

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
FAITH-BASED REDRESS INQUIRY HEARING**

Under The Inquiries Act 2013

In the matter of The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions

Royal Commission: Judge Coral Shaw (Chair)
Dr Andrew Erueti
Ms Sandra Alofivae
Ms Julia Steenson

Counsel: Mr Simon Mount QC, Ms Katherine Anderson, Ms Kerry Beaton, Ms Jane Glover, Mr Michael Thomas and Ms Echo Haronga for the Royal Commission
Ms Sally McKechnie, Mr Alex Winsley, Mr Harrison Cunningham and Ms Fiona Thorp for the Catholic Church

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

Date: 25 March 2021

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

2 **(9.34 am)**

3 **CHAIR:** Tēnā tatou katoa. Ms Anderson and good morning Ms Noonan.

4 A. Mōrena.

5 **Q.** You remain on the affirmation that I gave you yesterday.

6 A. Yes, thank you.

7 **QUESTIONING BY MS ANDERSON CONTINUED:** Mōrena Ms Noonan.

8 A. Mōrena.

9 **Q.** We're returning to the document I had asked you a question about yesterday, just coming
10 up on the screen. Again, it's one of the Complaints Assessment Committee minutes so it's
11 in 24 May 2019. The point that we left on yesterday we looked at just what was an
12 example of the Committee's recommendations that had been on page 1?

13 A. Yes.

14 **Q.** Coming over to page 2 of the document, a little bit of the context is cut off there, but clearly
15 in relation to this complaint the Committee's decision is to uphold it, and again we see an
16 example there of a suggestion of a letter of apology, offering to fund counselling and
17 considering offering financial assistance. That language of financial assistance, would that
18 have been intended to convey something different to the other recommendations we've seen
19 around consider offering an ex gratia?

20 A. It may have, I'm sorry, I couldn't answer with certainty about that. But it may have been a
21 different type of financial assistance, yes.

22 **Q.** Maybe intending to signal something different?

23 A. Yes, and I would assume it was an indication to review the outcomes that perhaps had been
24 included in the investigation report which would have come directly from the survivor.

25 **Q.** We see there in the last paragraph on that page that clearly in the content of what's come to
26 the Committee, there's been concerns expressed about a youth worker and the Committee
27 thought it prudent for the Chair to write to NOPS informing NOPS of that concern and that
28 it was NOPS' role to decide what to do with that information. Can you unpack for us a
29 little bit about what your role, NOPS' role would be in the sense, in the context which
30 appears here where the Committee's registering information, it indicates a concern, but in
31 relation to a person outside of the Path to Healing process?

32 A. Absolutely. This sits within that other branch of our safeguarding work within our office
33 which is around safeguarding preventative measures. So in that case it would have been
34 looking into that further to establish whether there was a risk and therefore should

- 1 safeguards be placed around that person.
- 2 **Q.** So what would NOPS do to gather the information to assess whether there was risk at that
3 point? Is there a standard practice or – just trying to follow through what would have
4 happened on the ground?
- 5 **A.** We would gather as much information as we could, subject to privacy restrictions, of
6 course, but our role is to find as much information as we can so we can make an informed
7 risk assessment. Is this person a risk, is this person at risk and what can we do to support
8 that situation.
- 9 **Q.** And am I right that from your evidence yesterday if there's an assessment of risk, you make
10 a recommendation through to the relevant Church authority that where this person might be
11 a volunteer or an employee?
- 12 **A.** Yes, and we would make recommendations about the use of and usually the content of a
13 safety or safeguarding plan.
- 14 **Q.** Would that process have been in place at 2019 or are you referring to what you would do
15 now given that you've recently developed the safety plan document?
- 16 **A.** It was situations like this one that we're referring to now which we realise that we needed
17 more – we needed a consistent process or a framework so we could respond effectively and
18 consistently in these sort of situations.
- 19 **Q.** So NOPS has prepared the risk assessment, so you've had information come in from the
20 relevant Church authority, they've cooperated with you, they've given you what you need?
- 21 **A.** Yes.
- 22 **Q.** You've developed up a risk assessment and where you decide that action needs to be taken
23 you're making a recommendation back to the relevant Church authority, is that right?
- 24 **A.** Yes, if the safety plan or safeguarding plan involves a member – a priest or a member of
25 religious congregation, we will liaise directly with the bishop or congregational leader. Our
26 process or procedure – our practice now is that if it involves an employee or volunteer, we
27 will liaise and support with the safeguarding coordinator or safeguarding advisor of that
28 respective diocese.
- 29 **Q.** And so when you say liaise or co-ordinate, are you giving that person in that place a
30 recommendation or are you leaving it to them to make the recommendation within their
31 part of the organisation?
- 32 **A.** We would have the matter referred, so this is if it's involving a volunteer or employee, we
33 would refer the matter to the safeguarding lead or safeguarding advisor of that diocese and
34 support that person about process and how to manage and respond to that issue.

- 1 **Q.** So from the matter that's here on the page about a youth worker, clearly not clergy or
2 congregation?
- 3 **A.** Yes.
- 4 **Q.** So in terms of what you're deciding to do with the information from the complaint process,
5 is it right that what you're saying is your role is to pass that information to another person
6 somewhere else in the Church structure and that they then have the carriage of responding
7 to that?
- 8 **A.** Yes. What we're wanting to do is to build capacity within our own people. So being able
9 to support a safeguarding lead in a diocese to be able to respond and put in place a
10 safeguarding safety plan that meets everyone's needs.
- 11 **Q.** So how would you end up knowing what action had been taken in this circumstance,
12 scenario with a youth worker?
- 13 **A.** We have a – I feel we have a good relationship with our safeguarding leads in each diocese
14 and we would provide any support that they wanted around how to structure that. We
15 would then check in to see how this process was tracking, and as part of our review
16 framework that we have, a key question of our reviewers going into a diocese would be to
17 talk through with them have safety plans been put in place, what was your process, what is
18 the monitoring that you have in place. So we do – it is, as I said, about building capacity.
19 So it's not just our office holding this knowledge and this ability to do this, it is about
20 building capacity throughout our whole Church.
- 21 **Q.** But that review which tracks into the audit process, that's all just actually been rolled out
22 really this year, hasn't it, so that's –
- 23 **A.** It was piloted last year and now in place for this year, yes.
- 24 **Q.** And in terms of a youth worker, are you saying that you would be going to the relevant
25 safeguarding person in a diocese, might that youth worker be working in a context of a
26 congregation or is it only –
- 27 **A.** It could be, yes, youth workers provide ministry in many, many different contexts
28 throughout the Church.
- 29 **Q.** So those safeguarding people that you've referred to where you're building up capacity, are
30 they only in the diocese, or are they also similar roles within each of the congregations?
- 31 **A.** While the safeguarding advisor is an employee of a diocese, they will support
32 congregations to be able to have – work in – if that youth worker, for example, was
33 associated with a congregation, the expectation is that person would work within that
34 congregation to support the development of a safety plan. If a congregation had their own

1 person, it would be a liaison situation. I prefer to think of it as a team effort, so yes, it's
2 about building capacity, but it is about having these conversations so we are all aware of
3 risk and what's been done to mitigate or eliminate risk.

4 **Q.** So what would have happened if what you were seeing happening out in the relevant
5 diocese or congregation in relation to an individual, this anonymous youth worker, and you
6 didn't think actually the right things were being done and you had the sense that there was
7 still a real risk to people in the Catholic community?

8 **A.** [Nods].

9 **Q.** What levers have you got, direct or indirect, to change an outcome?

10 **A.** First I would have a conversation with that safeguarding lead or advisor to understand from
11 their perspective why the situation is as it is. If I still have concerns I will absolutely go to
12 the bishop or congregational leader and have a very frank and – a frank discussion and raise
13 my concerns directly with the bishop or congregational leader.

14 **Q.** And have you ever had to do that?

15 **A.** Not in this context but I would have no hesitation in doing that.

16 **Q.** In terms of the pilot of the safety plans, it's obviously a key plank going forward, who
17 carried out the evaluation of that pilot?

18 **A.** The pilot of safety plan?

19 **Q.** You've just said the new programme that's being rolled out?

20 **A.** The review framework, sorry.

21 **Q.** That's right, sorry, the review framework which includes checking how safety plans are
22 being implemented?

23 **A.** [Nods].

24 **Q.** So it was piloted and now it's been run out?

