

**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

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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.

1 **Q.** Can you confirm that the content of those documents remain true and correct to the best of
2 your ability?

3 **A.** Yes.

4 **Q.** Thank you. Tim, you have provided extensive evidence to the Royal Commission and it
5 has been read by the Commissioners. It will always be available online for anybody who's
6 watching who wants to read the full breadth of your evidence. There's also a number of
7 documents that have been attached to it. So what we're going to do today is we have two
8 hours to summarise your evidence for the Commission and pick up some of the highlights.
9 So what I'm going to cover with you is a bit of background to the Society of Mary, you are
10 different to the congregation the Commission have heard evidence from so far. You have
11 also had some quite significant differences to the other church entities in your redress
12 process. So that will be the second point I cover with you and then why that's different and
13 some of the complaint data that your records hold about the Society.

14 **A.** Okay.

15 **Q.** I'd like to start, Tim, by getting you to explain briefly what your current position is within
16 the Society of Mary?

17 **A.** Since 1 February last year I have become the Provincial of the Society of Mary in
18 New Zealand. You will remember Tom spoke of provinces sort of, and we would be wrong
19 to think of those as the provinces in New Zealand, but it's a geographical area and the
20 geographical area in which I am the CEO, as it were, is New Zealand. So I am the CEO, in
21 a secular way I think you'd use that word, of the Society of Mary in New Zealand.
22 Sometimes people call us the Marist Fathers and Brothers, but that really does confuse
23 people in a big way. Even confuses the news media, so I think we're better to be called the
24 Society of Mary.

25 **Q.** What is the difference or indeed the relationship between the Marist Fathers and Brothers,
26 the Marist Brothers, the Marist Sisters, it is confusing.

27 **A.** We would use the term Marist family. Let's call them cousins of ours. We have similar
28 origins, the group of French people in Lyon in the south of France were the beginners or the
29 founders of those three different congregations. There's in fact a fourth congregation, but
30 each of them, they all knew each other, they worked together, they bounced ideas off each
31 other, but in fact Rome thought the whole lot being bunged together might be a little bit out
32 of control-wise and then – slow down, I'm sorry. And so Rome thought look much better to
33 have three distinct congregations.

34 **Q.** And how did the Society come to be in New Zealand, Tim?

- 1 A. I'll try to make it brief, but –
- 2 **Q.** Please do.
- 3 A. The guy who was in charge of what we might now call the CDF [Congregation of the
4 Doctrine of the Faith], Tom talked about that too.
- 5 **Q.** Slowly please.
- 6 A. The congregation that looks after evangelisation and things like that, that's a word that
7 people use to mean the spreading of the gospel. He actually rose from that point to be the
8 next Pope and so he was well aware of what areas of the world didn't have Catholic
9 missionaries working in them and so he said, on my list is an area which I call the western
10 Pacific. We might not necessarily use that term, we might even say south in something we
11 were saying, but let's say that's what they called it and said "Okay, you've come along
12 asking me to approve you to begin a religious congregation, the quid pro quo for me,
13 I guess, is what about you take on becoming missionaries in the western Pacific", vicariate
14 it was called. I think we were keen to begin and get going, so we accepted that from Rome.
15 It was really important to come out – for us to come out to share the faith with those
16 peoples that were out this way.
- 17 **Q.** And you're using current verbs but you're actually talking about the 1840s and 50s aren't
18 you?
- 19 A. No, I'm talking about the 1830s.
- 20 **Q.** We have heard about religious groups who have connections outside of New Zealand. Do
21 you have any Pacific parts of your province?
- 22 A. No is the short answer. They are a separate province, so what we would call the province
23 of Oceania, people might call that the Pasifika or whatever, but it contains almost all of the
24 islands that we would have relationships with as a country but also quite a lot of
25 Francophone countries too.
- 26 **Q.** Can you briefly explain, Tim, when you joined the Society and what you have done in the
27 many years that you have been a member?
- 28 A. It's quite a few years, I'll try to do it briefly. I joined the Society in 1973 as what we would
29 call a first year person, an aspirant, and for 10 years I was a seminarian which means that I
30 was ordained in 1982. After that I had already done two years at university doing largely
31 what we might call a secular degree, in other words nothing about theology or things like
32 that, but just secular subjects, and for me they were the sciences largely and then when
33 I finished at the seminary and I was ordained they sent me back to two more years at
34 university. So ten obviously wasn't enough and two more were added. So that completed

