

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY  
STATE 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

**Counsel:** Mr Simon Mount, Ms Hanne Janes and Ms Danielle Kelly  
for the Royal Commission

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

**Date:** 29 September 2020

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**TRANSCRIPT OF PROCEEDINGS**

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

2 (10.00 am)

3 **CHAIR:** Ata marie ki a koutou katoa. Kua tai mai ki tēnei hua. Tēnā koutou katoa. Good  
4 morning Ms Janes.

5 **MS JANES:** Good morning Commissioners, tēnā koutou katoa. This morning our first witness is  
6 Gay Rowe who will be giving evidence on behalf of Paul Beale, welcome. She will be led  
7 by Ms Sonja Cooper and counsel assisting is Ms Kerry Beaton. So after the  
8 administration of the affirmation I'll invite Ms Cooper.

9 **RAEWYN GAY ROWE**

10 **CHAIR:** Thank you Ms Cooper, Ms Beaton. Morning Ms Rowe.

11 A. Good morning.

12 **Q.** Would you like to be called Ms Rowe or Gay?

13 A. Gay please.

14 **Q.** Gay will do, okay, and good morning to your husband as well. Gay, I'm just going to ask  
15 you if you'll take the affirmation please. Do you solemnly, sincerely and truly declare and  
16 affirm that the evidence that you give to this Commission will be the truth, the whole truth  
17 and nothing but the truth?

18 A. I do.

19 **Q.** Thank you.

20 **MS COOPER:** Ata mārie e te Tiamana, e ngā Kōmihana, good morning Madam Chair,  
21 Commissioners and those everybody here.

22 **CHAIR:** Tēnā koe Ms Cooper.

23 **QUESTIONING BY MS COOPER:**

24 **Q.** So you've been affirmed this morning Gay. I'm going to call you Gay throughout and just  
25 like to welcome Alan, your husband, who is sitting next to you for support today. Just so  
26 the Commissioners know to welcome Alan. So you are here in your capacity as the sister  
27 and welfare guardian of your brother, Paul Owen Beale, and you are here to speak about a  
28 claim he settled against the Ministry of Health in March 2017 in relation to harm he  
29 suffered at a placement called Parklands.

30 Before we talk about that, I think it would be useful for everyone to hear about  
31 Paul, who he is, who he is to you and how he functions now and throughout his life. We  
32 have some lovely photos that we're going to show. So these are of Paul with various family  
33 and friends. So Gay, talk to us about Paul starting when he was born.

34 A. Well, I wasn't there. Paul was born, as you can see, on 14 February 1951 and our mum

1 always called him her valentine. It was only after I came along some 13 to 14 months later  
2 that my parents thought maybe there was something not quite "normal" with Paul, because  
3 he still just sat on the floor and scuffled around. When we were little we had four squares  
4 of concrete outside our back door and we had a rocking horse. I remember the rocking  
5 horse but I can't remember exactly what I'm going to describe.

6 Paul used to sit on the rocking horse and bang in front of him and say to my mum,  
7 "Mum, mum, Raewi, Raewi" and so my mum would get me and put me in front and he  
8 would hold me in tight and rock me all around these four squares of concrete. After a little  
9 while Paul stopped saying Raewi and he would say "Mum, mum, wee-wee, wee-wee".  
10 With an English mother in the 1950s that was a no go, so my parents decided that I should  
11 be called by my middle name of Gay, so that is why I prefer to be called Gay.

12 So Paul and I, right from being very small, have had a really great relationship  
13 together, right through growing up. If some of the other brothers couldn't find something,  
14 Paul would get the blame and I would go Pauly, come and show Gay if you know where it  
15 is, and he would show me and it was usually because they were having what we now call a  
16 bloke's look, sorry gentlemen. And we've just always got on.

17 Paul when he was 5 he started at the Fairhaven School in the town where we lived  
18 and then he was quite a tall boy and he wasn't really learning a whole lot there and they  
19 suggested that there was a place in Levin called Kimberley where he might do better. So  
20 my parents made enquiries and when he was aged 10 he was taken down to Kimberley.

21 **Q.** So before we talk about Kimberley, just in terms of who Paul is as an adult, how would you  
22 describe his functioning?

23 **A.** Very minimal in understanding a lot of things. Like he cannot read. However, having said  
24 that, on a really good day if I write his name Paul on a piece of paper and say whose name  
25 is that, he will say Paul, or he might say Paul Beale, or he might say Paul Owen Beale. So I  
26 think it's just because of the way I've asked him that he knows that I probably am expecting  
27 him to say Paul. Whether he's actually truly reading or not I have no idea.

28 **Q.** And how does he make decisions, Gay?

29 **A.** He doesn't really. He actually needs somebody to make decisions for him. So as an  
30 example, if we, Alan and I, we have quite a bit to do with Paul. If we take him out for  
31 lunch we can say to him "What would you like to eat Paul?" And he'll go "Don't know".  
32 You say "Well, would you like to have a pie or a sandwich or a piece of hot quiche?" And  
33 then he'll go "Pie". When he's eaten it and we take him back to where he lives, his care  
34 workers will say to him "What did you have for lunch Paul?" And he might say something

1 completely different, like "Sandwich" or "Bacon and eggs", or "Don't know". So that really  
2 is where he's at function-wise.

3 **Q.** And in terms of his ability to talk, to communicate, how would you describe that?

4 **A.** Again, minimal. He is an outgoing person, an outgoing man. When he is taken to the  
5 grocery shop, to the supermarket he will hold out his hand and say "Hello, I'm Mr Paul  
6 Beale, how are you today?" And with society the way it is, sometimes people respond in  
7 the manner one expects, and other times people just ignore him. So when that happens  
8 I just say to Paul "Don't worry Paul, they're probably too busy doing their own thing and  
9 can't be focused on talking to anybody else". So I just sort of - we just withdraw from  
10 where that person is.

11 **Q.** And tell me about his awareness of physical danger?

12 **A.** He doesn't like water. He's okay in a shower but no good even in a paddling pool this deep.  
13 He screams, he doesn't want to go in. He doesn't really have any sense of danger. He has  
14 no, absolutely no sense of the road whatsoever. We can stand at the curb and say "Look  
15 right, look left, look right again" then we go "Are there any cars coming?" And he'll go  
16 "No", and I'll say "Hang on, yes, there is, there's one coming there". So he - it just doesn't  
17 comprehend, it doesn't compute basically.

18 **Q.** So is he able to be left on his own?

19 **A.** No, definitely not.

20 **Q.** So we'll now turn to Kimberley Hospital and as you say he went there at the age of 10?

21 **A.** Yes, correct.

22 **Q.** And he was there for around about 44 years, wasn't he?

23 **A.** Yes.

24 **Q.** And you would sometimes go and visit when he was there, wouldn't you?

25 **A.** Yes.

26 **Q.** So will you tell the Commissioners what you remember about those visits to Kimberley?

27 **A.** I liked going to see my brother but I didn't really like going to Kimberley. In the early days  
28 I used to go down with my parents, with our parents, and I remember on one occasion when  
29 we went down there was a kerfuffle going on in one of the outside play areas and one of the  
30 people was yelling and there was a - seemed to be about four or five people on to one  
31 person and I was kind of shocked, and one of these people called out and somebody came  
32 running a few minutes later with something in his hand. And then there was a big fight  
33 going on, well, it seemed like a fight to me, a child's mind, you know. And then the next  
34 thing they've got this person, young teenager standing up and he was kicking out but he had

1 this jacket on with his hands, I think it was behind. So they then got hold of his shoulders,  
2 one on each side, and then one on each leg and they picked him up and carried him off.

3 And I asked my parents what they were doing and my mum, who had as much  
4 understanding as me I think, just said "Oh they have to do that". And I just felt really sad  
5 and going through my mind was does this happen to Pauly when we're not here? So yeah.

6 **Q.** And what do you remember of the environment that Paul lived in when you went to visit?

7 **A.** The actual outside, they're very old buildings having been built during the war I think.  
8 They were long buildings and when you went inside to where Paul slept it was just like a  
9 long dormitory, so there were beds on each side. There was no partitions or anything, so  
10 there was no privacy. And then when we went into the dining room, it was - when they  
11 were having a meal it was absolute mayhem to me. Again, they were long tables and the  
12 boys were all put out seated on each side and the meals just came out and were put in front  
13 of them. And it was really awful to see. They would just eat the food with fingers and  
14 once somebody had finished theirs they'd be trying to grab food off somebody else, be it  
15 beside them or across the table and I think that's why Paul had a propensity basically to just  
16 swallow his food so that he could have something to eat rather than actually chewing it. So  
17 much so that in latter years we were told he had developed a choking propensity if his food  
18 was not cut up small, yes.

19 **Q.** And what were the staff doing while this was happening?

20 **A.** They just sort of stood around behind everybody. I guess being a free-for-all you don't  
21 want to get involved because what a lot of people that Paul was with lack for in mental  
22 capacity, intellectual capacity, they make up for in physical strength.

23 **Q.** And how many people did you think were living in this dormitory-style accommodation?

24 **A.** Seemed to be probably about 20, 25 beds on each side. It was a very, very long room.  
25 There may have been a bit less, but I didn't count, it just seemed to be lots and lots and lots  
26 and lots.

27 **Q.** So one of the things you talk about in your affidavit is during these years at Kimberley Paul  
28 went from being a handsome, unmarked young boy to one who each time he came home  
29 had what seemed to be a new scar somewhere on his body.

30 **A.** Correct.

31 **Q.** So can you tell me about that?

32 **A.** It's really tough, because this is my brother that I love and to see him going from somebody  
33 who had no scars at all and really quite a handsome young man to coming home and having  
34 scars all over his head. I mean they accumulated over the years, yes, I'm not saying they all

1 happened at once. But it was just awful, because we don't know how he got them, whether  
2 they were fights with other young people in the ward with him, or whether it was  
3 something that was done in restraining him for some reason, we don't know.

4 **Q.** And at one point your parents were told that he had fallen and broken his elbow?

5 A. Yes.

6 **Q.** Were you told how that had happened?

7 A. No.

8 **Q.** Do you know now even?

9 A. No. All I know is that my mum got a phone call and she got off the phone really upset and  
10 so we said what's the matter, and they said that was Kimberley ringing to see if we would  
11 give permission for Paul to go to hospital to have an operation because he's broken his  
12 elbow. And knowing what I know now about elbows, I would say it did not happen in a  
13 fall. It's very difficult to break an elbow in a fall.