25 **A.** Yes, so it was piloted in 2020 and we undertook a review of a congregation, a diocese and
26 another Catholic organisation and it really was to test the framework that we had
27 developed. We asked for feedback and we received some really very valuable feedback
28 around how our reviewers engaged, what information was received, how valuable was that
29 information, were our reviewers asking the right questions. We then collated all that
30 information and we brought in someone who, in the education background who's also been
31 heavily involved in ministry, to also sit with our reviewers and test again the feedback and
32 test our reviewer's response to that feedback. So our review framework and the indicators
33 were adapted and modified to, we felt, better reflect what we needed to get out of the
34 reviews. And so this –

1 **Q.** It doesn't sound like you had any external professional expertise assessing that pilot?

2 **A.** We had expertise from within our network. We didn't have any external, as I think you're
3 referring to, outside of our network.

4 **Q.** That's right, so it's not uncommon someone might get Deloitte or PWC or someone when
5 you're looking at a new audit framework?

6 **A.** Sure.

7 **Q.** Nothing of that nature has fed into the process?

8 **A.** No, it hasn't at this stage, but you raise a very good point and that's certainly something that
9 we could look at moving forward. I think this year as, again, while we are reviewing each
10 of the other dioceses for this year, we will again reflect on that and at that point if there's an
11 indication we do need to get an external, as you say, set of eyes over it, absolutely. We
12 need to have this framework as robust as we can, because the National Safeguarding
13 Professional Standards Committee, their mandate is to ensure, and they are responsible for
14 ensuring, that the safeguarding practises that have been directed by the congregational
15 leaders are in place and are being implemented, and this is the mechanism which we have
16 developed and continue to develop to be able to gather that evidence.

17 **Q.** When you carried out this review of the pilot, did that review process itself bring up
18 anything that indicated why there might have been a systemic resistance or failure to
19 ensuring risk of offending was managed in the Church community?

20 **A.** No, I think there's always room for improvement, which is what our review framework is
21 gathering the information for. So the review framework also helps us to set a benchmark.
22 So we're gathering information and evidence about a Catholic organisation as at today.
23 When our reviewers come back in one year, two years time, we'll be able to see what
24 improvements and strengthening has taken place.

25 **CHAIR:** Ms Noonan, I think the question was, was there any resistance, did you meet any
26 resistance in the –

27 **A.** No, not at all.

28 **QUESTIONING BY MS ANDERSON CONTINUED:** And although we've moved slightly off
29 the topic that was on the page of the document, just to round off the point, so the
30 Commissioners understand this new review and audit process, that is a mechanism where
31 each own Church authority will carry out a self-review, that's a document for them to carry
32 out a self-review.

33 **A.** Yes.

34 **Q.** And the auditing of that self-review is to be carried out by NOPS?

1 A. If we take a diocese, for example, our expectation and encouragement is that every parish,
2 every Catholic organisation annually undertakes, uses the self-review tool we've developed
3 to measure their progress in implementing safeguarding practices. We ask that the diocesan
4 safeguarding lead or advisor works with each of those parishes or Catholic organisations in
5 a diocese to then do reviews of those entities. We then come in and do what we see as an
6 external review of that whole area, that whole practice.

7 **Q.** That's exactly the point, you've anticipated the point I'm coming to, that NOPS is identified
8 in the documents as the external reviewer.

9 A. Yes, yes.

10 **Q.** But NOPS is actually an embedded part of the whole safeguarding process and structures
11 and procedures, isn't it?

12 A. Yes, we are, yes.

13 **Q.** Are you aware that in overseas inquiries there's been recommendations that that audit
14 function be from external providers?

15 A. Yes, I am aware of that, yes.

16 **Q.** When you were designing those process, which is very new and just, I think, the date on it
17 is January 2021 the document we have in the bundle?

18 A. Yes.

19 **Q.** What considerations led to NOPS being the entity identified to undertake what's described
20 as an external review versus having an external independent professional, not saying NOPS
21 is not professional, but people whose job, bread and butter is to carry out that kind of audit?

22 A. Partly resourcing and I wanted to make a start. So it was – mine and my safeguarding
23 lead's background is in education and supporting and working with boards of trustees. So
24 we have modelled the review framework on the Education Review Office framework.
25 From our experience we have found that that is effective in working and supporting
26 schools, in our case dioceses or Catholic organisations, around implementing change.

27 So yes, I acknowledge that we are not an external group undertaking the review. I
28 was also very passionate about making a start and making inroads into this notion of
29 review. It is something new for our Church, having a group such as ours coming in to
30 every different diocese and congregation around the country and reviewing them based on a
31 standard and consistent set of indicators. So this is new and –

32 **Q.** So it's challenging?

33 A. It is – we don't see it as challenging, we see it as really exciting. It may be challenging to
34 perhaps the recipient, us coming in. As I said, this is a new notion and we do need to bring

1 people along with us. We want them, a diocese or congregation, to see the value in us
2 coming in, looking how they're doing, finding areas for improvement and then supporting
3 them to be able to make those improvements. We all want a safe Church and I think we all
4 are on the same page. So it is about bringing our people along with us.

5 **Q.** The reason you articulated for not having external auditors was that it was a resourcing
6 issue. Are you also saying when you're describing that you're wanting to be in there and –
7 are you saying you think this mode would be less challenging than having external auditors
8 come in to all of the different congregations. Has that been a reason, has that featured as a
9 reason, or is it just a resourcing consideration?

10 **A.** I don't know if it would be – it's not probably about making it easier on the congregational
11 diocese, because while our framework and our approach is one of support, it is robust and
12 our reviewers do ask challenging questions because we do want to ascertain how they are
13 tracking. Are you perhaps asking are we soft or too gentle, could you clarify what you're
14 wanting there?

15 **Q.** No, it was really whether in deciding that it should be NOPS undertaking the review as
16 opposed to an external, was it because there was any consideration that it might be more
17 acceptable to the relevant Church authority to have someone from NOPS coming in versus
18 somebody from an outside professional agency like Deloitte etc. coming in?

19 **A.** Possibly, yes. But moving forward as our congregations and diocese become more used to
20 this framework and this notion, and then look that may very well be the next step in this
21 framework. As I said earlier, we wanted to get this off the ground, we – I had capacity
22 within my team to make this happen and to get started in this. Because while we were
23 putting a lot of energy into creating safeguarding resources and training, we didn't know, is
24 this making a difference. So it was about getting in and starting in this review or audit, we
25 prefer the word "review framework", so we can start to see are we making a difference, is
26 there a change in culture. And then the next step may well be to bring in external – we're
27 not there yet, I haven't –

28 **Q.** Two aspects I want to ask you about in relation to that and the NOPS role as the review or
29 auditor depending on which language you use. Can you see there might be a bit of a
30 conflict between your role as developing this mentoring and supporting, growing capacity,
31 and then you're the person coming in to have a look at how it's all performing that there
32 might be a risk of a temptation to not really report things in a hard-lined way that an
33 external might?

34 **A.** No, I do acknowledge that. What we've done to try and mitigate that is that we have

1 engaged an external person to sit with, to be the second reviewer. So while one of our
2 reviewers is our office's national safeguarding lead, we engage the services of another
3 person outside, for example, of that diocese, or that congregation. So they –

4 **Q.** But still from within the Church?

5 **A.** Yes, still within the Church, yes. So we have done, at this point, taken steps to try and
6 mitigate that level of conflict, but I accept and acknowledge what you're saying.

7 **Q.** And I think when we were in dialogue yesterday, you indicated that you thought there was
8 very strong support from the bishops for safeguarding in the Church and what needed to be
9 done. So I'm curious as to against that background that it's an issue of resourcing that
10 might have prevented this review and audit process going out the door on day one with a
11 best practice kind of model. Do you have any reflections on why resourcing doesn't appear
12 to be matching the language of commitment to safeguarding?

13 **A.** I have made recommendations regarding resourcing. As the work of our office has evolved
14 and expanded, I have made applications to the Committee who have then fed that through
15 to the Bishop's Conference and additional resourcing has been made each time to be able to
16 help better meet the financial resources of our office. The recommendation – I made the
17 recommendation to the National Safeguarding Professional Standards Committee that we,
18 our office create this review framework and they accepted that recommendation. But I, as
19 I said before, I accept and acknowledge your comments around that potential – that conflict
20 and are we getting – the risk of getting the right information. I acknowledge that and will
21 definitely look further into that.