1 my degree and I ended up with the basics one would need to be a secondary school teacher,
2 I guess.

3 **Q.** And as you say in your evidence from paragraph 5, you did start a teaching career at that
4 point. Which schools have you worked in in New Zealand?

5 **A.** I taught first at Silverstream, but that was when I was a seminarian. I know when I meet
6 people in the street and they say to me "You're Brother Duckworth", I know that I knew
7 them from Silverstream, people use that informal title "brother" which probably doesn't
8 really appreciate that it's different from those who really are Brothers, but to refer to a
9 seminarian as a school I guess to give them some context of who I might have been, but
10 I know if someone was ever to call me that that I knew from the days at Silverstream.

11 Since I've been ordained I taught at St John's College in Hastings for three years,
12 when I was transferred to St Bede's College in Christchurch where I was a full-time
13 teacher, a dean of the boarding school, so all of the boarders, the 200 of them were under
14 my care. As well as that I ran dormitories of boys and I coached cricket, I coached rugby
15 and all those things that people used to expect you to do. As well as that I worked
16 extensively on the curriculum and the timetable because they were fields of expertise of
17 mine, especially computing, making that work.

18 **Q.** And then you left Christchurch, what happened then?

19 **A.** Largely that was because I had done some additional studies I was given some opportunity
20 to put some of those additional studies into practice.

21 **Q.** When did you finish your teaching career, Tim?

22 **A.** It's a long time ago. Probably 1995 roughly. Don't – I could check it out but it's not that
23 important.

24 **Q.** What roles have you held since then?

25 **A.** When I left teaching it was primarily to come to use skills, as I said, that I'd learned in the
26 States, assisting organisations to improve themselves. That's largely how I would term
27 what I'd learned.

28 **Q.** What was your Masters degree in Tim?

29 **A.** Organisation development. So facilitation, planning, action research, change, you know,
30 change I'd say would be the big thing that that organisation is about, organisation
31 development is about, it's about making things that – organisations, that might be a profit
32 company, it might be a not for profit company, it might be an organisation such as Rotary,
33 which is neither of those probably, to assist those to improve to make change so that
34 whatever is done is done better.

- 1 **Q.** And as you outline at paragraph 7 of your evidence you have held a number of leadership
2 roles within the Society, including being part of the Provincial Council since 1997. What is
3 the Provincial Council?
- 4 **A.** Simply it is the Provincials group of advisors, you might call them the board. So the
5 Provincial is both the CEO, the manager, but is also the one that sort of, so to speak,
6 holding the conch.
- 7 **Q.** What relationship does the province of New Zealand and you as the Provincial have with
8 your international connections within the Society?
- 9 **A.** There are provinces and in all sorts of places like Europe and in South America and Africa
10 and, as I said, previously in Oceania but also in Australia, I won't go through them all
11 because there's no point in me doing that. All of those would meet regularly for various
12 things. One of those would be called a General Chapter when the rules of the congregation
13 and the things that need to change would be looked at and so policies and procedures and
14 things like that would also be looked at. For good or for bad, the vast majority of Marists
15 never get to go to a General Chapter, I've been to three, so, you know, and if I stay in office
16 long enough I might end up even doing four, but I'm not sure I'm looking forward to
17 travelling overseas yet.
- 18 **Q.** How long can a Provincial stay in office within the Society?
- 19 **A.** Three years. It's a term of three years. You can be re-appointed. A strange anomaly with
20 us is that, you know, we all looked at the term of the past President of the United States and
21 he could do four years I think, and then he could come back or have contiguous terms, but
22 for us you could do two terms and then you could not be the Provincial for a term then you
23 could come back to be the Provincial. We've never done that in New Zealand. It has been
24 done in the world but not in New Zealand.
- 25 **Q.** How are you appointed Provincial?
- 26 **A.** Elected. So popular franchise among the members of the congregation in New Zealand.
- 27 **Q.** Do the international organisation have any role in that?
- 28 **A.** A small role. In the sort of the what might be called the straw vote or the ballot to
29 determine who rises to the smaller group to be voted from, they have the role of saying we
30 give our approval to any of these people on this list being the next Provincial. So as an
31 example, if they knew, and they may know that I was, say, something like an alcoholic and
32 yet I was there, then they would – my name just would not appear. So they give what's
33 called the nihil obstat, nothing is standing in the way.
- 34 **Q.** So it's a vetting of the contenders for election?