14 **Q.** So you say that there were a lot of fights?

15 A. Yes.

16 **Q.** What was your experience of what the staff would do when there were fights going on?

17 A. They would often just stand back, I guess, because they knew the strength of these young  
18 men and they didn't wish to be injured themselves. I don't know what the thinking was,  
19 what the process was when something happened like that. But there were many times that  
20 I saw that sort of thing happen and it took a while before they would come in and separate,  
21 and usually it was because it was probably only two or three in a room of about 20, 25  
22 young men, and they would call out for help. And so then another three or four people  
23 would come in, and it did, it used to take about upwards of six people to separate,  
24 sometimes just two people.

25 **Q.** You describe seeing this sometimes very rough handling?

26 A. Yes.

27 **Q.** By the attendants?

28 A. Yes.

29 **Q.** How did you find that?

30 A. Upsetting. It never happened to Paul when we were there, but there was always that  
31 thought in my mind, if this is happening to these other people now, how do I know that  
32 that's not happening to Paul when we're not there, and in fact I was so upset by it that when  
33 Alan and I first got married, I asked Alan if he would be prepared for us to get Paul out of  
34 Kimberley to come and live with us so we could teach him things. And my mum said no.

1 So there he stayed.

2 **Q.** So in your affidavit you also talk about Paul being moved from one ward to another as he  
3 got older?

4 **A.** Yes.

5 **Q.** Was that something you were consulted about, the family was consulted about?

6 **A.** No, I think when my parents rung to say that they were coming down to pick him up for a  
7 holiday, they were told "Oh you don't need to go to that ward now, he's in this ward". And  
8 so then we had to go along and find the names above the wards on the outside of the  
9 building.

10 **Q.** And you also talk about the drugs that Paul was given which you describe him as like a  
11 zombie. Do you want to talk about the medication and your on-going concerns about that  
12 while he was there?

13 **A.** The medications that he was on in Kimberley were, from my mind, horrendous. My  
14 mother was told once when he came home she was given the medications in a pack, and she  
15 was told that they were antipsychotic medications, and he was taking eight at breakfast  
16 time, six at lunch time and eight at dinner time.

17 And later on when Alan and I were looking at getting Paul out of Kimberley  
18 I went to down and got him and brought him home, and when I saw this cocktail of drugs,  
19 that was just one of many he was taking, he was actually - he dribbled so much that we had  
20 to change his t-shirt eight times a day because he was just so wet and I personally didn't  
21 like the thought of him staying wet, because wet skin is not good for anybody. And  
22 because of all the drugs I then went to the - my pharmacist and I said "Here is a list of the  
23 drugs my brother is on. Can you please tell me what the side effects are?" And she duly  
24 did that, and because of that I found out that all of this antipsychotic medication that he was  
25 taking was what was causing his neck to atrophy. So his neck, I forget which way it was  
26 now, but it was like this and down, and when you spoke to Paul he just would raise his eyes  
27 up like that to talk to you or to see anything. So he couldn't physically move his head like  
28 that, it was basically stuck in one place.

29 **Q.** And so you did something about that, didn't you?

30 **A.** Yes, I surely did. I got a little antsy, if you like. When I took Paul back I said to the  
31 attendant, "Could I please speak with the doctor who prescribes Paul's drugs" and was told  
32 no, and I said "Why not?" "Oh, because she's not on site, she has a practice down on the  
33 Kapiti Coast". So I sat there and thought okay then, I would like a name and a number  
34 please so I can contact this doctor and make an appointment to meet with them next time



1 they come back to Kimberley to discuss the drugs that Paul is on. So was it about a  
2 fortnight later? A fortnight later was when the doctor was going to be there and I had come  
3 home back north and rung and made an appointment to meet with the doctor.

4 So off I go a fortnight later, meet with her and said to her "Look, I am not really  
5 very impressed with the amount of drugs my brother is taking", I said "It's atrophied his  
6 neck muscles, he's just looking up with his eyes, not moving his neck. I would like him  
7 taken off those and put on to something else please". His response to me was "Well, I can't  
8 just take him off them and put him on to something else". So I told her "It's okay, I've been  
9 in St John for a while, I know a little bit about it, I know you have to wean him off slowly  
10 and then wean him on to the new drug". So she said "Yes, that's correct". I said "Well, can  
11 you please look at a medication that does not have so many side effects that is not so  
12 horrible, hopefully the atrophy will repair", and it has thankfully to quite a good degree.

13 **Q.** Just before we leave Kimberley, you talk about one occasion seeing a young man who was  
14 sitting in a chair and he had restraints on his wrists and his legs?

15 **A.** Yes.

16 **Q.** Tell me about that memory?

17 **A.** That was in the last ward where Paul was and I had gone down to visit him and take him  
18 out for lunch. When I got there I was let into the main part and then I said I was here to see  
19 my brother Paul Beale and I was told that oh he was in the day room, you go da-da da-da  
20 down a big long corridor and out another one and out through an outside door and then  
21 knock on the day room door, which was kind of in a quadrangle thing.

22 So I went down, knocked on the door and it was unlocked, I was let in and there  
23 was probably 12 to 20 young men in there with two attendants, and the first thing I saw as  
24 I'm looking around to see where Paul is was this young man sitting in an armchair that had  
25 wooden legs and wooden arms on it and his wrists were bound to the chair, as were his  
26 ankles. And again, it was one of those things that I thought dear God, if they are doing that  
27 to him, are they doing that to my brother? And how many other people here do they do that  
28 to?

29 So when I asked why he was being tied up so, I was told "Oh, he's a runner". And  
30 I said "What do you mean?" they said, "Oh if we don't tie him down he'll get out the door".  
31 And I said "But the door's locked". "Oh, he'll find a way to unlock it and get out and  
32 escape". And it just made me feel sick, so I got Paul and took him out for a few hours.

33 **Q.** So let's now move on to Parklands. So as you explain in your affidavit, Paul was at  
34 Parklands between May 2005 and September 2012?

1 A. Correct.

2 Q. And by that time his care had been entrusted to you by your parents, hadn't it?

3 A. Yes, my – our father had died quite some years before and then in 2004 when our mother  
4 was in hospital, she said to me "I'd really like you to be Paul's welfare guardian because  
5 Gary – that's my younger brother - has looked after me since dad had died". And so  
6 I looked at my beloved and we had a little discussion and Alan said "Yeah, that's fine".  
7 And he said "We'll do it together and that's the way it has always been, he's my right hand  
8 person and full support".

9 Q. So we'll talk about Paul's experiences at Parklands, but it's important before we do that to  
10 explain how he got there. So as you say in your affidavit, this was at the time when all of  
11 the Kimberley client group were being moved out?

12 A. Yes.

13 Q. So somewhere had to be found for Paul, and so you were having regular communications  
14 with the Ministry of Health at this time, weren't you?

15 A. Yes.

16 Q. And as you explain in your affidavit, the Ministry of Health at that time knew that there  
17 were real problems with Parklands, in particular there had been some findings made in  
18 April 2004 where the Ministry had actually said that Parklands was not a preferred provider  
19 for those from Kimberley. Were you aware of that?

20 A. No. I didn't even know that care providers had audits.

21 Q. So later you learned that there had been an audit that highlighted serious concerns about  
22 Parklands. Again, had you known about that audit?

23 A. No.

24 Q. Then it's 29 October 2004, the Ministry of Health agreed to Paul being placed there and that  
25 was on the basis that the owners met a number of conditions. Again, did you know that the  
26 placement there was subject to conditions?

27 A. No.

28 Q. One of the things that the Chief Legal Advisor for the Ministry of Health has said in his  
29 reply to your evidence is this:

30 "Parklands was not identified as a preferred provider for Kimberley Hospital de-  
31 institutionalisation project and as a result of the findings of the Ministry's March 2004 audit  
32 report, the request for Mr Beale to reside at Parklands was initially declined".

33 Then at paragraph 3.14 he says: "As a consequence of Parklands improved  
34 performance on 29 October 2004 the Ministry advised the provider that it approved

1 Mr Beale's placement at Parklands in accordance with Ms Rowe's wishes".

2 It's important to ask you at this stage, did you understand that it was the Ministry  
3 of Health that ultimately had the say over where Paul was placed?

4 A. I didn't really know. The wording of a lot of things is a bit beyond me and I try my best to  
5 understand it, but I didn't know that that was the case.

6 Q. Then another thing I want to ask you about, Mr Knight says at 3.16 of his brief, again in  
7 response to your evidence, "I understand Ms Rowe was provided with a copy of the 12  
8 October 2004 audit report and shared the fact of those with Ms Rowe before agreeing to  
9 allow the placement". And that's at Parklands. What do you say to that?

10 A. I did not see an audit.

11 Q. If you had known about the Ministry of Health's concerns about Parklands, what would  
12 have been your decision about Paul going there?

13 A. He absolutely would not have gone there.

14 Q. Just in terms of the decision to place him there, would you tell the Commissioners about  
15 what work you had done beforehand to satisfy yourself about this placement?

16 A. Right. Well, how I come to find out about Parklands was I was at my doctors one day and I  
17 was in the nurses' station having some treatment done and, as you do sometimes, they ask a  
18 lot of questions about what you're doing, how's your day going. And I said well I'm busy at  
19 the moment looking for a placement for my intellectually disabled brother close to us, to  
20 live closer to us. I said I had been to two places locally and one was not safe because it did  
21 not have a fence high enough to keep Paul in, it was just a very low frontage about two and  
22 a half feet high. The other place that I had been told about was a behavioural unit and I was  
23 told to check out.

24 And I actually had a friend with me and on being shown inside the door it just felt  
25 completely wrong. The air was so cold and thick that you could have literally cut it with a  
26 knife. It was just awful. And whilst we were in there, one of the clients started doing  
27 something and the caregiver went running over and just grabbed both of her hands like that  
28 and said "No, no", and then took the person off somewhere else. And we were left standing  
29 there going, sorry, a goldfish.

30 Q. So you went to Parklands yourself and checked it out?

31 A. I did. The nurse said "Oh well, there's a place called Parklands which is out in the country,  
32 so they have farm animals, and they're really nice. They bring the clients in here, they  
33 come to this practice". So I got a number and I went out and had a look. Alan came with  
34 me. And we thought about it for quite some time and then my mother's younger brother

1 came out from England and he asked how Paul was and I said "Well, we're looking at  
2 getting him out of where he is and putting him somewhere" and he asked where that was  
3 and we said "Well, we can take you probably". So I rang up, yes, we could take him.