22 **Q.** Just turning to page 3 of the same minutes on 24 May, the top of the page item 5, you see a
23 reference to "Peer Review". So this is about peer review of investigators reports, isn't it?

24 **A.** Yes.

25 **Q.** And I think there's a thread that goes through the documents, this is but one instance of a
26 reference of a need for peer review investigators' reports. Is this an indication from the
27 Committee that they're not necessarily that happy with what's coming up to them in the
28 investigation reports in terms of consistent practice?

29 **A.** My understanding from that time was that there was more a desire to have a framework
30 created around how the reports were being presented, not the quality of the investigations.
31 And from memory, what we did is worked with the investigators at a following
32 investigators day and talked to them about how their Committee would like to – the
33 framework that the Committee would like to have the reports presented.

34 **Q.** That's a presentational component, isn't it, as opposed to consistent practice perhaps in

1 terms of investigative methodology?

2 A. Yes.

3 Q. From your memory, you might not be able to recall, has that been an issue for the
4 Committee that the different investigators apply different methodology to the investigations
5 they're undertaking?

6 A. That may have been the case, which would explain perhaps why we have moved towards
7 having people with extensive investigative experience, professional investigative
8 experience who have worked in sexual abuse trauma teams.

9 Q. And just while we're on the aspect of investigators, it's relatively recent, isn't it, that there've
10 been a requirement that the investigators are trained in sexual abuse questioning?

11 A. It's not necessarily a requirement, it's a preference and it's – we're moving towards that as
12 being – we see real value in that.

13 Q. And the reference to that in the documents recognising that value is perhaps also an
14 acknowledgment that that expertise hasn't necessarily been there with the investigators
15 who've been undertaking investigations at least during the 2017 through to 2019 period?

16 A. Possibly yes. Yes.

17 Q. And just one other aspect in relation to the investigators' reports going up to the Complaints
18 Assessment Committee. I think you'll be aware of criticisms that have been made that
19 perhaps the investigators are really, because they come from Police backgrounds they're
20 really approaching it as if it was a criminal matter and they're really – all the lines of
21 inquiry and everything that they're planning out and undertaking is focused in the way that
22 they would if they were looking at proving a matter beyond reasonable doubt, and that
23 what's coming up to the Committee and what the Committee may be coming to expect is
24 something which goes much further than an investigation report would need to if it was
25 simply establishing on the balance of probabilities that abuse had occurred?

26 A. I disagree with that assumption. That is not the expectation of our investigators, that is not
27 how we discuss and outline to our investigators what our expectations are. It is very clear
28 in A Path to Healing protocol that it refers specifically to that threshold of balance of
29 probabilities.

30 Q. Yes, that's the language, my question is is something else happening in practice, but we can
31 have a difference of view on that. Just turning to the minutes for 27 August 2019
32 CTH0009050. Item 2 on page 1.

33 **CHAIR:** Which year was it I missed that sorry?

34 **MS ANDERSON:** 2019.

- 1 **CHAIR:** 2019, thank you.
- 2 **QUESTIONING BY MS ANDERSON CONTINUED:** I'll just give you a minute to read that.
- 3 A. Thank you. Thank you.
- 4 **Q.** I'm taking you to this comment here because we see a thread through the minutes of the
5 Complaints Assessment Committee of discussion about corroboration and we see here a
6 discussion in a more general sense, not in relation to a particular complaint, but about
7 where there was no corroborating evidence and the respondents were deceased. A separate
8 point we probably won't have time to come to today about whether corroboration is well
9 and truly over-emphasised by the investigators in their report, but here, my question out of
10 this is, it seems to identify that there's a real conundrum for the Committee when a
11 respondent is deceased but there's no corroborating evidence. And my question for you
12 arising out of this is, why would the Church authority not be able to simply accept that
13 somebody's come forward, we heard from Peter Horide yesterday, his view is well
14 somebody's gathered the courage to come forward, he put it in his word, he's there, and then
15 you've got the added factor of the person being deceased, why is an investigation even
16 required in that circumstance? Why is it not enough for the person to have come forward
17 with their complaint? There is no-one, due to the death of the person, who can be held
18 individually accountable at the end, so that accountability aspect that you talked about
19 strongly yesterday is off the page. Why is the system not if they come forward, you're
20 moving forward through to a meeting their needs kind of conversation?
- 21 A. It does take a lot of strength and courage to come forward as a survivor to the Church. A
22 Path to Healing specifically provides that if a respondent is deceased we will still be able to
23 investigate that matter.
- 24 **Q.** Yes, you can, but the question is do you need to?
- 25 A. That is currently the policy and the practice under A Path to Healing, that really would be a
26 matter to raise with the National Safeguarding Professional Standards Committee.
- 27 **Q.** Do you have a personal view on that, if you were talking to that Committee and making a
28 recommendation to them, what might that be?
- 29 A. I'd probably have to put a bit more thought behind that before making a recommendation,
30 I'm sorry.
- 31 **Q.** Turning over to the last page of those minutes we can see there that there's been a Royal
32 Commission update item where a spreadsheet has had all the information entered that
33 NOPS has held. Am I right, I think you covered this yesterday, that it's probably been a
34 surprise to NOPS to learn that in fact there were a lot more complaints out there that NOPS

- 1 wasn't aware of, that perhaps should have been coming through to NOPS. That's one of the
2 information points from the data project that Te Tautoko has?
- 3 A. So we're talking certainly from 2017 all complaints come to NOPS. Are you referring to
4 prior to that?
- 5 Q. No. Are you confident that NOPS' records of all complaints from 2017 will be entirely
6 consistent with those held by the Church authorities about what they've passed to you? So
7 those all match up?
- 8 A. That is my expectation, yes.
- 9 Q. And we see a reference there to the question about whether to seek guidance from the – to
10 ask the New Zealand Catholic Bishops Conference if they want guidance from the CAC
11 [Complaints Assessment Committee] regarding quantum for payments. Can you explain
12 what that's a reference to?
- 13 A. I understand that that was whether there were any benchmarks around quantum for were
14 there any consistent criteria put in place by Church authorities around the levels of ex gratia
15 payments made.
- 16 Q. Have you gone out then and collated that information about whether there were
17 benchmarks and provided that to the New Zealand Catholic Bishops Conference?
- 18 A. That particular piece of work has been taken over really by Te Tautoko, so the timing of
19 that I'll be guided by the information that has been able to be gathered by Te Tautoko to
20 support the Commission.
- 21 Q. And then just down to the third bullet point where you're asked to speak to the bishops and
22 congregational leaders about needing to minimise their involvement in the complaints
23 process, and that's to avoid them compromising their position as ultimate decision-maker.
24 Obviously something's given rise to that being noted in the minute. Can you give us some
25 context and understanding of what the problem is that's been referred to there?
- 26 A. I'm sorry I can't remember the exact issue that gave rise to that reference in the minutes.
27 However, what I can say is that we're very clear in our office what our scope is. Our role is
28 to receive that disclosure and to have it investigated. Sometimes a survivor may go to a
29 bishop or congregational leader directly with their disclosure. Our expectation is that the
30 bishop or congregational leader will refer that matter immediately to our office.
- 31 Q. But if somebody's gone and made an appointment with the bishop and sat down in the
32 bishop's office and that's the point at which they want to disclose, I'm assuming the bishop's
33 unlikely to say "Stop talking to me about that now"?
- 34 A. No, that would not be a pastoral approach to that survivor no, but it is important to make

1 notes of that discussion and then that would come back to our office. So that would also be
2 part of the information and supporting information provided to the investigator. Potentially
3 that was the person, the survivor's very first disclosure of that abuse, so it's important that
4 that bishop or congregation leader captures that as accurately as possible to then provide
5 that also to the investigator, because they are the survivor's words.

6 **Q.** And the last bullet point there "discussed assessment of skills of the members", so that's a
7 reference to the members of the Committee. Can you give us any understanding about that
8 quite cryptic reference there in the bullet point?

9 **A.** Again, I think from memory it was about doing, as looking at succession planning, and all
10 committees such as this having a risk – not a risk, a skills matrix to look at if someone is
11 retiring from the Committee, what skills do they need to look for in a new Committee
12 member. Remembering that our office does not appoint the members of the Complaints
13 Assessment Committee.

14 **Q.** But you do make a recommendation in relation to the Chair?

15 **A.** No.

16 **Q.** The director has a role under the terms of reference that we looked at to make
17 recommendations in relation to the Chair of the Committee?

