  
5 date on this document, but I suspect from references in it that it must be at least after 2003,  
6 so it may be around that 2003/2004. So you see the title to it "Pastoral justice and advocacy  
7 guidelines for the church's response to survivors of sexual exploitation by the clergy".

8 You'll see in the first paragraph, I won't call it out but while you're reading it there  
9 on the screen, there's reference to a Primates Working Group which has begun researching  
10 and acting in this area from 2003, with this area being a reference to the issue of abuse.  
11 Are you able to explain what that Working Group might have been and when it might have  
12 been set up?

13 **ARCHBISHOP PHILIP:** I think your timing is absolutely right, I was reading this document  
14 earlier and trying to locate it. It is, I think, from about 2002 to 2004 as best I can tell.

15 **MS ANDERSON:** But the Primates Working Group, if it was in existence, you wouldn't have  
16 been a member of that at that time?

17 **ARCHBISHOP PHILIP:** No, no.

18 **MS ANDERSON:** If we could call up the third paragraph, "The call is to now move", just the rest  
19 of that page. So you see there's a call being expressed in this document to move beyond  
20 reactive and responsive behaviour in the church towards proactive advocacy. This is a  
21 spiritual call to actively work for those who have been marginalised by abuse. The  
22 following reference there, and we'll just take a little bit of time to go through these  
23 principles. Marie Fortune, I think you'll be familiar that she's referenced in a number of  
24 Anglican documents, including some of the sexual harassment policies back in 94 and 96,  
25 so she's clearly been seen as an authoritative voice within the Church. She's not within the  
26 Church here in New Zealand, but she's a recognised expert.

27 **CHAIR:** Do you accept that?

28 **ARCHBISHOP PHILIP:** Sorry, yes, I do.

29 **MS ANDERSON:** What's set out here are the four factors that Marie Fortune has identified in her  
30 writings about the seven elements. We'll come back to look at them but I'll just read them  
31 out to give Commissioners an overview of what they are.

32 The first you can see there on the page is truth-telling, the second is acknowledging  
33 the betrayal, the fourth is acknowledgments from the Church that pastoral abuse is evil —  
34 sorry, that's a subset of that one. The third one is accountability, the fourth one is

1 compassion. The fifth one is protecting the vulnerable, the sixth one is restitution and the  
2 seventh principle is liberation.

3 Before we come back to discuss those principles I'd like to move to the second half  
4 of page 2 and just call up the heading part way — from that heading downwards thank you.  
5 So you can see that it's recommended that a national pastoral justice and advocacy unit be  
6 created to manage procedures where they're required. It talks about the relevant skill set  
7 that would be needed, including experience in Title D, but also pastoral empathy and  
8 sensitivity. Proposes that a unit would be the coordinator of pastoral justice and advocacy  
9 when called upon to do so by an Anglican institution and/or a survivor of sexual abuse.

10 Just over at the very top of the next page, there's a recognition that to prevent  
11 survivor stories being treated twice over, a way of working hand in glove with the  
12 procedures of Title D would need to be discovered. Proposes some options, and then over  
13 just to the conclusion on the last page, it's recommended that this paper be the basis for  
14 agreed guidelines by the Standing Committee of General Synod, the bishops and the ethical  
15 standards sexual harassment groups of each Diocese and that the chancellors of each  
16 Diocese be advised of the guidelines.

17 So it looks, at that point, that there's quite a substantial amount of work leading up  
18 to this paper. Do you know whether the work anticipated by this paper here, before we go  
19 back and look at the seven principles, has been taken forward?

20 **ARCHBISHOP PHILIP:** Not in a comprehensive or appropriate way, no.

21 **MS ANDERSON:** Just moving back to page 2 with the seven principles beginning there, is there  
22 any comment that you wish to make in relation to the appropriateness of those principles to  
23 the Church when designing its response to persons coming forward with disclosures of  
24 abuse?

25 **ARCHBISHOP PHILIP:** This is work that I am familiar with, and my familiarity has been at the  
26 point where we have developed educational and training materials for in-service training  
27 and professional development for clergy and lay ministers, Marie Fortune's work has been  
28 influential in that space. This has been completely disconnected, in my view, from the way  
29 in which we have been trying to develop common processes in relation to dealing with  
30 disclosure and complaint.

31 So our focus has been on canonical structure and process. What we're seeing  
32 already from the Ministry Standards Commission is them saying actually where is the kind  
33 of pastoral and justice principles that need to be embedded in these structures and in these  
34 processes, and these are the kind of things that need to guide and shape, but they haven't

1 done to date, in my view.

2 **MS ANDERSON:** Then coming over to document ANG0004744.

3 **COMMISSIONER ERUETI:** Counsel, may I just make an observation really. Having had this  
4 discussion just a couple of minutes ago about these fundamental values of aroha,  
5 whakapapa, whanaungatanga, pono, I can't see any evidence of that discussion in these  
6 seven principles either, and I wondered whether in formulating these whether the Pīhopa of  
7 Aotearoa participated?

8 **ARCHBISHOP PHILIP:** Those were a person with expertise and academic experience offering  
9 some reflections in an offering to the Church. The educational development that I was  
10 talking about is within Tikanga Pākehā. And I think, you know, the challenge in our  
11 society is around how we weave something that is authentically us. These are not mutually  
12 exclusive, there needs to be a kind of dialogue between them, but the way Pīhopatanga  
13 Aotearoa had been working around these issues is another matter entirely.

14 **COMMISSIONER ERUETI:** Did you want to comment on that as well?

15 **ARCHBISHOP DON:** There is a dimension within which we operate as one body, so we're  
16 obviously informed by this discussion. There's plenty that we can take within these  
17 proposed principles as having a universal value and that we can correlate to our context.  
18 But it becomes a question of, you know, how can you then apply them with some integrity.  
19 So the dialogue, the wānanga, needs to be ongoing. But I guess at the very least we're  
20 saying that the discussion is underway, we're trying to work out how best to take care of  
21 survivors and how best to apply these principles in responding to their needs.

22 **COMMISSIONER ERUETI:** That's a tremendous challenge, isn't it, because we've heard from  
23 both the Auckland and the Christchurch bishops about candid, you know, we are fairly  
24 monocultural, and it seems that there are — how you bridge between the different primates  
25 to ensure you have Pasefika, Tikanga Māori concepts embedded in a redress scheme, that  
26 you don't have these different silos having conversations. I wonder whether with the  
27 development of the new redress or Title D as well as plans for an independent redress  
28 scheme, consistent, whether you're pulling upon all of those influences from the different  
29 Primates?

30 **ARCHBISHOP DON:** Yes, absolutely. I think part of the value of having a united and unified  
31 approach to this is that we bring this all into the same room around the same table. And it's  
32 at that point that we can begin to assure ourselves that we're incorporating our tikanga  
33 elements and incorporating the principles that are important to us. It's the siloed approach  
34 that has made that very difficult. Obviously we're not separate from our society and our

1 community, many of the challenges we face internally in terms of cultural dialogue are  
2 reflected externally across the community. So we continue to be informed by that space as  
3 well.

4 **COMMISSIONER ERUETI:** Kia ora.

5 **COMMISSIONER ALOFIVAE:** If I could just ask a question as well. Thank you Archbishops,  
6 I was probably going to save it for later but I'm wondering if now might be the right time,  
7 given that Tikanga Pasefika is not represented and I understand the primate is based  
8 overseas; is that correct?