4 We took Uncle Bill out there and he asked the owner a whole lot of questions and  
5 was given the same answers that we had been given to the same questions, and he asked  
6 some of his own which were different, and again, given answers. Which I now know that  
7 the owner basically was fibbing so that she could get Paul in there.

8 **Q.** So Paul goes to Parklands?

9 **A.** Correct.

10 **Q.** And as you explain in your evidence, everything went well for about the first 18 months?

11 **A.** Mmm-hmm.

12 **Q.** And then cracks started to show. So we'll go through the areas that you started to raise  
13 concerns about. First of all, financial mismanagement?

14 **A.** Yes.

15 **Q.** Do you want to talk about what your concerns were about that?

16 **A.** Well, one of the things that my mother said to me in asking me to be Paul's welfare  
17 guardian was "Don't let anybody have his money. He needs to have money to buy his  
18 clothes and go out and that sort of thing". The Government pays for his board and upkeep  
19 and that comes out of his benefit before what is left comes to Paul.

20 So the owner of the property was busy asking me for extra money, so my answer  
21 to that was, "Well, if you want more money you need to furnish me with an invoice please  
22 so that I can see what you want Paul's money for". And it took a little while for them to  
23 produce the first invoice and over a period of time there was not really any consistency, like  
24 they were not monthly, there would be a month and then miss a month and then maybe two  
25 months and then miss a few, that sort of thing. And on these accounts I noticed fish and  
26 chips. And I thought why is he being charged for fish and chips on a regular basis? It  
27 worked out that it was Fridays, and so when I went to visit Paul I happened to ask one of  
28 the caregivers, "Why is Paul getting charged for fish and chips?" And she went "What?"  
29 I said "Well, I've got an invoice and he's being charged for fish and chips". She said "That's  
30 not right". And I said "What do you mean?" And she said to me "The fish comes in a box  
31 and comes out of the freezer so it's pre-bought and the chips are out of a big bag. And so  
32 those are taken out, heated up and given to the residents and that's their fish and chips".  
33 And I said "Well, is he not getting them when they go out somewhere?" "Oh, yes that  
34 happens sometimes too, but most of the time it's just Friday nights and they have fish and

1 chips here".

2 So I objected and refused to pay because I thought that the money that was being  
3 given from the Government for Paul's care also included his meals. I mean that doesn't  
4 come into account that when he came to us we provided all his meals. We didn't ask for  
5 payment back for that, that's not kosher in my mind. But that's what was happening.

6 **Q.** And then you also had concerns about hygiene and neglect and also psychological abuse.  
7 So just explain about Paul wetting the bed there and what happened?

8 **A.** Paul is a tall man, tall as Alan. And I was told he wet the bed and the response from the  
9 care worker after some time was to remove his nice thick 8-inch inner sprung mattress and  
10 replace it with a 4-inch plastic-coated rubber squab like what you get in the hospitals, those  
11 big blue things and this was just after Paul had come out of hospital with a hip joint  
12 replacement. And I said, "What happened to his regular mattress?" And they said "Well, it  
13 got so wet that we took it down to the paddock and burnt it". And I said "But you shouldn't  
14 have done that without consulting me because that's Paul's property". And in effect what I  
15 think happened is that they took it to provide for the extra people the owner had got in and  
16 put a marae-style room for young, disturbed people who she had got from the court. So  
17 it's –

18 **Q.** That went?

19 **A.** It went and the other thing was that I had actually, right at the very start, provided  
20 Parklands with two waterproof mattress covers. When I inquired as to why they were not  
21 using them I was told "Oh well so and so who does the washing - who happened to be  
22 another client, resident, two of them actually are charged with doing the washing every  
23 day – "Oh she washed it and then because it was raining she put it in the dryer and the  
24 rubber stuck and so it's full of little holes all over". And I asked where it was and the  
25 caregiver promptly reached up above Paul's wardrobe and plucked it off and gave it to me.  
26 I was just appalled.

27 **Q.** One of the other things you talk about in your affidavit is about Paul's bedroom door  
28 coming to be locked every night. What was your concern about that?

29 **A.** I was informed after some time that they were having, they were "having" to lock Paul's  
30 bedroom door because he was getting up in the middle of the night and wandering around.  
31 I said "How do you know this?" "Oh we've found grass in his bed". And I knew at this  
32 stage that the property had cameras so I said "Do you actually have any camera evidence of  
33 this?" And they said "Oh no, the cameras weren't working". And I just was getting fobbed  
34 off basically.

1 **Q.** And you talk about too your concerns – sorry Gay?

2 **A.** Sorry, I was just getting my thoughts. My main concern with Paul being locked in was  
3 what if he needed to go to the toilet and what if there had been a fire. There were several  
4 other people, I think about 22 or something in the end, people living there, and my main  
5 concern was if there had been a fire, who would get Paul out. There were other people  
6 there who had mobility things, people – a young man in a wheelchair, and who do you get  
7 out first?

8 **Q.** You also talk about a staff member who would squirt Paul with water when they thought he  
9 was getting too loud. So talk to us a bit about that?

10 **A.** Okay. Well, coming from a family of four we do get a bit loud when we want to be heard.  
11 But the same person that told me about the fish and chips also told me that this one  
12 particular person, because I had actually noticed a Pump bottle outside Paul's bedroom door  
13 on the wind protector wood, and I said "What's the water for? Is that for Paul to drink?"  
14 "Oh no", she said, "So and so squirts him with that when he gets a bit loud". I said "Well  
15 that's not kosher, that needs to stop".

16 But I know for sure that if I had said anything to that person he would have just  
17 laughed it off and said "Oh no, I don't actually squirt it at him, just near him", that's the sort  
18 of person that he was. I didn't - I came to not trust that particular person after some time.

19 **Q.** And then the last topic before we move away from there and Paul being removed from  
20 Parklands is the many assaults that you became aware Paul suffered there. So you've talked  
21 about the scarring at Kimberley and again at Parklands you talk about a whole lot of  
22 unexplained injuries?

23 **A.** Yes.

24 **Q.** So you say that you were told off the record that they were because Paul was being  
25 regularly assaulted by other residents?

26 **A.** Correct.

27 **Q.** And you were told that that included being pinched and punched, weren't you?

28 **A.** Yes.

29 **Q.** One of the first occasions that caused you particular concern was in March 2008?

30 **A.** Yes.

31 **Q.** Can you just talk about being contacted by somebody to say an ambulance was at  
32 Parklands?

33 **A.** Yes. Living further down the road actually on another road but where these people lived  
34 they could actually see up the road where Parklands was. And we got a phone call about 9

1 o'clock at night from this person to say "Have you been rung up to say there's an ambulance  
2 at Parklands?" And I went "No", I said "Are you sure it's at Parklands?" "Oh, yes". I said  
3 "Well" – "Oh", she said, "the police are just going up the road now". And so I said "Okay,  
4 thank you".

5 So I hung up, got back on the phone, rang Parklands and the young woman that  
6 answered said "Oh I'm glad you've rung, we've got an ambulance here. Paul has just been  
7 assaulted by so and so because the owner had taken his laptop away and she's gone away  
8 for the weekend and he can't get it back to use", because he had carried out some  
9 misdemeanor apparently or refused to do something that she asked. And I spoke with the  
10 ambulance officer and I was a little bit disillusioned because he said "Oh, I have asked your  
11 brother if he would like to go to the hospital and he said no". And I said "Right, what are  
12 his injuries, are they life-threatening?" And he said "No, however he has cuts and scratches  
13 down one side of his head and bleeding from an ear from a scratch and he was also sore on  
14 the other side of his face". So I said "Well, if it's not life-threatening, if he's safe I will  
15 leave him there tonight and I will come and get him in the morning and take him to my own  
16 doctor".

17 After that he put me back on to the girl and she said "The police are here too,  
18 they're taking the resident that assaulted Paul away for the night and they're going to keep  
19 him in a cell just to scare him and show him that this is what happens if you hit people".  
20 And so I was quite happy at that stage to leave Paul there in the care of the woman who was  
21 on, there were two women that night, and I said "If anything happens to Paul during the  
22 night ring me and I will come". And he was "Okay", so I went the next morning and took  
23 him to my own doctor.

24 **Q.** And then about a month later you talk about Paul complaining that his right leg was sore.  
25 And then you heard three days after that that another staff had phoned you to say that his  
26 foot was sore, red and swollen, so Paul had gone to the doctor and his foot had been  
27 x-rayed and he had fractures. Then you talk about collecting him yourself for a visit and  
28 seeing that his foot was still red and that his lower leg was swollen. So once again you took  
29 Paul to the After Hours I think?

30 **A.** Yes, it was because I think, if I remember rightly, it was on the weekend, so I took him to  
31 the nearest clinic and spoke with a doctor there. He inspected Paul, he took another x-ray,  
32 and when he came back with the x-ray results he said to me "How did this happen?" And  
33 he said "I had been told that Paul had a fall". And his words were "This has not happened  
34 from a fall, this is the kind of injury you get when somebody stamps on your foot". So to

1 this day we still don't know whether it was another resident that did it or a staff member.  
2 But he ended up wearing a moon boot for I think two to three weeks while the bones  
3 healed.

4 **Q.** Then you also talk about another occasion that you took Paul for a dental check-up?

5 **A.** Yeah.

6 **Q.** And that when he lifted his shirt up he had a massive bruise on the side of his ribs. Had  
7 you been aware of that?

8 **A.** No, I had not. I was totally shocked because I had taken him in to Middlemore to the  
9 dental service for a pre-admit because Paul has to be knocked out to have his teeth seen to.  
10 And they were checking up everything and they - she was really lovely, she said "Paul, can  
11 I lift your shirt to have a look at you?" He goes "Yes". So she lifted his shirt and she goes  
12 to me "What's this?" And I said "What?" And she said "This fist-sized bruise around  
13 here". And I said "Sorry, but when I picked Paul up I don't actually go over him with a fine  
14 tooth comb to see what's what". And I said "I'll make inquiries when I get back, thank  
15 you". And I was told that "Oh he probably fell against something".

16 **Q.** And just moving quickly through that section you talk about other fractures that he had  
17 unexplained bruises and scratches and bites?

18 **A.** Yes. To his face that one?

19 **Q.** So I want to move on to the issue of complaints. So first of all in 2006 you contacted the  
20 police about the staff member from Parklands who you knew had assaulted Paul, didn't  
21 you?

22 **A.** Correct.

23 **Q.** And that resulted in a court case?