- 1 A. Yeah, that's right.
- 2 **Q.** I'm going to stay with the Society in particular at the moment, there will be some questions
3 later about as you are a priest how that works as a parallel idea. But in terms of the Society,
4 how many members do you have in New Zealand at the moment?
- 5 A. I'm going to say 100. It is slightly less than that, we lost one last week, so it's probably 98,
6 somewhere like that.
- 7 **Q.** And do you have anybody in formation at present?
- 8 A. We do. We have guys in formation in New Zealand here in Auckland, and we have guys in
9 formation in Rome, Italy. We have chosen in the Society, because we are diminishing in
10 numbers, to do some of our formation in common. So some in your own home country and
11 some in common, so the smaller band of men who will be the Society of Mary in the future
12 will have the possibility of knowing each other and working together. But here in
13 Auckland we've got three or four and I'm really heartened by them, young men wanting to
14 still join us, and especially I'm doubly heartened that two of them are from the tangata
15 whenua, I would say all of our guys are very proud of that.
- 16 **Q.** So these 100 members that you have at the moment, how are they geographically arranged
17 in New Zealand?
- 18 A. Under two sort of headings. One would say houses or communities, that's one heading, and
19 the other one would be under ministries. So as an example, a group of people that were in
20 one parish, one parish that we look after at the moment is the Parish of Whangarei and there
21 we have three priests who live there in community in-house together working together, but
22 they all share the same ministry, they are all priests of the parish. And one of those is the
23 parish priest. In other places it would be possible to have a community, a house, a living
24 space, for a group of men who had some different ministries among them.
- 25 **Q.** What are the other ministries that your members typically have outside parish priest?
- 26 A. Unlike many congregations, Marists can do – no, Marists may do almost any ministry
27 within the Church. So I'm not saying they can, one would need skills. I mean I'm regularly
28 trying to make this point to people, if you want to do a job you have to have the skills to do
29 it. And so, you know, training sometimes has to happen during one's life as a priest, as
30 I put it some of mine was. But each guy can be in various ministries, we've got some who
31 skill teach, we've got some who do other sorts of things like lecture here in the Catholic
32 space teaching seminarians and things like that. We've got some who are in charge of what
33 we would call formation, you'd probably call them in train, some of our guys are leading
34 that role. Some of them work for particular jobs for a bishop, the bishop might say to me

1 would it be possible – and this has happened in the past – would it be possible if you would
2 have a man who could do a particular job for a diocese or for the Church in New Zealand.
3 We have some men doing that. At one stage I know the Cardinal – not this Cardinal but the
4 previous Cardinal – asked for me to go and work for the Archdiocese on computers to set
5 that up and get that working. My lot said no to him. But that's what happens.

6 **Q.** And if that does happen, is that man paid as an employee?