9 **ARCHBISHOP DON:** Based in Suva.

10 **COMMISSIONER ALOFIVAE:** So just in terms of your structure if we're talking about redress,  
11 is the assumption correct that it's also applicable then to Tikanga Pasefika or are there  
12 jurisdictional issues?

13 **ARCHBISHOP DON:** It applies to us constitutionally in a way that we're arranged as a Church.  
14 So internally it will apply to all of us, but of course we have to think about our context and  
15 certainly in the case of the Diocese of Polynesia, Tikanga Pasefika you have several  
16 different national and legal jurisdictions, Fiji, Tonga. So what we agree to together needs  
17 to then be applied contextually.

18 So, you know, in some ways it's more simple for us, the Archbishops that you see  
19 before you in terms of the Aotearoa New Zealand context, but we have to weigh in balance  
20 the broader context that our Church represents and encompasses when we're talking about  
21 Pasefika as well.

22 **COMMISSIONER ALOFIVAE:** Of course that would bring in the complexity of the language.  
23 We've heard words this morning about reconciliation, restoration, because when your  
24 primate is based overseas in those very embedded Pacific contexts, again those words  
25 probably carry, I was going to say a different or a deeper meaning in terms of the biblical  
26 foundations.

27 **ARCHBISHOP DON:** Absolutely, and that's why when we have a tangata whenua principle, we  
28 defer to the local culture. We've actually been witness to, for instance, the process of ifoga,  
29 which is a Samoan approach to reconciliation and restoration. That's part of the dynamic  
30 that our Church affords us. We will adapt protocol as it's locally appropriate, while trying  
31 to maintain the same kind of fundamental principles.

32 **COMMISSIONER ALOFIVAE:** We're conscious of your struggles.

33 **COMMISSIONER ERUETI:** Can I just clarify, so you've incorporated ifoga into your  
34 complaints redress processes?

1 **ARCHBISHOP DON:** Certainly within the Diocese of Polynesia, that's where tikanga comes to  
2 the fore, we have this structural expectation but it's tikanga that gives it life.

3 **CHAIR:** However, we are here in Aotearoa New Zealand and for me the essential question is,  
4 bearing in mind you have not got the processes yet, really a call that any processes that are  
5 developed are not only inclusive of Māori Tikanga but also of the Pacific values and the  
6 understandings of Pasefika, as well; and we've heard, haven't we, about the multi-cultural  
7 nature of your Tikanga Pākehā system.

8 So I think all of us are saying, whatever happens in your Pacific regime, you must  
9 be mindful — I think it's self-evident, isn't it, but I think it needs to be stated — of the  
10 cultural differences and it points out the difficulty of coming to some form of standardised,  
11 unified process. But I think that's probably the message that we are wanting to convey to  
12 you. Do either of you wish to comment on that?

13 **ARCHBISHOP DON:** Tēnā koe, you're absolutely correct. You know, Aotearoa New Zealand  
14 has a wonderful multicultural aspect, so the fact we're open to having this conversation  
15 gives us an opportunity to be incorporative. I guess we'd also say that in terms of the form  
16 of redress, the structure of redress that's been signalled in our discussions at the moment,  
17 we have to obviously incorporate more than just our own faith traditions as well. So if this  
18 was to be applied, say, in the context of our brother and sister Muslim communities in  
19 Christchurch, you know, such a system of redress would have to incorporate what is  
20 important to them. Tēnā koe.

21 **CHAIR:** Thank you. Tēnā koe.

22 **MS ANDERSON:** Thank you. Archbishop Richardson, moving from the 2003/2004 document  
23 with very strong recommendations, do you agree with the strong recommendations to  
24 proceed to develop guidelines for responding to abuse when it's disclosed; do we agree?

25 **ARCHBISHOP PHILIP:** We agree.

26 **MS ANDERSON:** Then we jump forward, the next document I've got for you is in 2016. This is  
27 a letter from Cooper Legal to the Anglican Church. And the message in this letter is that  
28 the Church doesn't seem to have any clear processes for investigating, considering and  
29 responding to complaints that they're bringing through on behalf of clients. And can we go  
30 into the next page and just call out from the third paragraph down.

31 So you see there's a reference to, the church should consider doing something  
32 similar to what the Catholic Path to Healing process does. Noting there that complaints of  
33 abuse are not likely to cease, so there's still an issue to be faced. Asking that you consider  
34 the — the church consider the concerns raised here, and giving genuine thought as to how



1 the Anglican Church should best respond to those who have been abused and/or mistreated  
2 in its care. So that's a communication that's been received from Cooper Legal. I'm not sure  
3 whether — would you have seen that letter at that time?

4 **ARCHBISHOP PHILIP:** More than seen it. As a result of receiving this letter the General  
5 Secretary and I went to Wellington to meet with Cooper Legal to discuss the content of this  
6 letter. And to —

7 **MS ANDERSON:** I think that might actually have happened the following year.

8 **ARCHBISHOP PHILIP:** It's not this letter?

9 **MS ANDERSON:** It's a subsequent communication, but yes we will cover that process.

10 **ARCHBISHOP PHILIP:** It was certainly involved, yeah.

11 **MS ANDERSON:** Can I just turn to the last page of this document, I'm just pulling up, which was  
12 an attachment to the document — we might need to come back to that one. Can we just  
13 expand those slightly please.

14 **CHAIR:** I just want to be clear exactly what we're looking at here so we're all on the same page  
15 thank you.

16 **MS ANDERSON:** Can you include the text underneath of what we've got there. So this was an  
17 attachment to the letter that Cooper Legal have sent. You can see at the bottom there  
18 there's a reference to some General Synod Standing Committee minutes. I can confirm,  
19 and asking you to assume for the moment, that it's correct that these are extracts from an  
20 Australian Synod committee, not New Zealand, and this identifies principles to provide  
21 pastoral care and assistance to those who have been sexually abused by clergy or workers,  
22 or church workers.

23 So you can see that what's happened here is that Cooper Legal have provided you as  
24 well as saying you need a clear process, they've actually given you material from Australia  
25 that identifies what a voluntary scheme might have some elements of. So that's at that  
26 point. And that was the attachment to the 29 July — sorry, the 22 December 2016 letter.

27 And then if we move forward to ANG004388 and what we'll see in this document,  
28 Archbishop, is the reference to the meeting that you recall having as a consequence of  
29 concerns being raised. So it refers to having had a meeting in May 2017 to raise the  
30 concerns.

31 And again, what's provided at this time, we won't have time to go through it, but is  
32 again an outline of the concerns they've had and some suggestions on the way forward.  
33 And again, we won't, in the interests of time, go to them, but there's a similar  
34 correspondence between Cooper Legal and the Anglican Trust for Women and Children.

1 **ARCHBISHOP PHILIP:** Right, so the letter in December was what prompted our visit to  
2 Cooper Legal which is referred to in this letter, so one followed the other.

3 **MS ANDERSON:** One followed the other?

4 **ARCHBISHOP PHILIP:** Yeah.

5 **MS ANDERSON:** What, from your perspective, what action followed that meeting in May 2017?