24 **A.** Yes.

25 **Q.** And the staff member was charged with assault and was asked to leave Parklands?

26 **A.** Yes.

27 **Q.** And you were part of that court case, weren't you?

28 **A.** Yes, yes.

29 **Q.** And you also regularly voiced your concerns about the poor quality of residential care and  
30 by that stage you were starting to request that alternatives be looked at for Paul, so in about  
31 2008?

32 **A.** Correct.

33 **Q.** And you say in your affidavit that it's April 2008 that finally attempts are being made to  
34 find an alternative placement, but in the end he ended up staying there until the end of



1 2012?

2 A. Yes.

3 **Q.** Again, the Chief Legal Advisor of the Ministry of Health has commented on that, so I will  
4 read to you what he says and ask what you say. So this is at paragraph 3.20(c), he says,  
5 "After problems were identified in 2008 Mr Beale's needs were reassessed and alternative  
6 residential options explored, but after consultation with his family were considered  
7 unnecessary". Do you have a response to that?

8 A. It was, in my mind, necessary to move Paul and I had been the person doing the looking to  
9 try and find somewhere. Now when you don't know what is available and you only hear  
10 from somebody else that there is a place here or a place there that could be useful for Paul's  
11 needs, it makes it extremely difficult to know where to go. And that's the time that  
12 I explained before about the fence and the place with the horrible atmosphere. And I just  
13 felt quite disillusioned, really, that no more push and effort came from the Ministry to find  
14 another place for Paul, a safer place for Paul to be.

15 **CHAIR:** Could I just ask, did you feel the responsibility was all yours to find a placement or was  
16 it a shared responsibility between you and the Ministry of Health?

17 A. Well, I feel it was a shared, because I take – I have a vested interest in my brother because  
18 I love him.

19 **Q.** Yes

20 A. And it would have been really nice to have had a lot more input from the Ministry as to  
21 places that were actually available within a kilometreage space that would be easy for Alan  
22 and myself to go and get Paul, because we regularly see him six weekly for hair  
23 appointments and podiatry, we take him to those and take him out for lunch or morning tea,  
24 which he enjoys.

25 **Q.** The reason I ask that is if it was shared, to what extent was it truly shared, how much of the  
26 responsibility and the work put in to finding a placement was borne by you and how much  
27 was borne by the Ministry of Health?

28 A. Well, I felt like they sort of left me in the dust really, it was up to me to – that's what I felt,  
29 personally I felt it was up to me to find a place, because they're too busy doing other things.

30 **Q.** Thank you. Sorry to interrupt Ms Cooper.

31 **QUESTIONING BY MS COOPER CONTINUED:**

32 **Q.** So it's 2012 as we know is when Paul shifted, and we talk about Paul being written a letter  
33 by the Ministry, yes, by the Ministry of Health in July 2012 telling him that people had  
34 visited Parklands the previous week and had spoken with him and the Ministry had decided

1 at that point to put in two temporary managers. And at the same time you also received a  
2 letter talking about a recent complaint which raised serious concerns about Parklands and  
3 you were also advised that temporary managers would be starting there. What was your  
4 understanding about when the temporary managers had actually started at Parklands?

5 A. Well, can I just refer to the letter to Paul for a start?

6 Q. Yes.

7 A. I think it quite ironic that Paul receives a letter, I know it's probably officialdom, but  
8 sending a letter to a man who has absolutely no idea of what the piece of paper is talking  
9 about, and it would have been better, I think, just to send the letter to us, and I was unaware  
10 that somebody had spoken with Paul. I mean what did they say to him? What were his  
11 answers, if any? I still don't know to this day.

12 Q. And then he got another letter on 3 September saying that the owners of Parklands were no  
13 longer able to continue operating Parklands and you were also told that.

14 A. Correct.

15 Q. And so Paul was moved. Again, tell me about that process. Who made the decision about  
16 where Paul would go at that time?

17 A. Well, basically the Ministry moved him. When we heard that Parklands was going to be no  
18 longer I started looking around again and I found two places in Mangere run by a company  
19 called Bupa and I went and checked them both out and I felt that either of these would have  
20 been a relatively good place for Paul to go. They had individual rooms for a start which  
21 would have been nice.

22 And when I rung the Ministry and spoke with a gentleman who was dealing with  
23 the whole Parklands thing, and told him that I thought I had found a place, he asked me  
24 where it was and I told him and he said "Oh he can't go there". And I said "Why not?"  
25 "Oh, he just can't". And I said "Well, is it to do with money?" And he said "No, money  
26 has got nothing to do with it. He just can't go there". And that was it, I felt like there's not  
27 really much sense asking anymore questions because I felt like I was getting fobbed off.

28 Q. So, as you say, the Ministry decided where he went?

29 A. Yes, they took them out of Parklands on 7 September and I remember that specifically  
30 because that's our younger brother's birthday, and I was rung up that morning to say that if  
31 I wanted to get any of Paul's personal property, because he had a big outside swing and  
32 some other bits and pieces, I would have to go there and get them. The police were there  
33 making sure that people could come and go to collect their family's property. So because  
34 we don't have a car with a tow bar I had to ring a friend and ask a friend to come and pick

1 up the swing, and he put it on his thing and brought it to our place, because at that stage we  
2 did not know where Paul was going. And then we were told that he was going to a place in  
3 Mangere Bridge and that one of the other residents there would go with him, they're kind of  
4 like brothers from another mother, they're a similar age these two men, and that was it. We  
5 had no say whatsoever in where Paul went.

6 **Q.** Having made that comment, one of the things you do say in your affidavit is that his quality  
7 of life now is significantly better?

8 **A.** Yes. It is.

9 **Q.** I want to move then now to the process of making a claim on behalf of Paul. So as you  
10 explain in your affidavit you came into contact with our firm after a reporter from The  
11 Herald contacted you because she was investigating a story about abuse of the residents  
12 who lived at Parklands.

13 **A.** Correct.

14 **Q.** So that was in July 2013, wasn't it?

15 **A.** Yes.

16 **Q.** And you're aware that the first thing we did was apply for funding on Paul's behalf to take a  
17 legal claim against the Ministry of Health?

18 **A.** Yes.

19 **Q.** And you'll recall that the file was sent to a specialist advisor, so that's a lawyer at Legal  
20 Aid, before a first grant of 10 hours was provided on 13 August 2013. We're going to call  
21 up the first document now which is the letter dated 13 August 2013. You'll see that there,  
22 Gay. So you've got that in front of you?

23 **A.** Yes, I'm – that's better, thank you, I was struggling to read it with my eye at the moment.

24 **Q.** So you'll see there that Legal Aid is saying that there is still a singular lack of relevant  
25 information being provided and was asking for a lot of additional information. So we had  
26 there the date Paul first became a resident at Parklands, how long he was there, where he'd  
27 been since.

28 Secondly, if you had copies of the relevant doctors' reports about the evidence of  
29 assaults and were complaints made at the time, were there copies of any such or similar  
30 complaints and their outcomes, was there independent evidence of physical or  
31 psychological abusive behaviour specifically relating to Paul by the staff.

32 And then moving on to the next page, what was his legal status, so just those first  
33 bit, what was his legal status and if it was contractual, was there a copy of the contract, and  
34 how was it proposed that the obvious evidential difficulties, I assume that meant in relation

1 to gathering evidence from Paul, will be addressed.

2 How did you feel when you saw that letter?

3 A. I was a bit overwhelmed. It's just that Paul has no understanding and if I was not here to  
4 speak up for him nothing would have happened. And for having spent so much time in  
5 Kimberley and then seven years at Parklands he just – he's owed the world basically from  
6 the way he's been treated. I actually spent a lot of time gathering the evidence, going to the  
7 doctors, getting copies, going to the clinic, the emergency clinic, getting copies of reports,  
8 yeah.

9 Q. So you'll see that at this stage that Legal Aid gave a small grant of 10 hours?

10 A. Yes.

11 Q. And the underlined bit says that that was to get instructions, apply for aid, make Official  
12 Information Act requests for material, consider it and also make a preliminary approach to  
13 the Ministry of Health regarding settlement?

14 A. Yes.

15 Q. So as you said, one of the first tasks that happened after that was to start collecting in all  
16 those records and that was a task both you and Cooper Legal did, wasn't it?

17 A. Yes, yes.

18 Q. And consistent with the requirement of Legal Aid, Cooper Legal also wrote to the Chief  
19 Legal Advisor on 21 October 2013 making an offer to settle Paul's claim. And this referred  
20 to the documents that had been collected in at that stage, didn't it?

21 A. Yes.

22 Q. And that referred to the complaint you had made earlier on and it also referred to the  
23 medical records we had collected in at that stage?

24 A. Yes.

25 Q. And you'll remember that at that stage after setting out why it was considered the Ministry  
26 was legally liable, a settlement was proposed of a payment to Paul of \$150,000 as well as  
27 paying his legal fees and providing a letter of apology?

28 A. Yes.

29 Q. And then as you set out there it took some time for the Ministry of Health to respond and  
30 that response was a letter from Crown Law dated 23 December 2013, and that's the next  
31 document we're going to look at, if we can call out paragraph 2. So you'll see there that in  
32 that letter the settlement offer was declined, wasn't it?

33 A. Yes.

34 Q. And you were told, we were all told that his claim should be against the owners?

1 A. Yes.

2 Q. And that the Ministry of Health accepted no liability whatsoever?

3 A. Mmm-hmm.

4 Q. And it set out a number of reasons for that view, including that no-one from Parklands was  
5 in the Ministry's care, Paul was not under a compulsory care order and he lived there with  
6 your consent?

7 **CHAIR:** Can I just check, can you see that Gay or would you like it to be enlarged?

8 A. It has been enlarged, thank you very much.

9 Q. Oh it has been enlarged, sorry.

10 **QUESTIONING BY MS COOPER CONTINUED:**

11 Q. And although the Ministry at 2.1.2 accepted that it had assisted with his placement there  
12 and had funded the services provided under the contract, it denied that any of those people  
13 were employees or agents of it and therefore it had no liability. And it also, in paragraph  
14 2.2 denied it was liable for any of the assaults that Paul had suffered.

15 So then moving on to the next page, so it continues on there saying that it had  
16 audited the place, you'll see there at 2.3 it didn't ignore or fail to follow-up on complaints,  
17 and at 2.4 the Ministry said that the offer of \$150,000 was out of all proportion to  
18 comparable claims and settlements. And it was said there that he was not appearing to  
19 allege he was sexually abused or a victim of aggravated intentional assaults.