7 **A.** There'd be a contract between us and the diocese. It's really hard to know whether they'd be
8 paid. The person would never be paid. You know, so if I go back to the theological college
9 here in Auckland there would be from the theological college a contract saying we require
10 services of lecturers. Can you supply services of lecturers from the Society of Mary. Our
11 answer would be yes, and in this year these are the ones that we can send and then there's
12 what's called a national stipend, in other words an amount of money that would be
13 considered appropriate to keep a priest. I won't say what some others would say whether it
14 really was an amount that you could, keep somebody on, but that doesn't matter. The thing
15 that would happen is they would pay us. By "us" I mean the money would go into the
16 common, what we would call the cor bonum, the money that we have for ourselves as a
17 congregation. None of it would ever go to the individual, which means therefore that the
18 congregation has to feed, clothe, house each of the individuals. So I'm not sitting with the
19 fat wallet, you know, I'm just doing – I get the same amount of money given to me as one
20 of those guys would or anyone of our men in any one of our houses.

21 **Q.** The Society has had a very considerable role in education, I do want to ask you some
22 questions about that.

23 **A.** Yes.

24 **Q.** Just to set the scene for that, there are obviously Marist Society of Mary schools and then
25 other schools that you have been very heavily involved in. If you could outline those and
26 also the difference between your schools that you are the proprietor of and other Catholic
27 schools where society men have worked?

28 **A.** It is quite complicated, I'll try and cover off the schools which we don't own which we're
29 not the proprietors of first. We are now currently in none of those schools. But from
30 Whangarei in the north to Timaru in the south, we have been involved in several colleges
31 that are owned by the bishop of the diocese. And the bishop of the diocese at the time,
32 again, the interaction is something like this. "Dear Provincial, would you consider with
33 your men beginning a Catholic secondary school" usually for boys, in Hastings as an
34 example, in the place where I taught, and we would have looked around and said to

1 ourselves we've got 300 guys or 350 or 400 guys or whatever we had at the time and yeah,
2 we could take that on. So let's begin there, a school and you know, call it what you will,
3 and we would have worked in consultation with the bishop. The bishop would have said
4 "Aah I can buy the land" and then he would have said "I'll need to build some buildings.
5 Could you recommend to me how many I'd need for a school that might start off there?"
6 And we'd work in consultation with the bishop but we would never own that.

7 I hope that's enough, that's just an example of one school. Then we would have
8 been its first teachers there. Maybe we might have had a maths teacher, a science teacher, a
9 history teacher and an accounting teacher, but we may not have had something like a
10 woodwork teacher or a PE teacher, or a teacher of, I'd like to say something like modern
11 dance or something like that, I'd like to think that in those days we might have been a little
12 bit more advanced but we would have needed some female teachers in the school too
13 because they would provide something additional to what we were offering in the school,
14 but lay teachers too, I don't like the word "lay" because it implies somebody that's not an
15 expert. In fact in many ways they may have been much more expert as teachers than we
16 were. They were professional teachers rather than lay teachers, if you know what I mean,
17 but they were not clergy is the only point I'm making.

18 **Q.** So for the schools that the Society is the proprietor of, there are three of those, St Pat's
19 Wellington, which is obviously usually known as St Pat's town?

20 **A.** Yes.

21 **Q.** St Patrick's Silverstream and St Bede's. How are they different?

22 **A.** From the beginning the Society has owned the land and buildings there. They are a sort of
23 establishments that are probably more longer standing. At one sense they're possibly an
24 historical accident, i.e. in those days we would have had access at times to monies that may
25 have come from overseas or something like that, or as a much bigger congregation than any
26 of the one diocese, any one diocese would have been, we may have had access to more
27 money. And we may have been well-known as reasonably good educators, and so the
28 bishops stay in Wellington at the time, I don't want to make things complicated but he was
29 actually a Marist.

30 **Q.** We'll come back to how you can be a bishop and member of a congregation later, Tim.