6 **ARCHBISHOP PHILIP:** This was part of what I believe was a growing body of evidence, if you  
7 like, that we needed to substantially reform our Title D. I've already acknowledged that  
8 that is only dealing with part of the issues raised. But from the perspective that we were  
9 looking at this, the greatest impediment to independence and transparency and consistency  
10 for survivors was our disaggregated Diocesan system and the fact that bishops were acting  
11 inconsistently, or I think that's probably unfair to the collective, but the potential for  
12 significant inconsistency was inherent in our system. So rightly or wrongly we started at  
13 that point and this was one of the prompts.

14 **MS ANDERSON:** So in this prompt, is this a prompt towards reform of Title D, or is it a prompt  
15 to reform of something else?

16 **ARCHBISHOP PHILIP:** We certainly acknowledged in the process, I remember a discussion at  
17 the General Synod Standing Committee, that it needed to be much more holistic than our  
18 Title D, a review of Title D, and I think the minutes would show that there were a number  
19 of discussions where members of the Standing Committee raised concerns about a holistic  
20 approach to survivor support and care. But it was more in that sort of language, about  
21 support and care rather than driving a process from a survivor perspective.

22 **MS ANDERSON:** So standing back now thinking about the sequence of the documents that I've  
23 taken you through, some internal, some from people reaching into the church with  
24 messaging, so that's beginning reference to a crisis in 1989 through to you've met with  
25 Cooper Legal in May 2017. Do you agree that's a very long period where there seems to  
26 have been a consistent message being given you should have a process and it needs to be  
27 designed in accordance with certain survivor-focused needs in mind?

28 **ARCHBISHOP PHILIP:** Yeah, look when you lay it out in the way that you have it's pretty  
29 irrefutable, and I wouldn't want to try and rationalise our way out of that. The biggest  
30 challenge to this church has been how we commit to a collective approach, and a collective  
31 approach that takes account not only of the jurisdiction of bishops but the tikanga diversity  
32 which we had committed ourselves to in 1992. All of that, from the perspective of the  
33 survivor is pretty unconvincing I suggest. It's clearly there. A lot of the material you've  
34 referred to has had some influence on the educative training area that I've talked about.

1 **MS ANDERSON:** From a safeguarding perspective?

2 **ARCHBISHOP PHILIP:** Yeah, but not in terms of front-ending our processes, that's taken far  
3 too long.

4 **MS ANDERSON:** We're just at the break, but before we break, one of the observations is that this  
5 is a Church that, from a period where there were certain changes in 1984 through to your  
6 constitutional changes in 1992, have created a world unique constitutional structure for the  
7 Church in a period of time that's much shorter on one view than the period of time to deal  
8 with how do we create a process to respond to survivors coming forward to us. Would you  
9 agree that, looking at those two things, a question that emerges is why?

10 **ARCHBISHOP DON:** Can I say, not quite. From a Māori point of view it's taken us from 1814.  
11 So to —

12 **MS ANDERSON:** I accept that.

13 **ARCHBISHOP DON:** — to get to a constitution that's attempting to reflect the Treaty of  
14 Waitangi. But again I want to echo Archbishop Philip's reflection, from a survivor's point  
15 of view that's not acceptable.

16 **MS ANDERSON:** But what's the explanation, why is it proving so hard?

17 **ARCHBISHOP DON:** We don't want to rationalise this in a way that diminishes the suffering of  
18 survivors. But the context that we operate in has challenges, you know, obviously that are  
19 our challenges, and this particular matter doesn't exist in isolation or in a vacuum. There  
20 are a number of conversations that we have to have to build unity and consensus. A little  
21 bit like trying to get multiple district councils to work together on something, a couple of,  
22 you know, political parties to work together; these are very particular human and  
23 community challenges that we have.

24 In context, though, and particularly I think Archbishop Philip would agree, the  
25 changes that we're beginning to implement are accelerated as we bring this matter to the  
26 fore, so that in no way excuses the pace of change, but just in an attempt to respond to your  
27 question, trying to describe the nature of the challenges that are before us as we try to  
28 change.

29 **MS ANDERSON:** Thank you. Archbishop, you look like you've got something you're wanting to  
30 add to that?

31 **ARCHBISHOP PHILIP:** It feels very difficult to say anything that doesn't in any way diminish  
32 the significance of this kaupapa and our failures in the face of this kaupapa. Every week  
33 there are literally thousands of pastoral encounters and the primary work that faces us on a  
34 day-by-day basis is ensuring that those pastoral encounters are undertaken by clergy who

1 are living and working sacrificially and that they do so to the very highest of standards and  
2 you know, that's a constant, constant challenge.

3 And then it feels like the kind of bigger issues, like wrestling as we have done for,  
4 as Archbishop Don says, more than 200 years with what a Treaty based gospel driven  
5 Church might look like consumes huge energy. The fact that the Church was wrestling for  
6 the best part of 20 years with gender equity and the place of LGBTQI members of our  
7 church in our life and they absorb and consume significant amounts of energy and  
8 controversy. And I think the blunt and honest truth is that we haven't attended, as our  
9 gospel would require us to, to the most vulnerable. And this Commission has put the most  
10 vulnerable in front of our faces.

11 **MS ANDERSON:** Thank you. That might be an appropriate place to take the morning  
12 adjournment.

13 **CHAIR:** I agree, we'll take 15 minutes. Thank you.

14 **Adjournment from 11.36 am to 11.57 am**

15 **CHAIR:** Thank you, yes Ms Anderson.

16 **MS ANDERSON:** Moving slightly forward in time again to the 2019 policy document that you've  
17 been making reference to, we're going to have a little bit more of a look at that in detail, but  
18 we'll just get that called up on the screen, page 1 of that. While that's just happening, am  
19 I right that the 2018 Standing Committee Synod notes refer to an earlier version of this that  
20 had been in circulation and in discussion the year prior to this version being circulated  
21 internally for comment?

22 **ARCHBISHOP PHILIP:** Yeah, I think that's right. I can't be categorical about that. I believe  
23 there was an earlier version.

24 **MS ANDERSON:** And we'll come back to that because I will be looking backwards slightly to  
25 the 2018 version while we're — but we can confirm this is the most current draft when  
26 you've given your witness statement at the end of last year and provided this as one of the  
27 documents you've referred to, this is the most recent document.

28 **ARCHBISHOP PHILIP:** At the time when the witness statement was prepared, yes.

29 **MS ANDERSON:** There may be ongoing work —

30 **ARCHBISHOP PHILIP:** Correct.

31 **MS ANDERSON:** — after that date. As at December 2020, this was the current version.

32 **ARCHBISHOP PHILIP:** Correct.

33 **MS ANDERSON:** And we can see the description that it's addressing abuse, principles and  
34 procedure in responding to complaints of abuse. The use of that language there of

1 "complaints", given the complaints and claims distinction you've made in your witness  
2 statement about complaints going to a Title D process; is the word "complaints" being used  
3 here in a different sense?

4 **ARCHBISHOP PHILIP:** Am I able to refer to the document?

5 **MS ANDERSON:** Sorry, have you got it on the screen in front of you?

6 **ARCHBISHOP PHILIP:** I've got the front page.

7 **CHAIR:** Would you like to see the hard copy?

8 **ARCHBISHOP PHILIP:** If at all possible, I just want to be able to orientate myself if possible.

9 **CHAIR:** I'm sure that's possible.

10 **MS ANDERSON:** It's WITN0265017.

11 **CHAIR:** Sorry, we're all looking at Madam Registrar, we should all look somewhere else, it's  
12 horrible to be spied on. There isn't another bundle of documents available, is there?