20 Just the final paragraph I want to highlight there, if we can call out paragraph 4.  
21 So there you were told, weren't you, that if you did want to pursue this matter on your  
22 brother's behalf you had to file a statement of claim, so that's a court document which set  
23 out how the Ministry was liable. Can you just tell me what your response was to that letter,  
24 Gay.

25 A. I kind of looked at it and my head just like exploded. I felt as though the Ministry was –  
26 they kept putting things in the way in the hopes that I would go away.

27 Q. And what did you feel about the Ministry's position that it had no liability whatsoever?  
28 How did you see it?

29 A. In my mind if an organisation is paying for somebody to be in a place and they are carrying  
30 out audits, then you most definitely have a duty of care.

31 Q. So the next step that had to be taken, wasn't it, was to get some funding to file his claim in  
32 the High Court and by March 2014 proceedings were filed in the High Court at Wellington  
33 on behalf of Paul, weren't they?

34 A. Yes.

1 **Q.** And then in May 2014 the Ministry filed its statement of defence and you'll recall, won't  
2 you, that that essentially repeated what had been in the letter, that the Ministry had no  
3 liability?

4 **A.** Yes.

5 **Q.** And then you'll remember that the lawyers from Crown Law asked to meet with the Cooper  
6 Legal lawyers, and this was in June 2014?

7 **A.** Yes.

8 **Q.** And as you explain in paragraph 83, Cooper Legal was reluctant to attend any meeting  
9 unless the Ministry of Health was intending to engage in active settlement discussions?

10 **A.** That's right.

11 **Q.** And you'll remember that we were advised by Crown Law that the Ministry was not  
12 prepared to engage in any meeting about settlement unless it fully understood what  
13 arguments were being advanced on behalf of Paul?

14 **A.** Correct.

15 **Q.** And so there was further correspondence between Cooper Legal and the Ministry of Health,  
16 wasn't there?

17 **A.** Yes.

18 **Q.** And at that time Cooper Legal was asking if the claim could be resolved outside of court,  
19 wasn't it?

20 **A.** Yes.

21 **Q.** So you'll remember that because the Ministry of Health continued to say it had no liability,  
22 there were discussions about what should be the next step and it was agreed that a helpful  
23 next step would be a judicial settlement conference?

24 **A.** Yes.

25 **Q.** So just to explain that, that's a formal conference in the High Court chaired by a judge to  
26 see if the parties can reach settlement?

27 **A.** Yes.

28 **Q.** And you'll remember that just leading up to the conference Crown Law sent Cooper Legal a  
29 letter saying that the wider legal issues were a very significant matter for the Ministry of  
30 Health and had wider implications for the Crown. So did you understand at that stage it  
31 was - the Ministry was worried about this case becoming a precedent?

32 **A.** Yes.

33 **Q.** But in any event the judicial conference was set and papers were prepared in advance of  
34 that, weren't they?

1 A. Yes.

2 Q. So from your side, you and Alan made a statement, you remember that?

3 A. Yes.

4 Q. And there were a number of former staff members who also prepared statements as well, or  
5 statements were prepared on their behalf?

6 A. Yes.

7 Q. So the settlement conference took place in Wellington. Who came down for that?

8 A. Alan, myself and Paul.

9 Q. So you came down, and I know because it's confidential we can't talk much about what  
10 happened there, but how many people were in the room?

11 A. Alan, myself, Paul, two lawyers from Cooper Legal, the judge and four people on the other  
12 side. Sorry I don't know what their titles were.

13 Q. And it didn't settle, did it?

14 A. No.

15 Q. Again, just taking you to one of the comments from the Chief Legal Advisor's evidence in  
16 reply to you, he says:

17 "At the time of the judicial settlement conference in March 2015 approximately  
18 a year after the proceedings commenced, the Ministry was still not satisfied that there was  
19 merit to the claim for the reasons I have explained earlier in this statement. Hence the  
20 matter could not be settled at this time because of the distance between the parties'  
21 respective positions".

22 If you had known that was the Ministry's position prior to the judicial settlement  
23 conference, would you have still attended?

24 A. Probably not.

25 Q. And as you say in your affidavit, you were disappointed?

26 A. Yes.

27 Q. And so that meant that the next step was getting the case ready for a full trial, wasn't it?

28 A. Yes.

29 **CHAIR:** Would that be a good time to take the morning adjournment?

30 **MS COOPER:** Yes, thank you.

31 **CHAIR:** We're going to take a break now, I'm sure you'd like just to take a deep breath and have a  
32 short rest. We'll be back in about 15 minutes.

33 A. Thank you very much.

34

**Adjournment from 11.27 am to 11.30 am**

1 **CHAIR:** Thank you Ms Cooper.

2 **QUESTIONING BY MS COOPER CONTINUED:**

3 **Q.** So we left with starting on a trial track?

4 **A.** Yes.

5 **Q.** So we're taking the claim now towards a full hearing and you'll remember that once again  
6 we spent some months collecting in more documents about the case, didn't we?

7 **A.** We sure did.

8 **Q.** And Cooper Legal filed an amended claim for Paul which we filed on 20 September 2015.  
9 You'll remember that the Crown filed an amended statement of defence, so that's its legal  
10 response on 16 October 2015, and as you say in your affidavit, that amended statement of  
11 defence raised a limitation defence which said that Paul should have brought his claim  
12 earlier than he did. What was your response to that?

13 **A.** My response was aghast because my brother has no understanding of things like this as  
14 I struggle at times myself. So the fact that my brother doesn't read, he can't tell me who has  
15 even hit him. So how could he bring this up without knowing he had to under a certain  
16 time.

17 **Q.** And would Paul ever be able to instruct a lawyer himself?

18 **A.** No, sorry, he could not.

19 **Q.** So the next step then once those documents have been exchanged is to ask for a four-week  
20 trial to be set down, you remember that?

21 **A.** Yes.

22 **Q.** So the next year both parties are still collecting in regular documents and the possibility of  
23 settlement is again being raised by Cooper Legal, isn't it?

24 **A.** Yes.

25 **Q.** And you'll recall that two lawyers from our office, including me and another lawyer, met  
26 with Crown lawyers on 2 March 2016 with the purpose of discussing whether the claim  
27 could be settled, you remember that?

28 **A.** Correct, yes.

29 **Q.** And after that Ms Ross, who was the other lawyer from our firm, followed up with a letter  
30 to Crown Law?

31 **A.** Yes.

32 **Q.** Which is 4 March 2016 and we'll call up that letter. So I want to highlight that paragraph  
33 starting "Notwithstanding". So you'll see there we were making it very clear that you had  
34 no personal agenda in the litigation and that your only concern was your brother?



1 A. Yes.

2 Q. And that if he received an acknowledgment and some financial compensation this would be  
3 a very satisfactory outcome. And that's how you felt, wasn't it?

4 A. Absolutely, yes.

5 Q. And then moving over to the next page, you'll see page 2, just wait for that to come up.  
6 You'll see at the top there that we were noting some concern about the Ministry hiding  
7 behind you. Can you read that, Gay? The very top paragraph, we'll just get that called out.

8 A. Yes.

9 Q. You see there that any defence, the effect of which is that the Ministry seeks to hide behind  
10 you in terms of responsibility for Parklands, would be a very unattractive one?

11 A. Yes.

12 Q. And then we went on to make some more points which are in the bullet points, so if we  
13 bring up the first, call out the first bullet point, and we noted there, didn't we, that the  
14 Crown should not be alarmed at the precedent effect of a settlement where it's an  
15 independent contractor, so that's somebody who you've got a contract with who's not a staff  
16 member or employee?

17 A. Right.

18 Q. And you see we were saying there that horse has bolted?

19 A. Yes.

20 Q. And we were talking about settlements with the Ministry of Social Development in terms of  
21 independent contractors?

22 A. Yes.

23 Q. And you see there in italics we had referred to a case called *White v Attorney-General*  
24 where the Crown had acknowledged it could be liable for independent contractors. Then if  
25 we highlight the next bullet point, you'll see there that we were talking about the possibility  
26 of a confidentiality clause to protect the Crown from any floodgates?

27 A. Yes.

28 Q. And we said you might agree to a settlement of that kind. And then the next bullet point,  
29 you'll see there that we were saying that the reality is that people like Paul, in other words  
30 people with disabilities as severe as Paul, hardly ever come forward?

31 A. Yes.

32 Q. And we noted that of the 20-odd Parklands residents, Paul was the only client?

33 A. Right.

34 Q. And then finally, the last bullet point, we noted that not only was Paul unusual in that he

1 had a sister who was his staunch advocate and would speak up for him, we also said his  
2 claim was unusual in that not only was it well-documented, but we had located former staff  
3 who remembered him and who saw him being ill treated and were being – were prepared to  
4 stand up as witnesses.

5 A. Yes.

6 Q. And finally we just highlight that very last paragraph. You'll see there we said for these  
7 reasons settlement was possible and it wouldn't expose the Ministry to numerous claims of  
8 this kind?

9 A. Yes.

10 Q. So you'll remember then that we were cautiously hopeful that we might be able to negotiate  
11 a settlement, weren't we?

12 A. Yes.

13 Q. And there was more correspondence going forward, including more settlement  
14 negotiations, wasn't there?

15 A. Yes.

16 Q. But by June 2016 that had reached a stalemate and, as you say at paragraph 109, the  
17 Ministry of Health's position was at that stage that the highest it would go to was \$25,000,  
18 wasn't it?

19 A. Yes.

20 Q. And we communicated that information to Legal Aid in a letter dated 20 June 2016, and  
21 that's the next document that we're going to call up. And if we can just call out the bottom  
22 two paragraphs there. And you'll see there we refer to the judicial settlement conference,  
23 that's repeating then that \$25,000 was as high as the Ministry was prepared to go, and then  
24 you'll see there us saying to Legal Aid that there was no point waging a paper war with the  
25 Crown because the Crown had made its position very clear, and we said it was clear that the  
26 Ministry simply didn't want to settle it.

27 And if we move on to the next page and pull up the first three paragraphs, call out  
28 the first three paragraphs, and we said there being a Government department as opposed to  
29 a private litigant had a separate specific fund it could draw on to defend the claims and we  
30 just noted that that was not unlike the position of Legal Aid.