18 **A.** Yes, it is in the terms of reference. Would I? I'm not sure. I think it's important that that
19 Committee have the freedom to select and make recommendations to the Mixed
20 Commission, the Church leaders about who they think will meet the needs of that
21 Committee.

22 **Q.** And so it doesn't appear that somebody was being tasked to undertake an assessment of the
23 skills against a matrix of what you might want to have around that table at that time, that's
24 not what's referred to there, is it?

25 **A.** I don't think so, no.

26 **Q.** In terms of that succession planning and the matrix that you might be working up for future
27 appointments, what's the extent to which cultural competence and reflection of the
28 community would play in selection of members?

29 **A.** Again, this would be a matter for the Complaints Assessment Committee members. My
30 expectation, though, that would be a factor, that would be a significant or an important
31 component.

32 **Q.** Who appoints the members?

33 **A.** They are appointed by the Mixed Commission, which is that partnership between
34 congregational leaders and Bishops Conference.

- 1 **Q.** The matrix you're talking about that might outline the kind of range of skill sets including
2 cultural competence, representation of Māori, representation of Pacific peoples,
3 representation of those from the disability sector, is that a piece of work that you've got in
4 hand that will go up to the Mixed Commission or is that something that's not yet been
5 actioned?
- 6 **A.** It's a piece of work that I am keen to drive, in partnership with the Complaints Assessment
7 Committee, to support them to have that piece of work done to better support the Mixed
8 Commission in their appointment process.
- 9 **Q.** We did talk yesterday very briefly about whether the Complaints Assessment Committee
10 members had training needs that they identified that they would have their own
11 professional development. Does that include cultural competence training?
- 12 **A.** Since I've been on the – involved in NOPS, no, there hasn't been that particular training. Is
13 it something that would strengthen the Committee and support the Committee in their
14 work? Yes.
- 15 **Q.** And have you had that training rolled out for your staff?
- 16 **A.** Again, that is something that we'll be looking collectively all those involved in this work.
- 17 **Q.** Just jumping forward to the Committee minutes of 9 October 2019, CTH0009052, just
18 calling out in the middle of page 3 item f). Commissioners, the reason for looking at this
19 it's an example for you to see where the Committee is really saying the other lines of
20 inquiry need to be followed. So we can see here that the Committee considers there's a
21 number of unanswered questions and they've directed the investigator to speak with the
22 other sister to verify if the respondent visited their home or her knowledge of the complaint,
23 complainant and the respondent. Also the person to be asked if they, he or she, will allow
24 for them to allow access to the file. A question relating to the complainant's decision not to
25 go to the Police and why, and in relation to the counsellor, permission to speak with her
26 regarding the complaint. So this is going to come back from a meeting, investigator is
27 going to action the matters here, and at a certain point in time a revised report will come up
28 to the Committee?
- 29 **A.** Yes.
- 30 **Q.** But looking at what's there, which goes to the point that I'll flag that are these investigation
31 reports, is what the Complaints Assessment Committee expecting, in terms of everything
32 that's been covered in all the lines of inquiry, is it really going to the nth degree as opposed
33 to what is the complainant saying, do we believe the complainant, rather than this focus on
34 looking at any other information that might potentially suggest that what the complainant is

- 1 saying is not true?
- 2 **A.** I don't have the actual report there to be able to comment in particular detail. However,
3 what I can say is that lines of inquiry are followed to support a survivor's disclosure. So
4 when you talked about corroboration, we're talking about supporting information and I
5 think that the amount of detail in this particular matter may reflect on – sorry, it's clearly a
6 reflection that the Committee didn't have enough information, supporting information at
7 that time.
- 8 **Q.** So if a complainant said this perpetrator has come to my house and done this to me, you
9 think it's quite appropriate that the Committee should be directing further investigation to a
10 family member as to whether they're aware that the person has ever come into the house?
- 11 **A.** I can't speak to that because this was a directive from the Complaints Assessment
12 Committee.
- 13 **Q.** Moving on to the minutes of 4 December 2019, you'll be pleased to know this is the last of
14 the minutes that I'm taking you to, not quite the end of the questioning but the last of the
15 minutes.
- 16 **A.** Thank you.
- 17 **Q.** CTH0009053. Just calling up on the first page an extract under item a). So we see here a
18 reference to the Committee having unanimously agreed that the complaint could not be
19 found proven on the balance of probabilities. But saying the Committee is not finding the
20 abuse did not happen, but on the evidence provided there's insufficient to find the required
21 standard that it did. I can imagine the communication of that conundrum, it's not – the
22 complaint is not found proven but the Committee is not saying abuse didn't happen, would
23 be a very confusing message for a survivor to receive.
- 24 **A.** I acknowledge that, yes.
- 25 **Q.** And we see in the last bullet point there a reference to advising the person of safeguarding
26 measures now in place. So that sounds like it's a reference to a person who must be in
27 active ministry for there to be safeguarding measures now in place relating to an individual,
28 doesn't it?
- 29 **A.** I would make the assumption that the person is in active ministry, yes.
- 30 **Q.** Thank you. And then just turning over to page 3, the item at the bottom of the page,
31 paragraph 3, I foreshadowed we'd bring out from the minutes the reason that's been
32 articulated for the secrecy around the identity of the Committee members. So it's
33 identifying the member's preference for their names not to be published and that's out of
34 concern that they're volunteers. Most of them are known in their communities, the risk of

1 abuse, harassment and other harm. And that's the rationale, isn't it, for the current process
2 of not identifying those individuals?

3 A. That was the response from the members of the Complaints Assessment Committee, yes.

4 Q. If you had a paid membership of the Committee, so professionals appointed and they're
5 paid roles, do you think that would alter the balance there, because I think in the State
6 redress hearing we've seen that people who are in official roles, they've all been identified,
7 they're decision-makers?

8 A. Yes.

9 Q. They've been named. Do you think that – is it the fact that they're volunteers in your mind
10 that gives greater weight to the need for secrecy, or is it something else?

11 A. I agree that is a factor.

12 Q. An overriding factor or just –

13 A. Significant factor in my view.

14 Q. So if it was a paid Committee, perhaps – because you understand, don't you, that it's a
15 source of great frustration for survivors?

16 A. Yes, I do.

17 Q. They actually – what we've been looking at is the engine room of what actually happens –

18 A. Yes.

19 Q. – under the Path to Healing process?

20 A. Yes.

21 Q. And survivors have absolutely no visibility over that, no transparency, including about
22 who's making decisions in relation to their lives?

23 A. I absolutely acknowledge that tension. That was the feedback provided by the Complaints
24 Assessment Committee, but I acknowledge your submission around the paid versus
25 voluntary and I believe that would have influence on that.

26 Q. Just turning over to the last page of that minute, just item 2 on the last page, so we see here
27 reference to observations about there being an increase in ex gratia requests. And that's a
28 trend we've seen in the minutes where there's reference to that, certainly for the
29 Committee's recommendations and going forward, "it would be good for the various
30 Church authorities to be aware of this and the potential claim on their funds/assets. It's also
31 important for the authorities in New Zealand to establish a consistent approach to these
32 payments including quantum. The Committee agreed the Chair would write to the NSPSC
33 [National Safeguarding Professional Standards Committee] with these observations and
34 suggest the Mixed Commission should also be made aware of them." What's your

- 1 knowledge of what's happened as a consequence of the discussion recorded here in these
2 minutes?
- 3 A. I can't answer, I don't know if a letter was written as provided there. If there has I haven't
4 seen it.
- 5 Q. You haven't had input to issues about the quantum?
- 6 A. Involved in discussions and I think that the work that has been done by Te Tautoko to
7 gather that information from diocese and congregations to support the Commission will be
8 very helpful moving forward.
- 9 Q. Standing back at the moment, we've looked at the A Path to Healing principles, you've
10 taken the Commissioners through the summary, three page summary document in your
11 evidence-in-chief?
- 12 A. Yes.
- 13 Q. We've looked at the terms of reference for the Complaints Assessment Committee which is
14 the engine room?
- 15 A. Yes.
- 16 Q. And we've, through going through the minutes, we've looked at some of the
17 decision-making in the engine room?
- 18 A. Yes.
- 19 Q. And would you agree that looking at those documents we do not see anything that would
20 reflect the principles of Te Tiriti or the Treaty or aspects of Tikanga Māori, aspects of
21 Pacific people's culture, we don't see those cultural needs reflected in any of that material,
22 do we?
- 23 A. I acknowledge that the – our cultural responsiveness, we need to ensure that our practices
24 are more culturally responsive, absolutely.
- 25 Q. And in terms of accessibility and the needs of the disabled community?
- 26 A. Yes.
- 27 Q. Because simply we've had quite a comprehensive tracking through?
- 28 A. Yes.
- 29 Q. It's simply absent, isn't it?
- 30 A. Yes, and I – from this discussion and this work that we've been doing and the questions and
31 points that you have made, that will absolutely be a planned approach to address that.
- 32 Q. Just moving on we're going to have a little look at your budget, because I think you've
33 mentioned in your brief of evidence that one of the reasons that would limit a centralised
34 national approach to all claims of abuse, so that's not only sex abuse by clergy and

1 religious, but sex abuse by other persons within the Church community and other forms of
2 abuse.