31 **A.** Okay. He said "I personally – this was Archbishop Redwood – I personally had a Marist
32 education in Ireland and I would like there to be a way in which boys in this city can get a
33 Marist education." He would have also been talking at the same time to the Sisters of
34 Mercy, and to the Mission Sisters, the sisters, we'd call them RNDM and they set up girls'

- 1 secondary schools too and primary schools as well. We never ran primary schools.
- 2 **Q.** So integration of all of these schools after 1975 broadly took place in the Catholic
3 education system in the early 80s. How has that changed the Society's responsibility for
4 those schools? Let's start with the ones that you ran but did not own. What was the impact
5 of integration for those schools?
- 6 **A.** Technically and in reality they become State schools. They are State schools owned by
7 somebody else, the building and the land, where they are permitted to have what's called a
8 special character. I'd call it a Catholic character. Other schools are integrated as well that
9 are not Catholic schools and they might say that the character we have in this school here is
10 Anglican or Presbyterian or something like that. Those special characters are not limited to
11 a particular faith.
- 12 **Q.** So in the context of redress which is what this hearing is about, how has that integration
13 impacted on responsibility, say there is a Marist father working in that school in 1985 who
14 harms someone, who takes responsibility for that?
- 15 **A.** We have to. Who else is there to? Let's say – 1985 you gave, let's say the principal of the
16 school there now, a man, I don't know, but I'm sure he's a good man, and his staff there,
17 what would they know about what happened in 1985 if one of our men had offended in
18 those years. So our encouragement to people would be if a Marist offended, then come and
19 see us. Who takes responsibility? We have to. We have to face that.
- 20 **Q.** And if it's a lay teacher, after integration?
- 21 **A.** Well, if we were the proprietors of the school after integration and it was – sorry, before
22 integration, sorry, if we were the proprietors before integration then we would have been
23 employing the lay teacher, again I say I don't like that word. The person who's not a cleric.
- 24 **Q.** Pausing Tim. Being clear, we're talking about after integration in the schools that you're
25 not the proprietor of but you used to run?
- 26 **A.** We're not in any of those schools.
- 27 **Q.** Let's say 1990 a lay chemistry teacher offends at St John's which is an integrated school,
28 who's responsible for that?
- 29 **A.** Well, after it's integrated and it's a State school, it would fall to the board of trustees.
30 Originally in – I think even by 1990 they might have still been called the Board of
31 Governors. But they would be the first port of call for somebody. I would personally, if I
32 was asked, have encouraged them to seek help and advice from the local ordinary, the local
33 bishop, who would say "Yeah, this school was under my care too", you know, so yes, we
34 might have to work in partnership with the Crown to resolve this case. But if it was after

1 integration, certainly the governance and the management of the school is in the hands of
2 the Crown. So it's their responsibility. But the diocese I would hope and I would expect
3 would not shirk their responsibility either.

4 **Q.** When you say responsibility, do you mean legal or moral?

5 **A.** Definitely moral. You can't give somebody legal responsibility if they don't have it. I don't
6 think the bishop has a legal responsibility in that sense because the school is a Crown entity
7 and the board of Governors, the board of trustees is, I was going to use the word quango,
8 I probably shouldn't use that word, but it belongs to the Government. It might have parents
9 on it who might say we just sort of elected but they are a committee belonging to the
10 Government.

11 **Q.** So turning now to the schools, the three schools where the Marists were – the Society was
12 and remains the proprietor, I'll give you two scenarios.

13 **A.** Sure.

14 **Q.** Pre-integration, where you employed a lay teacher in those schools and that lay teacher
15 offended, who is responsible in your mind for resolving that issue with a survivor?