31 And you'll see in the next paragraph we just said that the unfortunate reality about  
32 litigation against Government departments with huge financial resources was that they  
33 could be dedicated to defending claims where an alternative dispute resolution process  
34 would be far more appropriate. And you see there that final paragraph we said that in the

1 case of the Ministry of Health there would be precedent by settling the claim and that  
2 appeared to be what was stopping it from settling?

3 A. Yes.

4 Q. So you'll remember then that we're now fully working towards trial and Paul's case was  
5 given a trial date of 1 May 2017 for six weeks?

6 A. Yes.

7 Q. And this was communicated to Legal Aid, wasn't it?

8 A. Yes.

9 Q. And you'll remember that at that stage there was a lot of toing and froing with Legal Aid  
10 again?

11 A. Yes.

12 Q. About getting funding for the trial?

13 A. Correct.

14 Q. And I'm going to call up the next letter just an example of that. So this is a letter of 21 July  
15 2016. If we just highlight the second paragraph, so you see there we were complaining that  
16 the Commissioner, in other words Legal Aid, wants to take an independent assessment of  
17 the range of possible outcomes against the Crown's current offer of settlement. This is  
18 apparently due to the difficult legal issues and litigation risk in the proceedings.

19 A. Yes.

20 Q. So as you understood it, Legal Aid was making a decision then about whether Paul should  
21 be required to accept the \$25,000?

22 A. Yes.

23 Q. And then going down to the final paragraph of that page where we noted the irritation that  
24 it was a bit late for Legal Aid to now assess whether to fund the matter through to trial, and  
25 we noted that it was – it had long been aware that the matter might track to trial.

26 And then moving on the next page, that we had already stated that, so the top two  
27 paragraphs if we call out those, we'd stated that in many letters to Legal Aid already and we  
28 had – we noted we'd been particularly clear about the matter going to trial from 6  
29 November 2015. So you'll see at that stage we were saying that to have to justify trial  
30 funding was quite inappropriate, unjust and inequitable. And you'll see that the final part of  
31 that complaint was that this should have been done months earlier because we were locked  
32 into a trial timetable?

33 A. Yes.

34 Q. How did that make you feel, Gay, at that point?

1 A. Felt like I was being bounced around from pillar to post basically and that the people who  
2 were in charge just basically wanted me to go away on behalf of my beloved brother.

3 Q. And did that include Legal Aid to your mind?

4 A. Yes, it did.

5 Q. So it wasn't until September towards the end of September 2016 when Legal Aid finally  
6 advised that the file had been reviewed and that Legal Aid accepted that the informal offer  
7 of \$25,000 should not be accepted and that from that point Cooper Legal immediately  
8 asked for funding to prepare for trial, and you'll remember that over the next few months  
9 we did work with you to get the matter ready for trial, so we had two experts we had to  
10 call?

11 A. Yes.

12 Q. And we had you and Alan giving evidence, didn't we?

13 A. Yes.

14 Q. And then we had a number of former staff members giving evidence and a grandmother of  
15 another person who had been there?

16 A. Yes.

17 Q. And so a whole bundle of information went across to the Crown in October 2016, but we  
18 were still finding additional witnesses, weren't we?

19 A. Yes.

20 Q. Now I know this is the hard part for you, Gay, but it was as we were doing these witness  
21 briefs that one of the things that came to light during this timeframe was that Paul had been  
22 sexually abused by two Parklands staff members and that this information came to us  
23 through a former staff member who agreed to give evidence in the trial. And I know that  
24 that was not something you had any knowledge of before, was it?

25 A. No, not at all.

26 Q. And how did that make you feel?

27 A. I was angry, I was hurt that somebody felt they had a right to do with my brother what they  
28 wanted to when they were supposed to actually be caring for him. Yeah, it just made me  
29 feel sick.

30 Q. And once that information came to light we also had to amend that formal court document,  
31 the statement of claim again, didn't we?

32 A. Yes.

33 Q. And file that in the court?

34 A. Yes.

1 Q. And you remember that new documents were still coming to us at that stage?

2 A. Yes.

3 Q. Including from the Crown, weren't they?

4 A. Yes.

5 Q. And then one of the things that the Chief Legal Advisor said in his brief at 3.23f was:

6 "In light of the further claims an additional evidence, including the location of  
7 additional Ministry records around that time, the Ministry carefully reviewed its position".

8 Did you have a view about the Ministry locating additional documents some two,  
9 three years down the track?

10 A. Why wasn't it done in the first place?

11 Q. And then you remember that after all that evidence was served on the Crown we were  
12 asked to meet to discuss the claim, weren't we?

13 A. Yes.

14 Q. And the next thing that happened was we received an e-mail from the Crown lawyer on 9  
15 December 2016 and we'll call up that e-mail. And we'll just highlight, call out the whole of  
16 the text. So you'll see there the Crown QC is saying that she had attempted to call us  
17 asking us to meet in light of the far more serious allegations that were now being made  
18 against Parklands.

19 And you'll see that the allegation of sexual assault by two care workers was of  
20 course very serious, as was the evidence saying that there was a routine practice of very  
21 serious physical assaults on residents. You'll see there it also says:

22 "We have met with our client this morning and a decision has been made that  
23 these allegations ought to be referred to the police. We are very concerned that the very  
24 serious nature of the allegations made against named individuals requires that they be given  
25 the opportunity to respond probably by way of joinder - so that means they were going to  
26 be added to the list of names in the proceeding - These individuals are not and have never  
27 been employees of the Ministry and they are entitled to be heard in their own defence".

28 And you'll see, we'll refer over to the next page, and we'll just highlight the first  
29 top paragraph, call that out, and you'll see there:

30 "Of course if the police decide to investigate and prosecute, the court will need to  
31 consider whether the civil case can proceed without jeopardising fair trial rights. However,  
32 it is too early to tell", and so on.

33 A. Yes.

34 Q. How did you feel at that point being told not only that the matter was going to be referred

1 to the police, but also that it might delay the civil trial?

2 A. It was a really difficult decision to make. On one hand I felt that it should go to the police,  
3 but on the other hand I felt that Alan and I had put in so much effort, Cooper Legal had put  
4 in so much effort, if I was to do that how much longer would this take. And at that specific  
5 time I had just learned that our younger brother had been diagnosed with bowel cancer, so I  
6 was up and down the island to him, supporting him because he's not married, and in fact  
7 going so far as to drive him to Palmerston North for his chemotherapy, and then coming  
8 home and then ringing up and over a period of two and a half years after that he had  
9 complications and was in and out of hospital.

10 So as well as trying to live my own life with my man, and our sons and our  
11 grandchildren, I just felt that it was another step to maybe thinking oh well, if we do this  
12 she might give up. That is how I really felt. And I thought no, we have gone so far, it is  
13 not fair on my brother, it is not fair on the people who have worked so hard on his behalf to  
14 just stop. And whilst I realised the accusations against these other people was a very  
15 serious matter, I just felt that it was too much for me to cope with at that moment, and so  
16 I told Ms Cooper to carry on.

17 Q. So you'll remember that Crown Law's next step was to file an application in the High Court  
18 on 12 December asking for permission to hand on the documents and the witness briefs to  
19 the police. Again, if we'll call up that memorandum and page 8, if we can call out  
20 paragraphs 8 and 9 to start with. So you'll see there the Ministry was, well, actually said:

21 "The Ministry is referring these allegations to the police, not only are the  
22 allegations very serious in themselves, the Ministry is concerned about the on-going risk to  
23 others should the allegations prove to be well-founded. It noted that while the facility itself  
24 was closed in 2012, the named individuals may still be engaged in this or similar areas of  
25 work".

26 And so it was asking, wasn't it, leave of the court to provide the police with the  
27 witness statements and the second amended statement of claim to help with the police's  
28 assessment and further inquiries?

29 A. Yes.

30 Q. And then if we look at, call out 10 and 11, that's recording, isn't it, your opposition to that?

31 A. Yes.

32 Q. And there it says that you were - you did not want the matters to be referred to the police  
33 because of the trauma it was likely to cause?

34 A. Yes.

1 **Q.** For a family already facing difficult issues and there was also the concern it may delay the  
2 proceeding. And there it was saying that:

3 "While the Ministry had no wish to cause distress or trauma to the plaintiff and his  
4 family, however it was considered it was not in the public interest for allegations of this  
5 nature to remain hidden, particularly when others may be at risk"?

6 **A.** Yes.

7 **Q.** Then finally if we just call out paragraph 12, which said:

8 "It is too early to know at this time what action the police will take in response to  
9 the allegation or what effect, if any, this may have on this proceeding".

10 So it's essentially repeating what was in the e-mail, wasn't it?

11 **A.** Yes.

12 **Q.** And in the same memorandum Crown Law was also asking for these additional people to  
13 be joined as parties, wasn't it?

14 **A.** Yes.

15 **Q.** So you'll recall that on your behalf and on Paul's behalf we opposed the matter being dealt  
16 with urgently and we explained that if either direction was granted it would have a bad  
17 effect on the current trial timetable, and we also said it wasn't urgent and you'll remember  
18 that a High Court Judge issued a minute, and that's the next document we'll call up.

19 That's the minute of 15 December, and if we just highlight that, there you'll see  
20 that the judge agreed, the defendant's request for an urgent telephone conference is  
21 declined, the matters raised are not sufficiently urgent to be given priority over other urgent  
22 matters and then moreover there is force in the plaintiff's position that the issues raised will  
23 require written submissions and an appearance.

24 **A.** Yes.

25 **Q.** And then you'll recall that even though the judge said that Crown Law filed a second  
26 memorandum on 22 December 2016 and in that memorandum the Ministry said it had  
27 already advised the police about the allegations and the police were now requiring access to  
28 the witness statements as soon as possible. You remember that?

29 **A.** I do.

30 **Q.** And again, on your behalf and Paul's behalf, Cooper Legal responded saying that Crown  
31 Law had, for a second time, filed a memorandum asking for an urgent teleconference in the  
32 knowledge that that was opposed, and that neither Paul nor his family wanted to be forced  
33 into a criminal process without their consent?

34 **A.** Correct.

1 **Q.** And you'll remember that once again the High Court refused to deal with it as an urgent  
2 matter?

3 **A.** Yes.

4 **Q.** How did you feel at that stage?

5 **A.** Pretty worn out actually. It was kind of like in between a rock and a hard place, with what  
6 was going on with this and in our own lives and in my younger brother's life, I just – it was  
7 really difficult to cope with.