13 **MS ANDERSON:** While we're doing that perhaps we could move to the second page which  
14 might help you give some more context while we're taking some steps to ensure you've got  
15 a complete copy of the full document. Could we just expand, highlight those.

16 **ARCHBISHOP PHILIP:** Thank you, look for the Registrar, I'm fine now, thank you, I just  
17 needed to orientate myself that I —

18 **MS ANDERSON:** That you were in the right document.

19 **ARCHBISHOP PHILIP:** In the right document, yeah. I know lawyers are used to bundles of  
20 documents but it sits that high and I'm getting a little confused, my apologies, I'm in the  
21 zone.

22 **CHAIR:** You're not the only one, Archbishop.

23 **MS ANDERSON:** So this is the introductory comments and it sets it up, doesn't it, that the  
24 principles and procedures have been adopted to give practical effect to the commitment,  
25 and that is the commitment to acknowledge wrongdoing in the form of abuse of anyone  
26 within the care of the Church. The commitment extends to providing redress where there  
27 has been wrongdoing and to reviewing policies and procedures to prevent the recurrence of  
28 similar wrongs. So quite a firm commitment.

29 **ARCHBISHOP PHILIP:** Indeed.

30 **MS ANDERSON:** And the principles that are identified there, do you want to just read those out  
31 and make any comments you wish to make in relation to each of them?

32 **ARCHBISHOP PHILIP:** 1.2 to d?

33 **MS ANDERSON:** Yes.

34 **ARCHBISHOP PHILIP:** "The focus of the principles and processes on providing a process that

1 is complainant-centred while ensuring the principles of natural justice are observed."  
2 Maybe I'll read through them all. "Establishing on balance of probabilities what occurred.  
3 Acknowledging and accepting institutional responsibility. Providing redress and making  
4 changes to practises and procedures to rectify any institutional failings."

5 So some general comments first. The first is that, you know, when you look at  
6 something again with a set of eyes that have listened to survivor evidence, you would want  
7 the language to be different. So "providing a process that is survivor-centred while  
8 ensuring the principles of natural justice are observed." There would seem to me to —  
9 need to read this alongside the Title D process, so it may well be that a process around  
10 discipline is underway or has already been concluded. So "the principles of natural justice  
11 if they apply to a respondent", may already have been catered for. "Establishing on balance  
12 of probabilities what had occurred"; again, there may be other processes, whether criminal  
13 processes or the internal Title D process that have addressed the question of balance of  
14 probability.

15 But if this is without either of those processes, and it's hard to imagine something of  
16 this kind of seriousness, talking about abuse around which there isn't a more investigative  
17 element already taking place or has taken place. "Acknowledging and accepting  
18 institutional responsibility", I think that whole matter of vicarious responsibility is key, and  
19 I think this document focuses in on responsibility and the responsibility of the individual,  
20 the responsibility of the institution when it comes to talking about redress, so I think that  
21 language is appropriate. The provision of redress, obviously as we've said this is an early  
22 document in that process.

23 And then the consequential element of that is exactly the kind of deficit that you've  
24 picked up and identified prior to the break, which is that we've had a number of  
25 opportunities through some very good reflections on our life and practise to make  
26 adjustments and they haven't been made. So the consequence of a policy which is adopted  
27 by our General Synod now with the basis of cross-episcopal entities and cross-Tikanga  
28 commitments established, that would be the basis for this sort of implementation.

29 **MS ANDERSON:** And we'll come on because the rest of the documents sets out some principles  
30 first and then it sets out some procedures, doesn't it?

31 **ARCHBISHOP PHILIP:** Sure.

32 **MS ANDERSON:** In terms of the references we saw on the front page to persons making a  
33 complaint of abuse, and we've got the language here of complainant.

34 **ARCHBISHOP PHILIP:** Mmm.

1 **MS ANDERSON:** If somebody is coming forward to the church and can we agree that perhaps at  
2 that point we'll use the language of making a disclosure, so they're disclosing that some  
3 harm has happened to them through the actions of a person subject to the authority of the  
4 Church. So using that language of disclosure, how somebody coming forward, and you've  
5 talked about in your witness statement of effectively two pathways in the back room. So  
6 once they come in through the door you've got your discipline track for a complaint and  
7 your redress track for what you're thinking of as a claim.

8 So if somebody was looking at this document and looking at coming forward, what  
9 would be explained to them about the interrelationship of making a disclosure that might  
10 mean that the institution wishes to proceed on a discipline track with the individual while  
11 the person is also looking for the response that they're looking for their own person from  
12 the Church?

13 **ARCHBISHOP PHILIP:** What would be available?

14 **MS ANDERSON:** Yes.

15 **ARCHBISHOP PHILIP:** Just a reflection, if I may. I wonder what invites people to open the  
16 door or to knock on the door. What is it that says this might be a door that's safe, what says  
17 this is a place where both accountability in terms of the handling of discipline, so  
18 accountability of the individual and responsibility, which is my imperfect understanding of  
19 redress both for the individual and for the institution making redress I mean to a survivor;  
20 what actually encourages you to approach that door, to have confidence in it. We have  
21 acknowledged that we have given no reason to give people the confidence to approach that  
22 door, or to trust what they might find on the other side of that door.

23 That said, and, you know, acknowledging that our Ministry Standards Commission,  
24 the five Commissioners and those who are supporting them are very new, but —

25 **CHAIR:** Just slow down a little bit, Archbishop.

26 **ARCHBISHOP PHILIP:** My apologies.

27 **CHAIR:** That's all right.

28 **ARCHBISHOP PHILIP:** What I'm finding encouraging is that these are exactly the debates that  
29 are going on within that Commission as they look at the establishment processes. So what  
30 front-ends it, you talked about the two engines, if you like, or the two back rooms, what  
31 actually front-ends that, what would provide ease of access, what would ensure support,  
32 what would ensure clarity of — what process might look like without having to commit  
33 yourself even to a conversation perhaps, but, you know, readily available information.

34 So you'll remember that in the Ministry Standards Commission description there is

1 a high educational component and element, and a high component of ensuring facilitation  
2 and access of process. So that's the very conversation that they're having at the moment.

3 There's nothing in the language of this document that would encourage you to feel  
4 that it's going to be empathetic by way of process. I think there are other things that have to  
5 be put in front of it.

6 **MS ANDERSON:** Before we continue on with this document, because I'm just going to have an  
7 aspect of the scope under the statute for the Ministry Standards Commission called up on  
8 the screen because I think that will be relevant just to jump to that point at the moment  
9 before we come back and continue with a dialogue about this document.

10 **CHAIR:** This is the most recent?

11 **MS ANDERSON:** This is the 2020 Canon because the Ministry Standards Commission, of  
12 course, didn't exist prior to being established under this.

13 So just looking at the functions and powers of that Commission, it can give general  
14 advice as to matters of discipline, it can issue guidelines on vetting; so that's effectively to  
15 safeguard first, discipline, second safeguarding role. It can issue codes of practice and  
16 general policy guidance to persons exercising functions in connection with ministry  
17 standards, including on training required in relation to ministry standards. And we'll come  
18 back to what might be within the ambit of that. It can audit certain units of the church in  
19 relation to training and monitoring of ministers, it can issue regulations and that's, of  
20 course, about the disciplinary process of the tribunal itself. And it can maintain a list of  
21 those qualified and prepared to act as Church advocates and make arrangements for the  
22 provision of those fundings.