3 A. Yes.

4 **Q.** One of the reasons that's not really on the agenda at the moment is the resourcing
5 requirements of NOPS would simply not be able to accommodate that currently?

6 A. Not in its current form. If that was a policy decision by the National Safeguarding
7 Professional Standards Committee which would flow through to the Mixed Commission for
8 approval then there would be an expectation that would be need to be back-filled to ensure
9 that resourcing was in place within our office to be able to properly receive and respond to
10 those complaints.

11 **Q.** And where were the leadership voices in the Church, are you one of those that could drive
12 that conversation upwards?

13 A. Yes, yes.

14 **Q.** Are you currently engaged in that conversation?

15 A. My current focus within the office is to ensure that we're responding to disclosures of abuse
16 regarding clergy and religious. That's where my focus currently is, and supporting diocese
17 and congregations to be able to properly and effectively respond to other forms of
18 complaints. So right now my focus is on this aspect of the work. Could that expand? Yes,
19 but I feel that right now with the workings and the learnings we've had just over the last
20 few weeks we have some work to do and improvements to strengthen our current protocol
21 and practises. Moving forward, inclusion of employees and volunteers may be another
22 step. That will be a policy decision.

23 **Q.** So moving on to a budget document that you provided with your evidence, its reference is
24 EXT0015649. Are you able to expand that slightly on the screen without dividing it yet.
25 Just looking at that top half we can see that the, in the 2018 budget the revenue was
26 134,000K, in the 2019 budget the total revenue was 213,000 and for the 2020 budget you're
27 looking at revenue of 267,000, so a slight tracking up. We know, don't we, that a lot of that
28 revenue comes via the levy?

29 A. That's right. That increase in membership subscription that's referred to there was a
30 decision by the Mixed Commission to double the level of levy in order to provide greater
31 financial resourcing to the office.

32 **Q.** Just looking at the next chunk under "expenses", the staff costs, if we're reading from the
33 right-hand side of the page across that line we can see a tracking upward from 28,000 in
34 2018 budget through to 265,000 in the 2020 budget. So that reflects the additional

- 1 resourcing that's come into the office?
- 2 **A.** It does and also, yes and an expectation that more personnel needed to be engaged, yes.
- 3 **Q.** Could we just highlight, call out from "Committee costs" downwards. And so this is
4 reflecting that NOPS budget meets the cost of the Complaints Assessment Committee
5 meetings?
- 6 **A.** Yes.
- 7 **Q.** Sorry, we've slightly lost the headings. And in "Other expenses" certain investigation costs
8 non-allocated. I'm right, aren't we, we've covered this, the Church authorities meet the cost
9 of investigations but it's only where, because the identity of someone's not known, NOPS
10 picks up those costs?
- 11 **A.** We do, we think it's important that we do what we can to try and identify a respondent and
12 incur investigation costs in doing that. However, if a respondent is not able to be identified,
13 we need to have a budget line to be able to meet that cost.
- 14 **Q.** And we can see in the other expenses training day expenses, investigators, so tracking
15 across again from the right to the left that in 2018 the budget was 5,000, went up to 10,000
16 budget for that training in 2019, and in 2020 it's coming down to 8,500?
- 17 **A.** Mmm. Did you want to know what that's made up of?
- 18 **Q.** I'll come back to that if we've got time.
- 19 **A.** Sure.
- 20 **Q.** Then we've got the reference above to "Pastoral fund" associated with complaints. Can you
21 explain to us what that line item is funding?
- 22 **A.** So when we first – when the Professional Standards Officer and I first were working in this
23 space we quickly became aware that survivors needed immediate access to professional
24 support. At that time my understanding was counselling was something that was offered or
25 provided at the resolution part, sort of at conclusion. It became very clear to us that we
26 needed to offer support and meet the cost of that right at the very beginning to support a
27 survivor through the investigation or inquiry process. At that point we were going back to
28 each congregation and diocese and seeking their approval for funds to be made available at
29 that very initial stage. We were never denied that funding at all. What I wanted to do,
30 though, is to have that, I guess, that money there, should we not be able to immediately be
31 able to identify a respondent and therefore not be able to have recourse to congregational
32 diocese. As we've moved forward, we've been able to reduce that budget line because
33 every diocese and congregation are totally accepting of the need to fund counselling or
34 professional support right from that early stage, whether or not a complaint is upheld. So

- 1 that is now effectively a given and so we immediately facilitate access to that.
- 2 **Q.** Sorry, so not coming out of the NOPS budget, but you're confident that the – because you
3 get about 27, 21 complaints a year, don't you, that's how it's tracking?
- 4 **A.** On average, yes.
- 5 **Q.** So for those 20 to 30 people that might come in the door in 2021, are you saying that it is a
6 consistent practice that they will have counselling available to them funded by the Church
7 from the time they've made that initial e-mail or phone call?
- 8 **A.** Yes, we will liaise directly with the congregation or diocese and say this is a need. We
9 have changed our approach, I guess, from this would be very helpful to this is a need and
10 we have received no resistance to that change in approach.
- 11 **Q.** But certainly it's right, isn't it, that in the past a lot of the survivors who've come through
12 this process have not had that offered by the Church authority and have been referred to
13 ACC for their sensitive claims counselling process?
- 14 **A.** That is my understanding that it wasn't always consistently offered, which is why we have
15 moved to having had it as a consistent offer at the very beginning of that process when they
16 contact us.
- 17 **Q.** I'm going to move forward, just in the interests of time, to the report that you did which
18 would have been your first report to the Mixed Commission –
- 19 **A.** Okay.
- 20 **Q.** – in February 2019. That's CTH0000481. I'm going to call up page 1 just to orientate you
21 to the document, in the interests of time I won't take you through it, but just let you see, just
22 recall the document.
- 23 **A.** Yes.
- 24 **Q.** And it refers on that very front page to appendix 3 which is the Australian Royal
25 Commission recommendations and the NOPS responses?
- 26 **A.** Yes.
- 27 **Q.** And I'm going to take you now to that document which is the appendix 3, which is
28 CTH0002147. There are different versions of documents with different document
29 numbers, it appears this one is not coming up on Trial Director, so we can use an earlier.
30 Just while the document's coming up, so NOPS office, do you recall the process where
31 there was an analysis of all of the Australian Royal Commission recommendations and
32 NOPS went through and identified certain things that they thought should happen as a
33 consequence of some of those recommendations?
- 34 **A.** Yes.

- 1 **Q.** The first one I'm taking you to is a recommendation relating to document retention.
- 2 **A.** Yes.
- 3 **Q.** You see there under the NOPS response, "NOPS recommends that the Mixed Commission
4 adopt a national policy on retention of documents"?
- 5 **A.** [Nods].
- 6 **Q.** Has that happened as a consequence of your reporting up to the Mixed Commission?
- 7 **A.** I have prepared a draft policy which is currently before the National Safeguarding
8 Professional Standards Committee for review and consideration.
- 9 **Q.** The next recommendation I'm going to take you to relates to safeguarding culture?
- 10 **A.** Yes.
- 11 **Q.** This is consistent with your evidence that you're wanting everyone to be aware of the
12 standards?
- 13 **A.** Yes.
- 14 **Q.** The last point, "NOPS wants a culture of safeguarding to be the most important factor in
15 protection from harm. It is only through a change of culture that we will see and respond to
16 harm and potential harm differently." My interpretation that I'm wanting to check with you
17 is that at the time these words would have been written, it is an implicit message there that
18 at that point in time there was not the right culture around safeguarding because there
19 needed to be a change of culture?
- 20 **A.** What I meant by the inclusion of that phrase is that we wanted to embed a culture of
21 safeguarding. In my view it is a change of mindset, it is about having all of our people in
22 all faith communities look at situations through a safeguarding lens.
- 23 **Q.** Before we move off that point, a more fundamental aspect of that is we've seen in the
24 international inquiries, haven't we, numerous comments to a failure of culture in the
25 churches?
- 26 **A.** Mmm-hmm, yes.
- 27 **Q.** And the effect of that failure of culture is harm –
- 28 **A.** Yes.
- 29 **Q.** – to others?
- 30 **A.** Yes.
- 31 **Q.** And the question for this Inquiry is, do we have that same culture here that has resulted in
32 that same outcome of harm. At this point in time when you're writing this, do you think we
33 don't have that culture producing that harm here in New Zealand?
- 34 **A.** I think that there is always ways and means to improve and to strengthen an organisation

1 and a culture. Our safety standards, our five safeguarding culture standards separate that
2 out into a framework and how we believe that we can bring about an embedded culture of
3 safeguarding.