16 **A.** Several people are responsible for resolving the issue. But a big part of that would have to
17 come to us because we were the employers and therefore and the proprietor of the school,
18 we employed a person who offended. That would certainly have to come to us if you're
19 looking for redress. We would, as we have said to, well, to everybody that's come to us,
20 you can take this through other paths, you know, I would hope they might go to the Police
21 as well and that would be my firm encouragement to them, "You can and we even can
22 come and assist you to take this case to the Police." I'd say that about a Marist and – sorry,
23 a Member of the Society of Mary, I'm trying to say it like that so we don't get confused. I
24 would say that about a member of the Society of Mary who offended and about a teacher, a
25 lay teacher in the school too, that we will come with you to take this, your case and your
26 story, to the Police, if you'd like us to. But yes, redress in terms of that person would
27 certainly be to us and we have had cases like that.

28 **Q.** So post-integration?

29 **CHAIR:** That was a pregnant pause, just to make sure that our signers are keeping up.

30 **A.** I know, my dad, Judge, referred to me as inoculated with a gramophone needle. He may
31 well have been right.

32 **Q.** He may well have been right. If we could just slow the tempo down of the gramophone,
33 thank you.

34 **A.** People probably think I'm hyped up, I'm not, this is the way I always am.

- 1 **QUESTIONING BY MS McKECHNIE CONTINUED:** I can attest to that Madam Chair.
- 2 Turning to the next scenario, Tim.
- 3 A. Yes.
- 4 **Q.** For the three schools where the Society is the proprietor, post-integration, so let's say 1990,
5 if there was a member of the Society teaching at the school, who is responsible?
- 6 A. Who is responsible?
- 7 **Q.** If he harms someone.
- 8 A. Us, the Society of Mary.
- 9 **Q.** In the same year if it's the lay chemistry teacher, who is responsible?
- 10 A. After integration?
- 11 **Q.** After integration.
- 12 A. The board of trustees, because the person is not a Member of the Society of Mary, and he's
13 working for the Government. So the board of trustees I am certain would take advice from
14 the Government how do we deal with this and I'd say honestly the Government is very
15 good at helping schools in situations like that. They'd probably put in somebody to be their
16 person alongside them so they don't do it wrong. I'd be very surprised if the board of
17 trustees tried to deal with it themselves because they would not have the expertise in-house,
18 or it's very unlikely that they'd have the expertise in-house to deal with it.
- 19 **Q.** I'll ask you some questions later about the role of the bishop and the Society, but
20 particularly in these scenarios with schools we're talking about, where you're the proprietor
21 of the Society, does the bishop have any role in a redress process in your experience?
- 22 A. I think that my answer to that would be does he have any role in a redress process; possibly.
23 Sometimes people feel that the – "I really want my apology from the bishop", and I might
24 have to go cap in hand and say to a bishop, "One of our complainants that's come to us has
25 said that he would like the apology to come from you. Could you possibly assist us and
26 meet with this person." And I've dealt with several bishops in that way and they've been
27 most accommodating in terms of apologising. You'll remember Tom said that the care of
28 souls, I don't like the word "souls", as if we're sort of somehow bipolar bodies in souls, but
29 anyway, the care of people is all under the bishop. And he would be wanting to care for
30 that person too. And if that person is going to be helped by the bishop meeting with them
31 I'm sure absolutely that the bishop would meet with them. But primarily, I'm not going to
32 pass the buck, it's my job in my role to make sure we're caring for the person.
- 33 **Q.** Before we leave schools, there is a particular issue about the way boarding schools were
34 dealt with in integration and the Society have two quite large boarding houses. So what

1 was the impact of integration and responsibility in the context of boarding?