23 It also maintains a list of certain qualified people, appoints the registrar, gives  
24 advice to the registrar on matters of tikanga and doctrine, maintains a list of persons who  
25 can act as chaplains to provide pastoral support and to report at each session of the General  
26 Synod.

27 So in terms of your perspective that the Ministry Standards Commission has got an  
28 active role in relation to developing a redress process as opposed to a focus on discipline  
29 and safeguarding elements in that mandate, where do you see the mandate under the statute  
30 for the Commission to have that role?

31 **ARCHBISHOP PHILIP:** So it's absent at the moment and the commitment that's sort of  
32 evidenced by the exploration around what redress might look like has implications for this  
33 Title. As you're aware, we were wanting to get this statute across the line in May of 2020,  
34 recognising that there are significant further developments that need to take place.



1 I mean the language of redress and the understanding of redress is something that  
2 this Commission has brought into really sharp focus, so it's a clear omission, but not in the  
3 sense of — the point and focus of the work over the last four years on this has been around  
4 trying to get our disciplinary process into an independent and transparently independent  
5 form.

6 **MS ANDERSON:** So it is fair so say, isn't it, that quite a lot of focus has been directed at the  
7 reform of the Title D statute itself?

8 **ARCHBISHOP PHILIP:** Absolutely. What I was observing was that what the Ministry  
9 Standards Commissioners themselves are finding is that they cannot enter into the work  
10 they're doing around the policies and procedures in relation to handling disclosure and  
11 complaint — sorry, I get carried away with myself — without also considering how the  
12 church and the individual take responsibility. Discipline and the consequence of that  
13 disciplinary process addresses the ongoing professional status of the respondent. How the  
14 church as institution and how the individual, the respondent, takes responsibility directly  
15 towards the survivor is a completely different matter. That's what this document seeks to  
16 start the conversation around. But it is behind our work on the disciplinary Canon.

17 **MS ANDERSON:** Just coming back to the 2019 document, just looking at section 2 which I think  
18 begins on page 3 of the document, as I said, the first section sets out principles. So we'll  
19 just — while those are being expanded, the first set of principles, just to orientate the  
20 Commissioners to it, there is certainly, you see there, the response to abuse must  
21 acknowledge the wrong which has been done to those who have suffered the abuse. We'll  
22 come back to the question, I'll flag it now, Archbishop Richardson, about at what point  
23 through this process might there be an acceptance of wrong, does that come after the  
24 investigation or whatever, but this is a clear principle of accepting, acknowledging the  
25 wrong, should that be established.

26 Just moving down to the next key principle is that the investigations must be robust  
27 and unflinching. And then down to the third principle at the bottom of that page, 2.3,  
28 complaints must be dealt with in a timely manner. So those are the three core principles  
29 and the rest of the aspects expressed under each of those principles clarify aspects of those  
30 core principles.

31 What I'm going to do now is to have called up on Trial Director the 2018 version of  
32 these principles that had some significant differences to the principles articulated before we  
33 move into a comparative look at the procedures. So we can see there, just calling up 2.1,  
34 we can see a similar core principle that the response to abuse must be to acknowledge the

1 wrong. Then coming down to 2.2 we see the same principle that investigations must be  
2 robust and unflinching.

3 We don't, in this version, have the equivalent of the 2.3 that we've just looked at in  
4 terms of timeliness. But just coming down to the rest part of that page I'll just give you a  
5 little moment to read through.

6 So express reference to consider addressing whanaungatanga. Over the page, if you  
7 can highlight the top half of the page, reference to the church being a family to abusers as  
8 well. Next principle of considering addressing mana. Further down the page consider  
9 addressing tapu, consider addressing utu and over the page, consider addressing  
10 kaitiakitanga. And those matters that are stipulated there in the 2018 version accord very  
11 strongly with matters that both you and Archbishop Tamihere have been identifying as  
12 what should be within a redress system. Is there a specific reason that you can recall that  
13 that component must have come out of the 2019 version?

14 **ARCHBISHOP DON:** If I recall correctly I think partially because we wanted more time to  
15 wānanga, to dialogue those principles further. It's very difficult in the context of  
16 developing a document or an approach like this to kind of codify the full extent within  
17 which we would apply tikanga. So, you know, if we chose four principles, it doesn't mean  
18 there's not a fifth or a sixth that are equally valuable. So it's my recollection of the  
19 reasoning that there would be ongoing development of that tikanga within the structure of  
20 that document you have.

21 **MS ANDERSON:** Has that dialogue been continuing since that 2018 version? Are you able to  
22 expand on where that might be landing or when that might resurface in a written form that  
23 the Inquiry might have access to?

24 **ARCHBISHOP DON:** It's hard for me to say, certainly we could capture the development of our  
25 dialogue if the Commission required, but for me, just to say that it's also in context of our  
26 broader conversations around how we indigenise and inculturate our ministry and practise  
27 as a Māori Church within the context of our three tikanga structures. It's not in a vacuum  
28 and it's progressing in that space.

29 **MS ANDERSON:** So ongoing activity.

30 **COMMISSIONER STEENSON:** May I ask — tēnā koe.

31 **ARCHBISHOP DON:** Kia ora.

32 **COMMISSIONER STEENSON:** So that was around having wānanga around which principles  
33 to include, tikanga principles, rather than removing them entirely?

34 **ARCHBISHOP DON:** Yes, absolutely.

1 **COMMISSIONER STEENSON:** Thank you.

2 **COMMISSIONER ERUETI:** May I follow-up too. I understand that, I understand that if you're  
3 talking about ngā whakaaro nui(?),[\[part 2 24.50\]](#) these concepts at that broad level you  
4 don't know where to stop, right. But it seems from this description that you've got the core  
5 principles that I would expect to see a document of this nature. Would you agree with that?

6 **ARCHBISHOP DON:** Yeah, you certainly wouldn't want to see any of these principles missing.

7 **COMMISSIONER ERUETI:** That's right, you certainly wouldn't. And you may add other  
8 concepts. I'm not sure whether whakapapa is there or aroha and other concepts. So I take it  
9 from that, then, where you draw the bounds is an issue that's happening within the ngā  
10 amorangi, is that where the points of difference are?

11 **ARCHBISHOP DON:** Yes, so part of it is, you know, our desire to really have the depth of  
12 wānanga that is required to honour this kaupapa, so that we could have some accuracy in  
13 terms of the principles that we are choosing to apply. Again, this is against a background  
14 that kind of constitutionally anything we do within the Church must adhere to  
15 tikanga-appropriate principles anyway. But some of it is also — I think one thing we're  
16 sensitive to certainly within our hāhi is we don't want to be monolithic, even when it comes  
17 to Māori principles. So, you know, a Ngāti Porou approach I would expect to be different  
18 maybe to a Te Arawa-centred approach, a Ngai Tahu-centred approach. And more and  
19 more we're wanting to allow for that diversity within our own space. It doesn't take us  
20 away from fundamental principles necessarily, but it's more about the ways within which  
21 we can come to understand those principles and therefore how they can be applied.

22 **COMMISSIONER ERUETI:** I can understand, appreciate that too, about the different  
23 perspectives from hapū and iwi about the application or what goes in the basket, if you like.  
24 Is there also a challenge too with having these as principles for the other primates, the  
25 Pasefika and the Pākehā primates?