4 **Q.** Bringing that, you know, right down, if there's room to improve, isn't it inherent that what
5 you're saying is there could be persons being harmed the day before you wrote this, the day
6 after, before you've got to what you're aiming for is the future state?

7 **A.** So as the adults in the room it's our job to ensure that those who are most at risk, our
8 children and vulnerable adults, are protected from harm. So what our office is doing is to
9 engage our people to ensure that they understand their responsibility to cultivate that
10 culture of protection and engaging everyone for them to ask themselves what do I need to
11 do in my own ministry to ensure safeguarding preventative measures are embedded in my
12 ministry.

13 **Q.** Moving on to the response relating to recommendations from the Australian Royal
14 Commission about the complaints process?

15 **A.** Yes.

16 **Q.** Just bringing up the section relating to the NOPS response to recommendation 7.7, 16.39
17 etc. This refers to a national complaints policy having been developed, but of course that's
18 just in relation to sexual abuse, isn't it, which is referred to in that second paragraph?

19 **A.** What I developed early on in my role was a, I guess, a template complaints policy that
20 could be used by diocese or congregations or other Catholic organisations. My focus there
21 was to impress on every Catholic organisation the need to have a complaints policy and
22 procedures in place, so when someone came forward with a concern or complaint of
23 whatever nature it would be dealt with effectively and properly.

24 **Q.** I think what we've seen from the material provided is that there is actually quite a diversity
25 across the different congregations, all of the Church authorities, about their processes and
26 procedures for non-A Path to Healing –

27 **A.** What we have developed, and that is on our website, is a guideline on how to approach,
28 how to manage a complaint or concern. And again, as part of our review framework, key
29 questions are asked around what practises do you have in place to receive and respond and
30 investigate, if appropriate, complaints.

31 **Q.** And we see just at the bottom of that box that "NOPS is working with the NZCEO and the
32 New Zealand Teachers Council to support schools by developing protocols for how
33 Catholic schools respond to complaints of abuse." Can you tell us what's happened in
34 relation to that development?

- 1 A. What the NZCEO [New Zealand Catholic Education Office] did was to include reference to
2 safeguarding, a proprietor safeguarding policy – sorry, I'll take a step back. Our Catholic
3 schools undertake attestations every year and report to their proprietor every year.
- 4 **Q.** Proprietor is the entity, just for that language, just want to understand –
- 5 A. The proprietor is the religious diocese or congregation that owns that school. We had
6 included in the annual attestation that is used by all schools reference to a proprietor or a
7 diocese or congregation's safeguarding policy. So the expectation there is that the
8 proprietor, the congregational diocese would make known to that school their commitment
9 to safeguarding. And if that school wasn't familiar with that, that would be the catalyst for
10 a discussion between the school and their proprietor. It's important that our Catholic
11 schools are aware and know what their proprietor, what our bishops and congregational
12 leaders are doing in this space. They are all our children, they may be in a school, they may
13 be in a parish, these are our kids, we need to make sure wherever they are there is
14 consistent safeguarding practice in place.
- 15 **Q.** I'm going to take you now to another section of the report that deals with the Australian
16 Royal Commission's recommendations relating to children and family involvement. Again
17 this relates to a school context. We can see a reference there to NOPS' belief that each
18 bishop needs assurance that all schools have child protection policies in place and therefore
19 recommends that an audit of all schools is undertaken. Can you tell us, has that happened?
- 20 A. I would need to follow that up.
- 21 **Q.** I'm going to leave that document for now.
- 22 A. Thank you.
- 23 **Q.** I just had a couple of minor questions that I just wasn't certain from your evidence-in-chief
24 and other aspects.
- 25 A. Yes.
- 26 **Q.** Two questions there and then I've just got two other documents I'm going to show you
27 before I finish.
- 28 A. Okay.
- 29 **Q.** I don't think we actually know who employs the Director of NOPS?
- 30 A. Would you like me to answer that?
- 31 **Q.** Yes.
- 32 A. Yes. The Catholic Bishops Conference has a company – Catholic Bishops Conference
33 Securities Limited delegates to the National Professional Standards Committee to employ
34 the Director of NOPS. So my direct lines of accountability are to the National

1 Safeguarding Professional Standards Committee. That's who I report to, that is who
2 approves budgets etc.

3 **Q.** Thank you for clarifying that. One question around what is within the definition of redress
4 in your understanding. You've said in your evidence that many complainants ask about
5 safeguarding and that they want to know what's been done to keep children and vulnerable
6 adults safe.

7 **A.** Yes.

8 **Q.** And it's also, you say, that through A Path to Healing we also hold those who have done
9 harm to account?

10 **A.** Yes.

11 **Q.** And the additional benefit for the organisation of learning from the past?

12 **A.** Yes.

13 **Q.** Do you agree that, that accountability of the individual, what's happened to them, is really
14 is about what discipline sanctions might have been imposed in relation to that individual?

15 **A.** Yes, subject to any privacy restrictions, yes.

16 **Q.** So someone's coming forward to you, they're seeking redress and part of what they might
17 be looking for in redress is that discipline element?

18 **A.** Yes, I understand that, and that would be a matter for the Church authority to disclose or
19 not disclose.

20 **Q.** And you agree that the concept of what should be in the redress basket needs to be defined
21 by victims and survivors in terms of what they say a redress process should be able to
22 deliver to them?

23 **A.** Yes, A Path to Healing specifically provides that a survivor is asked to put forward what
24 they need, what they are seeking to support their healing, whether or not the Church
25 authority is able to meet those needs.

26 **Q.** So am I right, just to round that off, that you don't think redress in the context that we hear
27 in the Inquiry leaves the issue of discipline or sanction out of the redress considerations?

28 **A.** No, I think that is part of the pastoral approach, subject, as I said to you earlier, of privacy
29 restrictions.

30 **Q.** A matter that we won't have time to go into because of the time limits –

31 **A.** Sure, yes.

32 **Q.** – but we referred to the issue of Ms K yesterday and, for the Commissioners, that was the
33 matter that Peter Horide addressed and there was review initiated through NOPS of what
34 actually had happened with the 2004/2005 –

- 1 A. Yes.
- 2 **Q.** – original Marist Brothers investigation.
- 3 A. Yes.
- 4 **Q.** And a finding was significant failings.
- 5 A. Yes.
- 6 **Q.** What does NOPS see its role as in relation to, in light of those significant failings, about
7 checking back past Marist Brothers investigations where people in the position of Ms K
8 might have received very unfair outcomes because the same failings are present, that it
9 might not have been a one-off, it might have been a systemic approach?
- 10 A. I understand what you're saying and I think that is something that we need to take on board
11 and it would be a matter for me to discuss with the National Professional Standards
12 Committee.
- 13 **Q.** One of the aspects that Ms K has ended up in the situation where when you've written to
14 her, so she's had the Marist Brothers initial investigation, they've said "No, but you can go
15 to the Police"?
- 16 A. **[Nods]**.
- 17 **Q.** She's gone to the Police, convictions have been entered, you've written to her "Here's the
18 review outcome, yes, there were serious deficiencies"?
- 19 A. Yes.
- 20 **Q.** Then you've asked her, "Would you like this reinvestigated?"
- 21 A. **[Nods]**.
- 22 **Q.** Why is it that a matter might need to be reinvestigated when you've got a conviction on
23 record?
- 24 A. I'm just not really prepared – I don't have her permission to discuss this in open forum. Can
25 we talk generally?
- 26 **Q.** We can take that off-line and perhaps do that by follow-up evidence.
- 27 A. Okay, sure.
- 28 **Q.** Wanting to go to a document that is CTH0009675. This is a document that's got a
29 handwritten date at the top of 31 July 2019. Just give you a moment to familiarise yourself
30 with that?
- 31 A. I will take a minute because I'm not familiar with the document.
- 32 **CHAIR:** Is it possible to make it a little larger?
- 33 A. Thank you.
- 34 **QUESTIONING BY MS ANDERSON CONTINUED:** Virginia, when you're ready there's a