8 **Q.** And then you remember that completely out of the blue on 7 February 2017 there was an  
9 offer to settle Paul's claim. And if we call up that offer letter, so that's 7 February 2017, if  
10 we can just call out paragraphs 1 and 2 first of all. So you'll see there that Ministry said it  
11 had been reviewing its approach and had instructed Crown Law to raise the possibility of a  
12 prompt settlement before any further costs were incurred.

13 **A.** And you'll see at that second paragraph that one of the key concerns had been the  
14 precedent impact of the case, particularly whether settling Paul's case would result in more  
15 claims by former residents at Parklands and that the Ministry had considered our assurance  
16 that we did not and did not expect any further instructions from people at Parklands, and at  
17 that final sentence it had also had regard to your offer of a confidential settlement?

18 **A.** Yes.

19 **Q.** And then if we call out paragraph 4 which has got the offer, so you'll see there that the offer  
20 was made to settle his claims for the sum of \$45,000, and in addition the Ministry would  
21 agree to meet Paul's Legal Aid debt which we offered to help get part of that written off.

22 **A.** Then just finally the second page, if we call out paragraph 6, these were the  
23 conditions of the settlement. So you had to consent to disclose to the police the witness  
24 statements that talked about the serious criminal misconduct, and that was on the basis  
25 again that the Ministry would not be party to a settlement which had the effect of hiding the  
26 allegations?

27 **A.** Yes.

28 **Q.** How did you feel on being told that this offer had come?

29 **A.** I was feeling quite relieved, quite happy that in my mind the Ministry had seen sense, but  
30 also a bit disappointed in the fact that it had taken some other instances, particularly the  
31 sexual assault, come to light before they felt it was actually time that they did something.  
32 Yeah.

33 **Q.** And you'll recall that on your instructions we responded to that settlement offer, we said  
34 that his claim warranted a payment of at least \$50,000 and we said that you were keen for



1 the Ministry to provide Paul with a letter of apology or an acknowledgment of his  
2 experiences at Parklands and we also asked whether the Ministry could contribute a small  
3 sum to assist one-on-one services for Paul as at that stage he couldn't have any outings?

4 A. Yes.

5 Q. And so you'll remember we made this counter-offer, \$50,000, we also asked for an  
6 additional \$5,000 to \$10,000 for this one-to-one support, payment of the Legal Aid debt  
7 and the letter of apology. So you remember that we were - we suggested a meeting take  
8 place to discuss this. That meeting took place on 15 February 2017?

9 A. Yes.

10 Q. And do you remember what the outcome was of that meeting?

11 A. That the Ministry had agreed to a \$50,000 payment along with the \$5,000 for Paul's  
12 one-on-one outings.

13 Q. And how did you feel at that point?

14 A. I felt really thrilled for Paul. I mean I know it's only a small amount for all what he's gone  
15 through in his life under Government care, but it's a lot more than he would ever have,  
16 given his circumstance, and it means we can do things like, if Covid finally moves off, we'll  
17 be able to take him to Australia to visit our son and our grandchildren. Although he doesn't  
18 understand a lot of things, he knows our boys, he knows their children and he knows which  
19 ones belong to who, and that's really special.

20 Q. So you remember that it took some time to reach agreement about the terms of the  
21 settlement agreement, but in due course you were sent one to sign. And again, if we can  
22 call up the settlement agreement, I just want to call out paragraphs 1 and 2 to start with,  
23 sorry in the terms of settlement. And you'll see there that that recorded that Paul was to get  
24 \$55,000 as a lump sum?

25 A. Yes.

26 Q. And that the Ministry of Health would pay 50% of Paul's legal costs, that was the agreed  
27 contribution. And then if we then highlight paragraph 4, and you'll see that part of that was  
28 also for Paul to get an apology in relation to his experiences?

29 A. Yes.

30 Q. All right, so let's call up the apology. That apology letter, we'll just bring up all of the text  
31 of the apology. So it says:

32 "I have carefully assessed the information available and also the information  
33 supplied by you. I am now able to acknowledge the seriousness of the matters that you  
34 raised. Accordingly the Ministry expresses its genuine apology for the conditions that you

1 had to endure – this is to Paul – I hope that this letter of apology and the compensation will  
2 enable you to bring some closure to those experiences. I also hope that with this resolution  
3 process behind you, you are now able to move forward with a sense of peace".

4 What was your reaction to that apology letter?

5 A. I was stunned. Even reading it now I just want to get it and screw it up and toss it in the bin  
6 because frankly I didn't really think it was worth the paper it was written on. I know it says  
7 the Ministry expresses its genuine apology, but then it goes on to say that they hope that  
8 with this resolution process behind you, you are now able to move forward with a sense of  
9 peace. I had absolutely no idea how my brother feels, whether he knows what a sense of  
10 peace is. Does he know what moving forward is? I don't know. I wasn't impressed.

11 Q. Does it help that in his brief of evidence at paragraph 3.24 Phil Knipe explains that this is  
12 the usual form of apology provided to people who have been compensated by the Ministry.  
13 Did it help to know it was in a template form?

14 A. I think that made it worse in reality. I mean you can just spit those sort of things out how  
15 you want, there's no actual empathy or real true feeling gone into it. That was how I felt on  
16 behalf of my brother.

17 Q. So we got a second version of the apology letter and we'll just bring that up and we'll just  
18 call out the third paragraph starting "accordingly". That's the one paragraph that changed.

19 A. Yes.

20 Q. So you'll see there it's added in a few words:

21 "Accordingly the Ministry expresses its genuine apology for the unreasonable  
22 conditions that you had to endure. You were entitled to feel safe with your caregivers and  
23 I acknowledge that this environment did not always provide that for you".

24 A. Mmm-hmm.

25 Q. How did you feel about this slightly reworded apology?

26 A. Only slightly better. It's really difficult for me to express what I actually felt. It's –  
27 basically it's the original letter with another paragraph put in to appease me, I think, on  
28 behalf of my brother.

29 Q. And you'll remember that the claim was finally discontinued on 24 March 2017?

30 A. Mmm-hmm.

31 Q. What message would you like to give to the Ministry of Health and the Commissioners  
32 about how things might have been done better and if you have any concluding comments,  
33 which I know you've put some thought into that and you've written some down.

34 A. Yes.

1 **Q.** So I'll ask you to speak to that Gay.

2 **A.** Thank you. First of all, I would like to thank the Royal Commission very much for this  
3 opportunity to be here today to speak firstly for and on behalf of my brother, Paul, and for  
4 all those of differing abilities who are either unable to speak for themselves.

5 **Q.** Just take your time, Gay.

6 **A.** And for all those of differing abilities who are either unable to speak for themselves or who  
7 have no-one to represent them. Considering the abuse that happened to my brother in a  
8 short seven years at Parklands with him being unable to tell me who has caused his injuries,  
9 who is to say what horrors may have occurred during the 40 plus years he resided in  
10 Kimberley. My brother is only one of hundreds, possibly thousands throughout this  
11 country who have been on the receiving end of abuse by those who have been charged with  
12 their care.

13 To the Ministry of Health, whilst I am grateful on behalf of my brother for the  
14 compensation payment, I would like to see the Ministry accept to a greater degree its  
15 responsibility for the people they place into care. In my mind, if you are paying money to  
16 care agencies and carrying out audits, you cannot say that you do not have a duty to care,  
17 and I would like to see the Ministry behave more honestly and openly with caring family  
18 members.

19 To the lawyers from Cooper Legal for representing Paul and the amazing job that  
20 you have done, I sincerely thank you. I also wish to gratefully thank Legal Aid in assisting  
21 with Paul's case for without this extremely valuable support, cases like Paul's would never  
22 get off the ground and that's usually because the whānau don't have enough pingers.

23 I would like to see as an outcome of this process a Ministry of Health that is more  
24 immediately responsive to the needs and wishes of those in care and their welfare  
25 guardians, particularly when audits do not come up to scratch. I believe that audits should  
26 be made publicly available and the Ministry demonstrate a greater degree of empathy in  
27 undertaking their duty of care towards those who cannot care for themselves and also to  
28 their whānau. I believe that there should also be a register of care facilities available  
29 publicly throughout the country for the areas in which whānau want their vulnerable family  
30 members to live.

31 I would also like to see the Ministry implement a unified series of formal  
32 qualifications for those who care for the vulnerable members of our society. One of the  
33 most important things that should be included is learning how to treat people in their care as  
34 fellow human beings.

1                   And lastly, I'd like to thank this amazing man beside me who has supported me  
2 through everything, not just the case and today, and with my brother, but absolutely the  
3 whole way through. So thank you Alan, I really appreciate it and love you, thank you.  
4 Thank you very much for your time.

5 **Q.** Thank you. Gay, as you know, Kerryn may have some questions for you and the  
6 Commissioners may also have some questions for you.

7 **QUESTIONING BY MS BEATON:**

8 **Q.** Tēnā koe Gay and Alan, thank you. As you know, I'm counsel assisting the Inquiry and I  
9 had some questions for you, but I can confirm that you've actually already answered most  
10 of them, so there'll just be a couple of specific things and then the Commissioners may have  
11 some questions. One of the things we wanted to ask you, Gay, was, was Paul aware, did he  
12 know about the claim that you made on his behalf?

13 **A.** No, he knows that we went down to Wellington for a special reason to meet people for a  
14 special reason for him, but he doesn't really comprehend what it was about. He was just  
15 excited to go on the plane.

16 **Q.** And what about the settlement, does he know about that or understand about that, do you  
17 think?

18 **A.** He doesn't really understand, he just knows that he's got some money and he can have what  
19 he wants when he wants it, and there's no worries about that, but -

20 **Q.** Okay.

21 **A.** That's his basic understanding.

22 **Q.** Yes.

23 **A.** I could give him a \$10 note and a \$5 note and ask him what they were and he would just  
24 say money.

25 **Q.** Right, I understand.

26 **A.** So he doesn't know denominations even of coins.

27 **Q.** You talked a bit about this in your evidence, but I wonder if you could tell us, this claim  
28 took about three years around about?

29 **A.** Yes.

30 **Q.** What were the impacts on you and your whānau of that period of time?

31 **A.** It was very long, I had to learn a lot of new things, legal jargon for a start which I still  
32 haven't wrapped my head around properly. I think I make a fair fist at it. It was very, very  
33 tiring racing around getting evidence, thinking of where else I could go to get something,  
34 faxing it down to Cooper Legal, phone calls and all in between trying to, with Alan's help,

1 support my younger brother and yeah, it was a very, very long process and not one I would  
2 really wish to go through again thank you. All through that time as well as helping the  
3 family, I also had my own health issues, so I think it may have probably just been the stress  
4 and just sort of – I don't like to say that I'm stressed, but it's just the way my body reacts it  
5 goes –

6 **Q.** Sure.