26 **ARCHBISHOP DON:** Absolutely. We never assume that these things can be just transferable  
27 into another cultural context. But the significant dimension for us as a hāhi is that the  
28 wānanga of our faith can often lead these principles to take on a different dimension. So  
29 just for the sake of example, sorry, a concept like rangatiratanga, in public discourse tends  
30 to be more defined by the Treaty sector. And it leads you to arrive at a certain  
31 understanding. If we were to wānanga the understanding of rangatiratanga against the  
32 principles of the gospel, where we end up is understanding rangatiratanga as servanthood.  
33 So within a church context there's a dimension for us to add and bring a greater scope,  
34 I guess, to the way these principles are applied.

1 **ARCHBISHOP PHILIP:** If I could just add, perhaps responding also to Ms Anderson, I think the  
2 difficulty with the 2018 version was that it had not come from Tikanga Māori, I think  
3 Archbishop's been very careful in what he said. But the reality is that those principles had  
4 not arrived in that document as a result of the Pihopatanga doing their work around that, or  
5 a kind of discussion that needed to happen between Tikanga, and Pasefika hadn't been  
6 engaged at all. So the view was in terms of 2019, it was better to take out and effectively  
7 leave the space and all the implications of that, given we'd already begun the discussions  
8 around it, than to leave something in that had not been appropriately formed.

9 **COMMISSIONER ERUETI:** Can I just quickly, just to follow-up on counsel's question, what  
10 specifically will you do now, what's the next steps to resolve all these wānanga, all these  
11 difficult questions?

12 **ARCHBISHOP DON:** I suppose a key component of the word "wānanga " is the understanding  
13 of time. I don't want to say disingenuously that wānanga takes as long as it takes, but we're  
14 engaged in the process of understanding the importance of providing outcomes for our  
15 survivors. So a big part of the wānanga is also us determining how do we envisage our  
16 tamaiti, mokopuna, our vulnerable people at the centre of this conversation. I don't what to  
17 say about timing, but that's the focus and direction for us at the moment.

18 **COMMISSIONER ERUETI:** Yes, because obviously time is of the essence, we have survivors  
19 and communities who are waiting for a process. So while we're waiting for something to  
20 be established, a concern they would have is what is being done in the interim to address  
21 those needs; the person who came to see you in Hawera over the weekend, for instance. I'll  
22 leave it to counsel to continue with their questioning, but simply to explore with you later,  
23 thank you.

24 **MS ANDERSON:** Thank you. That is an aspect that we'll come back to a little bit later in terms  
25 of what would happen to somebody now coming forward. In terms of looking at the  
26 procedures that are in the 2019 draft policy, we won't have time to go through all of these,  
27 but the structure of it, as you'd expect, is to set out certain definitions, including the  
28 definition of abuse, which is broadly framed here, including physical, sexual or  
29 psychological abuse.

30 Then am I right in terms of what happens under this process is that there is an  
31 investigator and they're the person that receives and processes a complaint from a person  
32 coming forward? Let's use the word "disclosure", who processes a disclosure from a  
33 person coming forward. So under this system that's the role of the, effectively the registrar  
34 and the Title D process, isn't it, that here you've got somebody who's got the label of

1 investigator, and although they're the investigator, they don't actually, necessarily  
2 themselves, carry out all aspects of the investigation, they appoint an interviewer who will  
3 then go and interview the person who's come forward with the disclosure. Is that your  
4 understanding of that initial phase of the procedures?

5 **ARCHBISHOP PHILIP:** The simple answer is yes, and the more complicated answer is that  
6 those titles and the processes are also open to really quite significant tikanga development.

7 **MS ANDERSON:** And we've heard reference, haven't we, that it might be how can we  
8 accommodate an element of choice of an appropriate person that the person coming in  
9 through the door wishes to engage with. So you're giving consideration to that.

10 But for the moment we've got this language, it's a person, and it may be the most  
11 culturally appropriate or gender appropriate or whatever, but it's a person is to receive and  
12 process the complaints of abuse. And they have to appoint for the person coming in  
13 through the door a contact person for them, so there's a linking in of another person who  
14 will — a person who will engage directly with the survivor coming forward.

15 And the investigator does this process of meeting with the complainant only and  
16 then we get to a point where they're really making a recommendation about whether an  
17 investigation should be launched. So that's the first phase, isn't it? The respondent's not  
18 spoken to at that time, by the interviewer, it's just simply an interview with a complainant.

19 **ARCHBISHOP PHILIP:** Yeah, I'm just feeling a little bit of a lack of not having the document  
20 in front of me.

21 **MS ANDERSON:** Shall we track through it a little bit shall we.

22 **ARCHBISHOP PHILIP:** Sure, thank you. I'm sure you're right, I'm not wanting to challenge  
23 that.

24 **MS ANDERSON:** As we know, sometimes we try to go more quickly and it doesn't quite work  
25 out that way.

26 **ARCHBISHOP PHILIP:** My problem is I don't recollect detail in that kind of way, I need to  
27 have it in front of me.

28 **MS ANDERSON:** I think unhelpfully the policy document refers to a diagram attached which I  
29 think would help us, but —

30 **ARCHBISHOP PHILIP:** It probably would.

31 **MS ANDERSON:** — which is not attached at the moment. If we're starting at procedures, you see  
32 just as a quick scan down the page that you've got at 3.1, that this describes this section is  
33 about the procedures. It gives some definitions there, as I've said, talks a bit about records,  
34 structures and personnel.

1           Then we just move over to the next page. Talks about the functions of the  
2 investigator there at paragraph b. which includes receiving the complaint and ensuring that  
3 there's an investigation. And at subparagraph iv. you see that to appoint for complaints a  
4 contact person etc. And down at the bottom they've got a power to recommend a  
5 suspension and at x. to recommend whether a disciplinary process should be commenced as  
6 a result of the complaint. And there probably is a lack of clarity at this point, so I'm  
7 checking this with you, about in fact how a disciplinary process would interact or intercept  
8 with this redress process.

9 **ARCHBISHOP PHILIP:** Correct, because the disciplinary process can only deal with those who  
10 hold a licence either as an ordained person, a lay person or are officially an office holder;  
11 because as we could imagine this applying across our schools, applying across our care  
12 institutions and across the core of the church as well, this would be picking that up in a way  
13 that Title D cannot.

14 **MS ANDERSON:** And then if we just call out f., the investigator is responsible for seeing that all  
15 pastoral and legal obligations are identified and acted upon promptly. Over at paragraph  
16 3.5 on the next page, if we just call out all of that, it has to carry out these functions which  
17 is an interview of the person making the complaint by a skilled person, to provide for the  
18 ongoing support of the person making the complaint and for the accused and investigation  
19 of the complaint.

20           You can see there that there doesn't seem to be a reference to the need that family  
21 and other people around the complainant might need also to have support and care offered  
22 to them. Is that an aspect that's likely to come back into whatever policy you're  
23 developing?

24 **ARCHBISHOP PHILIP:** I can't imagine that this kind of language, its structure, its individuation  
25 would get past Tikanga Māori or Tikanga Pasefika as they fully engage with this draft. It's  
26 also striking in terms of the language when you look at it with fresh eyes, but also  
27 omissions like in terms of abuse might have expected a document like this to have included  
28 spiritual abuse which has a particular form and shape to it, and we might have some  
29 expertise at identifying that, yet we haven't even named it, or cultural abuse.