- 1 little bit further down the page, under "Remedies", the second paragraph. Do you recall
2 being written to indicating that because of a conflict of interest you should stand aside from
3 a particular matter?
- 4 A. No. No.
- 5 Q. In that case you won't be able to answer the other questions I have for you on that
6 document.
- 7 A. No.
- 8 Q. Just go straight to the final document, CTH0009352. Just if we expand the top half of that.
9 We can see that it's meeting in September 2019 at which you were present?
- 10 A. Yes.
- 11 Q. Do you recall that meeting?
- 12 A. Yes.
- 13 Q. This is in relation to Bishop Charles Drennan. We see that the bullet point there that you've
14 offered to provide recommendations for professional support if requested by BC?
- 15 A. Yes.
- 16 Q. BC is a reference to Bishop Charles?
- 17 A. Yes.
- 18 Q. What sort of professional support would you have in mind arranging at that point?
- 19 A. The sort of support that I mentioned yesterday when referring to respondents, counselling
20 or psychotherapy support.
- 21 Q. Who would fund that?
- 22 A. In this situation my expectation would be that the Palmerston North Diocese would fund
23 that.
- 24 Q. If we can scroll the document slightly on the page, some of the issues canvassed in the
25 meeting, the fourth bullet point TM and VN raised that resigning before Rome responded is
26 an option. We've seen in the dialogue that we've had with the other faiths this option that is
27 often reached to of someone resigning to be able to avoid disciplinary consequences. As a
28 general proposition, what's your view about whether that's an appropriate way for the
29 Church to operate?
- 30 A. Resigning from a role, in my view, would not have negated at all from any further
31 disciplinary steps. In this case the matter was being responded to by Rome. Our role was
32 limited to undertaking the investigation on behalf of the congregation for the evangelisation
33 of peoples which is a branch of the Vatican.
- 34 Q. But clearly the suggestion here is that before Rome responded he could resign. Why would

1 you be suggesting that to him as an option?

2 A. From memory it was around being – in the situation no-one is able to step a bishop down
3 from ministry, that is only a matter for the Pope to be able to do. Resigning from his role in
4 ministry would have been a step – in my view a safeguarding matter.

5 Q. So that's what would have been in the forefront of your mind?

6 A. Yes.

7 Q. But resigning without any ability to control imposed conditions, how would that address
8 safeguarding?

9 A. I understand what you're saying, yes, and I acknowledge that. I would absolutely not have
10 expected that Rome would have pulled back from any disciplinary action. They were very
11 much – Bishop Charles was under the jurisdiction of Rome and that's where the
12 disciplinary response would have come from and did come from.

13 Q. Just one of the bullet points further down which reads "VN referred to there being three
14 parties to this complaint, BC, the complainant and the Church." Just seeking your
15 reflection on the Church being a party to the complaint?

16 A. Perhaps that's not well worded as a party to the complaint. But around this there is a
17 complaint concerning a senior leader within the Church. We have very high expectations
18 of behaviour from our clergy and religious and particularly our leaders within our Church.
19 Any divergent from that does have very negative impacts for the Church as a whole.

20 Q. For the reputation of the Church?

21 A. For people's confidence in our leadership, in our people.

22 Q. Thank you Ms Noonan. That concludes the questions I have for you. The Commissioners
23 may have some questions.

24 A. Thank you.

25 **MS McKECHNIE:** Commissioners, I'd just like to provide clarification before you ask any
26 questions. In relation, for the record, CTH0009053 where Ms Noonan was asked about a
27 respondent whose name was redacted and she said "I assumed he was in ministry", I'd just
28 like to confirm to the Commission at the time of those notes the individual was retired.

29 **CHAIR:** Sorry, I'm having trouble hearing you.

30 **MS McKECHNIE:** Sorry, ma'am, I'm just wanting to clarify when Ms Noonan said in answer "I
31 assume he was in active ministry", she wasn't able to see the name because the document is
32 redacted. We have checked and the man was retired at the time of those notes. Not
33 wanting to –

34 **CHAIR:** Clarify that.

- 1 **MS McKECHNIE:** Just wanting to clarify.
- 2 **WITNESS:** Thank you, that is a very important distinction so thank you for that.
- 3 **CHAIR:** Thank you. So you confirm that is the case?
- 4 **WITNESS:** Thank you, a very important distinction.
- 5 **CHAIR:** Thank you.
- 6 **COMMISSIONER STEENSON:** Tēnā koe Virginia.
- 7 A. Kia ora.
- 8 **Q.** Just wanting to follow-up actually on the line of questioning from counsel around the
9 resigning option and you're talking about that being a safeguard matter. I just want to
10 understand, is that because of the timing it would take if Rome was to take action, or was it
11 because the likelihood of it, of that person being asked to step down? What makes the
12 safeguarding matter resigning option better?
- 13 A. As I referred to earlier, only the bishop is able – sorry, only the Pope is able to put any
14 restrictions or safeguards around a bishop. Someone resigning from their role in active
15 ministry would automatically put safeguards – they would no longer be in active ministry.
16 It was, I would suggest, a pragmatic suggestion to a rather difficult situation. We had not
17 experienced this before, this was setting somewhat of a precedent for us and our office. We
18 were also working with a very new piece of Rome directive, the Vos Estis Lux Mundi, and
19 so we were really working through that directive from Rome and how did it fit within our
20 context, and wanting the best outcome for the complainant in this case.
- 21 **Q.** So the unknown of the new process, is that what you mean?
- 22 A. We weren't – while the directive was provided by Rome that we needed to report such
23 matters to Rome, at that stage we didn't have a very clear written process from Rome as to
24 what would happen next necessarily step-by-step. So we were waiting for a response from
25 Rome and that waiting did, I guess, create some difficulties and some challenges. As
26 opposed to when pursuing an investigation through A Path to Healing, we know it very
27 well, we can adapt where we need to. This was taken out of our hands and that did cause
28 some, I guess, anxiety from our perspective as to what we needed to do to help support the
29 complainant in the wider Catholic community. We were learning as we went.
- 30 **Q.** Okay, thank you. And the other question is around the pastoral companion role.
- 31 A. Yes.
- 32 **Q.** And just understanding whether or not they will have some cultural competency in the
33 training or the selection of those roles?
- 34 A. I can absolutely guarantee that will be the case, including trauma-informed pedagogy

1 development as well, yes.

2 **Q.** Thank you, tēnā koe.

3 **A.** Tēnā koe, thank you.

4 **COMMISSIONER ALOFIVAE:** Good morning Virginia.

5 **A.** Mōrena.

6 **Q.** Thank you for your answers, a lot of my questions have actually been answered around
7 schools. I did have a query, though, I'm wondering if you might be able to help me. You
8 may not though. It's in relation to the summary of payments in terms of redress that's been
9 paid out to survivors.

10 **A.** [Nods].

11 **Q.** And I note that from your diocese they've been paid out in different currencies.

12 **A.** Right.

13 **Q.** In some instances?

14 **A.** Okay, yes.

15 **Q.** So there's a Samoan tālā payment, there's Australian, American and there's even Canadian
16 and Euro payments that have been made.

17 **A.** Okay, yes.

18 **Q.** We've come to understand at the Commission that there are an enormous number of
19 survivors overseas.

20 **A.** Yes.

21 **Q.** I guess I'm really just inquiring, have you had some direct contact from survivors from
22 overseas and the presumption is that you would still deal with them in the same manner –

23 **A.** Absolutely.

24 **Q.** – as how you've outlined?

25 **A.** Absolutely. We welcome all contact from survivors wherever they are. We are improving
26 our own internal process and networks, so we can reach out to colleagues in other countries
27 and other jurisdictions to make sure that we're able to offer similar support that we would
28 here than we do – that they would be provided with similar support overseas. We would
29 manage each case like that on a case-by-case basis, but absolutely and we would do what
30 we can to have an investigator or someone meet with that person to record their experience
31 etc. So we will try – we will follow as much as we can our protocol adapting where we
32 need to given the distance etc. But again, the pastoral response, the need to try and make
33 sure that that person has someone there, whether it's a family member or support person, is
34 equally as important as if they were here in Aotearoa.