2 A. Yeah, things are complicated in schools when all of that's part of it. But in a boarding
3 school, and we would refer to our schools as boarding schools, some people might say with
4 an attached hostel, we want these schools to be integrated into the school, the boarding
5 department not to be them over there and separate from them, but, you know, to be
6 integrated together. The boarding school is still part of the responsibility of the owner, the
7 proprietor. So directly, but we have boards that run these things for us called a Board of
8 Proprietors, it would be their responsibility, but ultimately come back to us for what would
9 happen in response to somebody that made a complaint. And I have been involved in that
10 sort of situation too and, you know, while all sorts of people may want to criticise us, and
11 I'm sure they do, we do have some expertise in this area and we would be offering our help
12 to a school to deal with – to help to the Board of Proprietors to deal with the case. So it is
13 still within our ambit with the Board of Proprietors of the school whom I have appointed in
14 each case. So you can see that they share in the proprietorship of it with the Society, but I
15 have appointed them all, all those Board of Proprietors members and so ultimately it does
16 come back to me. You know, lawyers have told me I am the beneficial owner. I'd love to
17 see where the benefit is but that's me, you know, thank you.

18 **Q.** Are you guided by that legal structure?

19 A. We have to be.

20 **Q.** In making decisions, is there an attempt to exclude people because you might not be legally
21 responsible for the harm?

22 A. To be honest I was going to say I don't care about legally. What I care about is the people
23 and it's our job to be putting it right. So whether it's our job legally or not, if I can assist in
24 any of this in any of our men or any of our people that work for us in this area can assist I'd
25 be first up to offer it.

26 **Q.** Tim, I'm going to ask you some questions now about how the Society has priests in it.
27 We've heard a bit of evidence about this and the Commissioners and people listening in the
28 last ten days have had a lot of comparative religions, we've had Salvation Army, we've had
29 Anglicans, and this is quite a complicated matter. So Commissioners particularly, if you
30 have questions as we go through this please do ask Tim because I realise this is a uniquely
31 Catholic feature and that you want to have it clear in your minds. Tim, you are a priest
32 which means that you have been ordained as a priest, but because you are a Society of
33 Mary priest you are not incardinated. Can you please explain to the Commission why that
34 is and why somebody would be incardinated?

1 **CHAIR:** I think you better start by telling us what that means.

2 **QUESTIONING BY MS McKECHNIE CONTINUED:** We'll start at the beginning, what's
3 ordination?

4 A. Depends on who you're asking.

5 **Q.** Tim, tell me what you think ordination is.

6 A. Ordination is a sacrament whereby a person is set aside to have a particular job or role or
7 ministry within the Catholic Church if we're talking in the Catholic Church context. I'm
8 sure the Anglicans would say something pretty similar.

9 **Q.** It's the former process by which you become a priest?

10 A. That's right.

11 **CHAIR:** It's also a holy process, I think, you call it a sacrament.

12 A. Indeed, and I think our beloved Queen would have thought of herself as being ordained into
13 her role too. And she and her father had a very strong commitment to this is – I am doing
14 this under God.

15 **Q.** We've heard of the ontological effect of ordination.

16 A. Yeah, I'm not sure.

17 **Q.** We won't go into that.

18 A. No, we won't, I think that would be a very good idea.

19 **Q.** We'll just park that.

20 A. Okay.

21 **Q.** So we've got ordination.

22 **MS McKECHNIE:** I'm not sure Tim shares the Anglican Archbishop's view on that, so it is
23 probably best –

24 **CHAIR:** I'll leave them to battle it out outside this hearing room.

25 **QUESTIONING BY MS McKECHNIE CONTINUED:** With that in mind what is the process
26 of a priest being incardinated, what does that mean?

27 A. Okay. Much of my background in teaching was in biology. You cannot have an
28 acephalous priest, a priest without a head. And so he has to be joined into an organisation,
29 so he's either joining the Society of Mary and becomes a Member of the Society of Mary,
30 of course or another congregation or he becomes and joins a diocese. And when he
31 becomes and joins, part of a diocese, and joins it, that process incardicates him into that
32 diocese. He is then formally a member of that diocese and he is answerable to his bishop.
33 His ordinary – meaning ordinary, boss, and I am – I don't know whether the bishops would
34 completely agree with me, technically in canon law I'm an ordinary of a different type, I'm