30 **MS ANDERSON:** Certainly in the Tikanga Māori parts that were in the 2018 version you do —

31 **ARCHBISHOP PHILIP:** It's identified.

32 **MS ANDERSON:** — express reference to that spiritual —

33 **ARCHBISHOP PHILIP:** Correct.

34 **MS ANDERSON:** — abuse dynamic which, as you say, is currently lacking from the document.

1 **ARCHBISHOP PHILIP:** Yes.

2 **MS ANDERSON:** So coming through for, just so you get a little bit more of a sense of the  
3 document; over at 4.3 we can see that this is the person appointed by the investigator to  
4 interview the person coming forward with the disclosure.

5 **ARCHBISHOP PHILIP:** Mmm-hmm.

6 **MS ANDERSON:** And then over the page at g. and after receiving a report of the interview. So  
7 this is just having talked to the complainant, so it's effectively establishing does it look on  
8 the face of things that there might be something here. Then the investigator, having  
9 received the report from the interviewer, decides that the complaint requires investigation.  
10 So that's the initial triage component. And then you can see on the balance of the page that  
11 for an investigation, terms of reference are to be developed, there may be further inquiries  
12 and it's at that point the, shall we use the language "respondent" might be spoken to or  
13 others might be spoken to?

14 **ARCHBISHOP PHILIP:** Yes.

15 **MS ANDERSON:** Then coming over on (ix) on the next page, at the conclusion of all the  
16 interviews of the complainant the accused and any corroborative witnesses — a factual  
17 report should be written by the investigators. Just calling up the next two points, we can  
18 see there, can't we, that it's not appropriate for the entity to be conducting its own  
19 proceedings at the same time as any secular proceedings.

20 The use of the word "proceedings" there, is that a reference to this complaint  
21 process or is that a reference back to Title D? Shouldn't be conducting your own  
22 proceedings while there's something happening either with Police or with Oranga Tamariki  
23 or if litigation's been issued in court.

24 **ARCHBISHOP PHILIP:** I've got to assume that it refers to both, depending on the context of  
25 who is responding. So is it someone who's licensed, is it someone who's an office holder,  
26 the process would be followed under Title D. Anyone who's made a declaration of  
27 adherence, or is it someone in an entity or holds a different role or position, may be  
28 governed by an employment contract or, you know, some other form of relational  
29 document.

30 **MS ANDERSON:** So we see this point from a victim survivor perspective that they might have  
31 come in through the door with their disclosure, then it might be they're being told this  
32 process here has to be put on hold until processes in other fora are resolved.

33 **ARCHBISHOP PHILIP:** I think, you know, your own process within the Commission has found  
34 a way of dealing with that for survivors, where the integrity of their experience can be held

1 in one process while, you know, for example, the criminal process is being undertaken. So  
2 you know, I mean I would need to seek advice, that's always a dangerous thing to do, but it  
3 seems to me that that clause might be somewhat more prescriptive than we need. You can  
4 tell what profession's written this draft, can't you. It's not a theologian.

5 **MS ANDERSON:** But the engagement across the Church in commenting on this draft and input  
6 to it to get to this point, that's been circulated a lot, hasn't it, within people, ordained  
7 persons within the Church. Hasn't there been quite a wide — obviously hasn't gone out to  
8 survivors for comment, but within the church it's been quite widely circulated?

9 **ARCHBISHOP PHILIP:** Yes, I think to be fair, the group that have done the most work on this  
10 is our school community. It lacks good scrutiny across both the Anglican Care network. I  
11 understand that they're reviewing it, but certainly across the episcopal units, which would  
12 mean that some of our people who are involved in ensuring the quality of ministry, our  
13 ministry educators, for example, our archdeacons who are kind of like regional overseers,  
14 haven't had a chance to engage. But really looking at this language I'm not sure I'd want  
15 them to just yet.

16 **MS ANDERSON:** So a work in progress?

17 **ARCHBISHOP PHILIP:** Work in progress.

18 **MS ANDERSON:** Coming over to 4.7 on — sorry, the pages are not numbered but my expert  
19 will be able to locate that. Just calling up and highlighting the first part of resolution,  
20 calling that out. So this deals with what might occur after the investigation's been  
21 completed. So it can be resolved by an admission of guilt, proven through the investigative  
22 process, or it could be not proven, so those are the three outcomes identified there, aren't  
23 they, not surprising this themselves.

24 **ARCHBISHOP PHILIP:** Yes.

25 **MS ANDERSON:** Then we see at b. the Board, this is really a reference, isn't it — the policy has  
26 been drafted on that it might apply to a range of different entities, but the language of the  
27 Board; so, for example, if we were looking at that in the context of a bishop for their  
28 diocese, would it be that you'd read that reference there to the board being responsible for  
29 resolving the complaint having received the recommendations, would that be a bishop in a  
30 parish context?

31 **ARCHBISHOP PHILIP:** It would, I think, depend on the nature of the complaint, but assuming  
32 abuse, yes. Clearly in a school it relates to something else, clearly in a care institution it  
33 relates to something else. The boards of those bodies.

34 **MS ANDERSON:** But the policy intent there is that it will go back to a decision-maker within the



1 relevant entity?

2 **ARCHBISHOP PHILIP:** Correct.

3 **MS ANDERSON:** So not an independent person?

4 **ARCHBISHOP PHILIP:** Correct.

5 **MS ANDERSON:** And just highlighting c. from the bottom of that page and across to the top of  
6 the next page, we see what's happening here is that the investigator, having completed the  
7 investigation, effectively makes recommendations, and that's not surprising in itself  
8 necessarily, is it?

9 **ARCHBISHOP PHILIP:** No.

10 **MS ANDERSON:** Although often it might be the case that it's simply findings of facts and in an  
11 employment law context, someone doing an employment law investigation would simply  
12 coming forward with findings of fact not what should happen as a consequence.

13 So we see here the factors taken into account when making those recommendations  
14 are whether the complaint's proven, what might be a suitable way of acknowledging and/or  
15 apologising, what support and assistance is needed to the — and we see here's the reference  
16 to the victim's family or friends, so we've got the concept coming through here of a wider  
17 group of people who are harmed by a single or multiple instances of abuse to a particular  
18 individual. A recommendation on penalty, what support, treatment or rehabilitation is  
19 needed by the accused and any shortcomings in the entity's procedures, then with a final  
20 capsule any other matter relevant to the complaint.

21 So that's the bundle of factors under this policy. Have you got any observations that  
22 you wish to, or reflections you wish to make on the appropriateness of those as being what  
23 should be taken into account at that point?

24 **ARCHBISHOP PHILIP:** The piece that feels missing to me is impact. So the impact on the  
25 person who has disclosed, to use your language, which I think is a better language. Yeah.

26 **MS ANDERSON:** And that's consistent, isn't it, with a lot of what the inquiry has seen is that  
27 what should be the focus is the impact on the individual, because we know that a person  
28 might have suffered something that could be characterised as being at the minor end of the  
29 spectrum of abuse but it still can have a very profound impact on them and so there's a —  
30 it's not always that you would look to the nature of the conduct as the measure for what  
31 you're taking into account.