1 **Q.** Just one last question, we've heard a lot over the last couple of days that there are some real
2 cultural barriers. So it's one thing for when a person actually engages, but actually getting
3 them to engage, we've understood from a lot of the documentation, 20 years for someone to
4 come forward?

5 **A.** Yes.

6 **Q.** But given that we're living in the light of 2021 and I guess I'm really just interested in your
7 thoughts around what would you be doing differently today then to engage with your
8 Catholic communities here in Aotearoa –

9 **A.** Yes.

10 **Q.** – around the different ethnicities?

11 **A.** As a starting point, and it is already work in motion, is to have all our key documentation
12 translated into all our various languages, that's already work in motion which is great. The
13 other important one is to be able to engage with communities how they need to be engaged
14 with. We understand that our safeguarding advisor in Auckland has had very successful
15 training workshops run with the Tongan community, meeting with them, that community
16 help set up – it was run to meet the needs of their community and their families. So the
17 message, I think I just need to clarify, the message doesn't change. How we deliver that
18 message is what we need to look at to ensure that it is meeting the needs of each of those
19 various faith communities.

20 **Q.** Thank you very much.

21 **COMMISSIONER ERUETI:** Tēnā koe Virginia.

22 **A.** Tēnā koe.

23 **Q.** My question is about the Australian Royal Commission recommendations –

24 **A.** Yes.

25 **Q.** – on the redress scheme?

26 **A.** Yes.

27 **Q.** And I'm assuming you're familiar with those recommendations?

28 **A.** Yes.

29 **Q.** And the redress scheme?

30 **A.** Yes.

31 **Q.** Because the puzzle for me is looking at the process that we have under the Path to Healing,
32 we see there are probably three sites for decision-making there, the investigator, the
33 Complaints Assessment Committee and then the diocese.

34 **A.** Yes.

- 1 **Q.** Congregational leader, whereas in Australia they have one independent decision-maker –
- 2 **A.** [Nods].
- 3 **Q.** – making the decision. So in light of that, I'm wondering why do we have this process,
- 4 what discussions have been made, what proposals might be – are there out there for
- 5 changes in the future?
- 6 **A.** Absolutely, and I understand that Australia does have alternative options for survivors, so
- 7 there is the redress scheme, there is also the new national response protocol which was just
- 8 released earlier this year and I'm making my way through that to reflect their changes that
- 9 they have made in that protocol to reflect the recommendations of their Commission.
- 10 I absolutely accept that being able to offer – I'm hearing from survivors and survivor
- 11 advocates the need to have options. At this stage our options are the Police and our A Path
- 12 to Healing process. Taking that forward and whether there is other options that will
- 13 become available I think we'll be very much guided by the Commission and
- 14 recommendations from the Commissioners. But I do hear the survivors voice around: we
- 15 need options.
- 16 **Q.** In particular the call for independence?
- 17 **A.** Sure, yes.
- 18 **Q.** So we see in your process that the investigators and the Committee, a degree of
- 19 independence there, questions about how they're appointed and so forth, but it all seems to
- 20 fall down when the report goes to the diocese and congregational leaders where they have
- 21 the ultimate decision, there's no independence there. So there are other options, like as we
- 22 see in Australia?
- 23 **A.** Yes.
- 24 **Q.** And reviews of that address scheme, but I'm wondering is there movement within NOPS or
- 25 anywhere else within the Standards Committees about addressing this?
- 26 **A.** So that independence matter.
- 27 **Q.** Mmm-hmm, yeah.
- 28 **A.** I discussed over the last couple of days about steps that we have taken to try and help to
- 29 introduce levels of independence. And I am personally, and I know my team, are very open
- 30 to exploring the submission around an independent body. I think in that I see that there
- 31 would be real strength having someone from the Catholic Church involved in the design or
- 32 working party group to bring with them the institutional knowledge of the Church, how the
- 33 Church operates, aspects like spiritual damage that we heard about from Tom Doyle and
- 34 some of those aspects of harm that we may not see in other State organisations and

- 1 survivors' experience of abuse. So I think that having that Catholic input at that design
2 phase, in my view, would really strengthen that proposal around an independent body.
- 3 **Q.** Thank you. My last question is about – it's about this question about design input, I've
4 asked this of all the churches, is that input from survivors and Māori and Pasifika and
5 others into the design of A Path to Healing.
- 6 **A.** Yes.
- 7 **Q.** To what degree, start with that?
- 8 **A.** Yes, and having those voices at the table is where we need, and we'll head towards with
9 future reviews. I acknowledge the need to have those voices at that table discussion, yes.
- 10 **Q.** So far we haven't had that, am I correct?
- 11 **A.** The feedback we have in this last 2020 version there has been feedback, we have gone and
12 sought that feedback on perhaps a document already provided, what do you think of this,
13 which is that next step rather than having at that design phase and so I think moving
14 forward a planned approach to that feedback is where we need to head to. So we do
15 capture that voice. Understanding that we can't necessarily meet everyone's needs because
16 we do have to have a process that can deliver outcomes, but hearing those voices and trying
17 the best we can to incorporate their thoughts and their needs.
- 18 **Q.** Okay, so I understand, so to date no, but with this current review of A Path to Healing
19 efforts are being made?
- 20 **A.** At the bottom of our letters I think I mentioned yesterday we are already saying we would
21 like your feedback to this point. Understanding that through the process and the journey
22 with the Church, attitudes can change, so being able to gather their thoughts at the
23 beginning versus the middle versus the end is actually really important for us, so we can
24 start to see where the pressure points are, are their themes and trends in that feedback, so
25 how can we do it better.
- 26 **Q.** Okay, for instance there's the Hui Aranga, are you familiar with the Hui Aranga?
- 27 **A.** No I'm not I'm sorry.
- 28 **Q.** It's a gathering of Māori every Easter, there are thousands, Catholics I'm talking about.
- 29 **A.** Yes.
- 30 **Q.** I wonder whether that might be a site where there could be discussion of these reforms, and
31 Easter is just around the corner, but it does seem to me that I'm looking for is a systematic –
- 32 **A.** Yes, planned approach.
- 33 **Q.** – methodical approach towards engaging with Māori and Pasifika.
- 34 **A.** Yes, absolutely, very much take that on board, thank you.

1 **Q.** Thank you.

2 **A.** Thank you.

3 **CHAIR:** You'll be relieved to know I have no questions for you. Just to thank you very much for
4 coming, providing your brief evidence and answering all of these questions, and also for I
5 understand some personal inconvenience to you staying overnight and we do appreciate
6 that.

7 **A.** Thank you very much.

8 **Q.** So thank you and that will bring the end of your evidence. I think it's time for a break
9 Ms Anderson.

10 **MS ANDERSON:** Yes, I was going to suggest quite appropriate to take the morning adjournment
11 now.

12 **CHAIR:** Yes, we'll take 15 minutes thank you.

13 **Adjournment from 11.22 am to 11.43 am**

14 **CHAIR:** Yes Ms McKechnie.

15 **MS McKECHNIE:** Commissioners, the next witness you will hear from is Father Tim
16 Duckworth.

17 **CHAIR:** I presume you wish to be called Timothy or Tim?

18 **A.** Tim would be nice.

19 **Q.** He winced at Timothy.

20 **A.** I have memories of my mum who's still alive, only got used when I was naughty.

21 **Q.** When you were naughty, then we will not –

22 **A.** Tim would be great, thank you very much.

23 **Q.** We will certainly use that.

24 **TIMOTHY DUCKWORTH (Affirmed)**

25 **QUESTIONING BY MS McKECHNIE:** Tim, before we start, I'm just going to let the
26 Commissioners know that Tim has a slight hearing difficulty in his left ear. We have
27 checked over the adjournment and the microfication should be sufficient, but if there is a
28 problem please let us know and we'll make some changes.

29 **A.** Thank you.

30 **Q.** Tim, you have prepared two briefs of evidence for the Royal Commission dated 23
31 September 2020 and 12 February 2021. Do you have those in the witness box with you?

32 **A.** I don't know to be perfectly honest. I don't think I do.

33 **Q.** Mr Cunningham is going to give you some copies of those now.

34 **A.** He's a kind man, thank you. [**Copies provided**]. I have now, thank you.