7 **A.** And – yeah.

8 **Q.** In your thoughts that you read out to us a few minutes ago you talked about some things  
9 that you'd like to see change.

10 **A.** Yes.

11 **Q.** I wonder if you could – what do you think about, if you, for example, had the opportunity  
12 to design a settlement process for claims like your brother's, what else, other than money,  
13 do you think could be included in a settlement? Because in Paul's case we had the payment  
14 of some money, we had the apology letter that you've talked about and his Legal Aid debt –

15 **A.** Yes.

16 **Q.** - was dealt with.

17 **A.** Yes.

18 **Q.** Is there anything else that you think could be included in settlement processes for people  
19 like Paul?

20 **A.** Speed.

21 **Q.** Sure, of the process, understand that.

22 **A.** Speed of the process, yes.

23 **Q.** Other types of assistance to people in Paul's situation?

24 **A.** Yes, yes, and even maybe help for people like me to understand what exactly happens  
25 through the process. I mean I know Cooper Legal did their very best to a minion like me,  
26 but when you're back home and you want to know something, you just don't feel like you  
27 can get on the phone and ring somebody and say "Oh hey look, what's this?" And it would  
28 have been nice to have been able to do that with the Ministry sometimes too.

29 **Q.** Right, so more information?

30 **A.** Yes, yes.

31 **Q.** For claimants and their representatives like you?

32 **A.** Yes, absolutely.

33 **Q.** Did you give any thought to making a complaint to the Health and Disability Commissioner  
34 during this process, or have you?

1 A. No, I didn't. And I didn't complain to the Ministry because of the previous dealings I'd had  
2 with them, I just felt if I had complained about anything it would have just been brushed  
3 aside as "Oh well, we won't worry about that, it's not important".

4 **Q.** Okay. You've told us about –

5 A. Basically, I'm sorry, but basically I didn't have the trust of the Ministry. I didn't feel that  
6 I could trust them to carry out a proper investigation.

7 **Q.** In terms of investigations by the police?

8 A. Yes.

9 **Q.** You've told us about there was an incident I think in 2006 when someone was prosecuted?

10 A. Yes.

11 **Q.** Do you know what happened to that Parklands staff member? Do you remember what  
12 happened to that prosecution?

13 A. I can't actually remember. I know they were, before the case came up she was off work on  
14 pay.

15 **Q.** Okay.

16 A. And when the decision was made in the court she was released from working there.

17 **Q.** All right, but you don't recall what the decision was?

18 A. No, I'm sorry, I can't remember.

19 **Q.** No, that's fine. What about the really serious allegations that came out in 2017 which  
20 I know you find very difficult to talk about. Do you know what the outcome was of any  
21 police investigation into those?

22 A. I haven't heard anything from the police.

23 **Q.** Oh okay.

24 A. So whether they decided it wasn't worth it or not I have no idea, but they knew about it,  
25 they know about it, and they haven't done anything.

26 **Q.** Thank you, Gay, I appreciate your evidence. I'll hand you over to Madam Chair to see  
27 whether there's any questions from Commissioners.

28 **CHAIR:** I don't have any questions, you fulsomely answered everything that I was interested in.  
29 Commissioner Erueti has some questions.

30 **COMMISSION ERUETI:** Kia ora Gay (inaudible). I've just got a couple of quick questions. I  
31 was just trying to get a sense of what Parklands was like. I know when Paul was moved  
32 from Kimberley the philosophy was to deinstitutionalise, close down the large institutions  
33 like Kimberley and you describe that really well for us. I just wanted to get a sense too of  
34 what Parklands was like. You said that Paul had his own bedroom but no en suite toilet

1 attached to it.

2 A. Correct.

3 Q. With the other dormitories was there – how many other clients were in Parklands?

4 A. When Paul first went there, there were 12 including him. There was a very small kitchen  
5 area where the meals were prepared and a dining table, but they had their kai up in the – in  
6 an area attached to the main house of the owners. Beside that downstairs area was one,  
7 two, three, four rooms with a central corridor, doors going out on to that, and a toilet at the  
8 end. And to be showered or bathed they had to go to a small bathroom just on the inside of  
9 the door but separate to where the dining area was, yes.

10 Basically it was the owner's house and then this other area where they had their –  
11 it was like a dining room and a lounge and then they – there was two or three bedrooms off  
12 that and then from where Paul was there was a gap, there was a garden and then there was  
13 more rooms down on the left. They all had sliding doors opening out on to this big central  
14 courtyard area. It wasn't a courtyard, that's where we went and parked our car when we  
15 went to pick up Paul, so it wasn't really a playing area or anything, wasn't safe to play.

16 Q. So it sounds like, was it a large farm house, a private home –

17 A. Yes.

18 Q. - that had been converted into a facility?

19 A. Well, the original house was still there and that's where the owners lived, but they had  
20 added to, added on to it so that they could have people in there and supposedly care for  
21 them.

22 Q. Thank you. I wonder too with the audit report that you described and also the fact that the  
23 transfer had been approved by Ministry of Health officials subject to certain conditions,  
24 with the transfer from Kimberley to –

25 A. Yes.

26 Q. - Parklands?

27 A. Yes.

28 Q. You became aware of that, I'm just wondering how you became aware of these issues with  
29 Parklands, was it later?

30 A. Oh it was only after I'd been in contact with Cooper Legal that I even found out about  
31 audits.

32 Q. Okay.

33 A. So I was quite appalled.

34 Q. So it was through that process that you became aware of –

1 A. Correct.

2 Q. - the conditional transfer and so forth?

3 A. Yes.

4 Q. And you also said that Paul, after Parklands, was moved to a, described as a residential  
5 whānau home?

6 A. Yes.

7 Q. And you say he's happy there now.

8 A. Yes.

9 Q. I just wondered what is it about that institution place that is different from the others that he  
10 likes?

11 A. Well, like most family members I wouldn't say it was perfect because I have high  
12 expectations; probably too high. But he's well cared for, he's in a proper house situation  
13 with four bedrooms, so he's got three other flatmates and one of them is one of the other  
14 gentlemen that was at Parklands. And there's a young lady there and another young man,  
15 and they have ladies that work on a roster, so during the day I think there's about three  
16 doing all different sorts of things. There's usually one who sleeps over and he has really  
17 wholesome food, in fact sometimes I think I'd like to move in.

18 The ladies are caring, his personal cleanliness has lifted dramatically. If anything  
19 goes wrong the ladies are usually on the phone to us saying "Oh well, this has happened" or  
20 "We think Paul needs to see a doctor because", and so I will go and pick him up. I know  
21 that probably sounds excessive, but because he's my brother I want the firsthand knowledge  
22 to know what is going on with him rather than somebody else telling me and maybe not  
23 remembering everything that was told to them, because I mean I guess when you're looking  
24 after four people, even if there's three or four of you, you still sometimes forget things, we  
25 all do, but yeah.

26 Q. Thank you. It's clear that you've been a strong advocate for your brother for many years  
27 and did you – did anyone ever offer you with support, an advocacy support –

28 A. No.

29 Q. - in advancing Paul's care?

30 A. No. I still get surprised when people tell me that Paul is so lucky to have someone like you  
31 caring for him on his behalf. And I say why? And they say, well, particularly his lawyer  
32 has said to me, "Because a lot of my clients do not have whānau or family members who  
33 look after them the way you look after your brother". So I just thought it was the normal  
34 thing that happens, so maybe I'm weird.



1 Q. My last question is about the letter of apology?

2 A. Yes.

3 Q. That it's addressed directly to Paul and not to you or Alan or the wider collective whanau.  
4 How did you feel about that?

5 A. Well, I think it really should have been addressed to me. I could have then gone to Paul,  
6 even though he may not have understood it, and said "Hey Pauly, look at this, I've just  
7 received a letter from the Ministry of Health and they're saying that they're really, really  
8 sorry about what happened to you at Parklands". That he would understand, I think. As  
9 I say, I'm not sure exactly what he understands and what he doesn't.

10 Q. Thank you so much, thank you.

11 A. Thank you very much.

12 **COMMISSIONER ALOFIVAE:** Gay, I have no questions for you, you've answered and you've  
13 described everything so beautifully, but it has fallen to me the pleasure to point out and to  
14 thank you both, both you and Alan who's been sitting there very quietly but who is clearly  
15 your solid anchor throughout this entire process. Gay, I just want to say on behalf of our  
16 Chair and the Commission that you stand out as an exceptional woman.

17 A. Thank you.

18 Q. You're a paragon of sisterhood, not only to Paul but also to your other brother that you  
19 shared some very personal details about. Thank you for the way in which you described  
20 both your journeys, because what I gleaned is actually from maybe as - if you're a couple of  
21 years younger than Paul, about 14 months, 15 months?

22 A. Yeah, he's February 14 and I'm March 27.

23 Q. So if he was ten when he first went into care?

24 A. Yes, yes.

25 Q. You would have been?

26 A. Nine.

27 Q. Nine?

28 A. Yeah, and I didn't like it. I wanted him home all the time.

29 Q. So, you've been journeying with him this entire time?

30 A. Yes.

31 Q. And not once did we hear you say this was a burden, that you wanted to give up.

32 A. Heck no.

33 Q. In fact, if anything it was your duty, I heard you say it was literally without saying, it was  
34 your joy -

1 A. Yes.

2 Q. - to champion your brother, to be his spokesperson, to be his voice.

3 A. Absolutely.

4 Q. So, can we extend to you our gratitude for honouring him in such a powerful way and for  
5 sharing his details, the details of your whānau, to understand what his joys are and that  
6 hopefully you'll get to do that trip very soon to see your children and your grandchildren.  
7 He's clearly very, very much a loved member of your family?

8 A. He is most definitely, and I thank you.

9 Q. Thank you for your courage.

10 A. Thank you.

11 Q. And just your continuation to care for him even now.

12 A. Until the day I die, thank you.

13 Q. Thank you very much.

14 A. Thank you.

15 **COMMISSIONER ERUETI:** Kia ora.

16 **CHAIR:** I think in the absence of any other questions, you are welcome to leave now and again,  
17 thank you so much for everything you've done for Paul.

18 A. Thank you very much for the opportunity. It's been a privilege. Thank you.

19 **CHAIR:** So we will adjourn.

20 **Lunch adjournment from 12:54p.m. to 2:19p.m.**