32 Just turning through, just a couple more minutes on this document here. Just  
33 looking at d. on just, calling that out. This is the outcome, so this is the core part for what a  
34 victim or survivor might be looking at what could happen for them after they've gone

1 through this process. So in the event of either guilt being admitted or it being proven, we  
2 can see there at 1, can't we, that the language that the well-being and recovery for the  
3 victim and recovery as far as possible from the harmful effects of the abuse including an  
4 apology on behalf of the entity. So reference to the potential apology.

5 Another common suggestion with a note there will need to be put forward in a  
6 sensitive way so as not to cause offence is that the victim may appreciate some counselling.  
7 In the case of sexual abuse the entity should also advise that there may be some payment  
8 for counselling expenses under the ACC provisions provided that ACC approves of the  
9 counsellor.

10 So what would your expectation be at the end of this process where there might be a  
11 discussion with an individual about whether counselling will assist, what's your reflection  
12 about the messaging there? Is it they should go and knock on another door to get that,  
13 would that be a fair impression somebody might take —

14 **ARCHBISHOP PHILIP:** I think — sorry.

15 **MS ANDERSON:** Would that be a fair impression of what that language might convey to  
16 somebody if they were seeing this in a publicly available policy?

17 **ARCHBISHOP PHILIP:** Language like "should also advise" reflects a kind of arm's-lengthing  
18 or an externalisation, which I don't think was intended but it's in the language.

19 **MS ANDERSON:** Then we see there in appropriate cases, and on receipt of legal advice, the  
20 entity may also contribute a lump sum determined in advance for counselling or provide  
21 general compensation that can be applied to counselling. Do you accept that it appears an  
22 intention in this policy to limit any financial redress to what might be required for  
23 counselling purposes?

24 **ARCHBISHOP PHILIP:** The only reference in there that I can see to payment, even in terms of  
25 the lump sum, has to do with counselling. Even the providing general compensation that  
26 can be applied to counselling is really specific and linked.

27 **MS ANDERSON:** Do you think it's appropriate to put that kind of boundary around what might  
28 be available by way of financial redress?

29 **ARCHBISHOP PHILIP:** I think all of the literature on redress suggests a wider understanding of  
30 what should be part of a range of options that can be used in terms of redress. So I would  
31 say that it's too limited.

32 **MS ANDERSON:** Thank you. Those conclude my questions in relation to the policy. We've just  
33 got one other topic that we'll commence before the break, we may not need to come back to  
34 it in the next session because we're concluding your evidence shortly, but we will be back

1 with both of you as primates for further evidence this afternoon.

2 In terms of redress outcomes, best practice, do you see that there's a role for the  
3 Church in attempting to seek out and find people that have been harmed in the care of the  
4 Church?

5 **ARCHBISHOP PHILIP:** Yes.

6 **MS ANDERSON:** And we've seen, haven't we, in the papers, and we won't go to it, but the  
7 institution, Sedgley institutions where the Board of Trustees at a certain point recognised  
8 that it looked like that there might have been systemic abuse in that institution and they  
9 issued public advertisements calling for people to come forward. Doesn't appear to be a  
10 mechanism that's been used very often, but it is one that's available to the Church, isn't it?

11 **ARCHBISHOP PHILIP:** It certainly is. In my memory it's an absolute stand-out in terms of an  
12 appropriate approach, and I think those who led that as a consequence quite quickly heard  
13 from survivors in a way that was quite compelling to the way the process followed from  
14 that. So it's clearly a good example and they are limited.

15 **MS ANDERSON:** Yes, but there are limited examples.

16 **ARCHBISHOP PHILIP:** Exactly.

17 **MS ANDERSON:** I'm just going to play a clip just before we lead into the adjournment. This is  
18 Neil Harding. (Video played). It's very powerful words reflecting that desire to be sought  
19 out. In terms of where the Church is heading in the future, do you see that there is a role  
20 for the church to take a much more proactive role in attempting to reach out to persons who  
21 might have been harmed in the care of the Church?

22 **ARCHBISHOP DON:** Absolutely.

23 **ARCHBISHOP PHILIP:** Can I just say, Neil came looking for the shepherd instead, to our  
24 shame. But I agree with Archbishop Don, absolutely. There is an increased and improved  
25 role. We need to figure out what are the kinds of ways of reaching out that are actually  
26 going to be appropriate, empathetic, without judgment or institutional self-interest. And  
27 that's a really fine balance to try and achieve. There's a face to the institution, but the  
28 institutional weight can quickly take over. So how do we ensure that it doesn't.

29 **MS ANDERSON:** Thank you. Commissioners may have some questions for you before we  
30 convene or would you prefer to keep your questions until the end?

31 **CHAIR:** Is there anything pressing we need to ask at this point? I think we will leave it at this  
32 point. We know we've got the pleasure of your company after lunch, so we will, if there's  
33 anything that arises we'll do that then. Ms Anderson, we'll take the lunch adjournment,  
34 we're going to take it until 2 o'clock?

1 **MS ANDERSON:** 2 pm.

2 **CHAIR:** You get a whole extra 5 minutes as a result of that. Thank you, we will adjourn until 2.

3 **ARCHBISHOP PHILIP:** Madam Chair, can I just seek a clarification?

4 **CHAIR:** Please.

5 **ARCHBISHOP PHILIP:** Have we finished the cross-examination? Are we able to speak with  
6 counsel over the lunch or not?

7 **CHAIR:** You've finished the questioning, we don't use the word cross-examinations.

8 **ARCHBISHOP PHILIP:** My apologies.

9 **CHAIR:** No, sorry, I'm just being sarcastic, we do try and call it questioning. Ms Anderson, do  
10 you have anything to say about that?

11 **MS ANDERSON:** I would say in relation to the evidence that's been responded to here from your  
12 statement, there would be no limitation, we're about to move into a new phase where when  
13 we come back the primates will read their evidence and questioning will continue in  
14 relation to that, so there is a separation.

15 **CHAIR:** So the answer is that if the questions relate to evidence yet to be given, no problem?

16 **MS ANDERSON:** Because they're not under examination in relation to that there's no issue in  
17 relation to that.

18 **CHAIR:** That sounds like a lawyer's response, Archbishop. Do you have any idea what was  
19 meant by that?

20 **ARCHBISHOP PHILIP:** I think it's yes we can talk over lunch?

21 **CHAIR:** You can talk over lunch about the evidence that you are about to give, but anything that  
22 relates to questioning about the redress process and all the matters, you'd be safer to not talk  
23 about that.

24 **ARCHBISHOP PHILIP:** Thank you very much.

25 **Luncheon adjournment from 12.57 pm to 2.04 pm**

26 **CHAIR:** Ms Guy Kidd.

27 **MRS GUY KIDD:** Tēnā koutou katoa Commissioners. We now have the witness statement of  
28 the Primates of the Anglican Church of Aotearoa New Zealand and Polynesia which will be  
29 read by Archbishop Don Tamihere. We're not going to read all of it but segments of  
30 particular relevance.

31 **CHAIR:** Thank you. Kia ora Archbishop Don.

32 **ARCHBISHOP DON:** Tēnā koe. Hē hōnore, he korōria, ki te atua i runga rawa, te kaihangā o te  
33 rangi me te whenua, te puna o te oranga, te ariki o te rongomau. E kore e mutu te mihi me  
34 te tangi ki ā rātou kua wehe atu ki te pō. Tēnā hoki tātou o rātou waihōtanga ki muri nei, e