- 1 not a local ordinary, I'm an ordinary, i.e., the ordinary boss of a group of guys.
- 2 **Q.** So what's the process within the Society, if a diocese has incardination, how do you become
3 a member of the Society, is there a religious process?
- 4 **A.** There is. It's called profession. One professes vows. As a junior in the outfit after about
5 two years you're asked to profess or promise to undertake three vows, chastity, obedience,
6 and poverty. They don't necessarily mean exactly what the words might say. Poverty
7 doesn't mean you'd never had another dollar and you had to walk around in rags, but that's
8 what they do mean that what we hold, we hold in common, that we give up the right to
9 marriage and to sexual relations, and that we put ourselves, we would say, under the
10 obedience of the ordinary, the boss. And so if I say to somebody, please can you go to our
11 parish somewhere, then in ordinary ways he says "Gosh do I really have to?" Then he says
12 "If that's what you really want yes, I will do that", he's obedient to me. So he's then joined
13 to the Society of Mary as what we'd call in temporary vows. Why temporary, because he
14 might change his mind. Young people, I began – when I was first professed I was probably
15 21, I don't know about all 21 year olds that you know, some of them change their mind
16 after a little while. Some of them leave and that's okay, they can leave when their vows
17 expire because you profess them for a year or two or something like that. Then at is certain
18 stage well through the process, at a time corresponding to the incardination into a diocese
19 we would have what we call perpetual profession or final profession, you are bound to the
20 congregation by a lifelong vow, or three lifelong vows.
- 21 **Q.** Thank you. I'll ask you some questions later about how someone may leave the Society or
22 how, as the Provincial, you can remove them. Commissioners, do you have any questions
23 before we move on from those more religious ideas?
- 24 **CHAIR:** I'm happy with the explanations so far. Any questions arising? No, you're doing well so
25 far.
- 26 **A.** I'm sorry you're probably bored to death.
- 27 **CHAIR:** No.
- 28 **COMMISSIONER ALOFIVAE:** Very interesting actually.
- 29 **CHAIR:** To the contrary, we are deeply fascinated, as Ms McKechnie said, a highly educational
30 matter for us and we're very happy to receive it.
- 31 **A.** Quite honestly most ordinary Catholics don't understand it as well.
- 32 **Q.** I hope they're all watching.
- 33 **A.** We've had to, yeah.
- 34 **QUESTIONING BY MS McKECHNIE CONTINUED:** Tim, a final question then.

- 1 A. Sure.
- 2 Q. Some of the members of the Society are working as parish priests?
- 3 A. Yes.
- 4 Q. And you explained before that you would ask them to go and do that and as part of the
5 Society they will respond to your request. What's the other process that you need to go
6 through with the bishop in relation to a particular parish?
- 7 A. Let's just talk about what I would do in the Archdiocese. Cardinal John is in charge of all
8 of the parishes. The parishes are sort of like a geographical divvy up of the diocese. So
9 you know we have in fact in the Archdiocese a parish called St Mary of the Angels
10 downtown ministry there. And I can appoint priests to go there, but out of respect and out
11 of a spirit of cooperation and also because he may have a different opinion, I would write a
12 letter to Cardinal John and I would say, "Dear Cardinal John, this is what I am proposing to
13 do" and by then I would have already teed that all up and the rest of it, and I usually keep
14 that confidential because sometimes a bishop says "Well actually I prefer no, that you didn't
15 put somebody there." I think he's far too opinionated, they'd probably say that about me
16 and things like that, but, you know, he might say "Look, he's a man who's unsuitable for
17 that role I think." But then there's a particular thing of somebody being the parish priest.
18 And then I say to him and I propose to you John Smith to be the parish priest of the parish
19 of St Mary of the Angels. And then I would wait, and let's say he was out of the country,
20 I might wait two, three weeks or whatever for him to respond, and I cannot announce or
21 appoint that person unless he has said "I approve of that and I will appoint him to be the
22 parish priest of St Mary of the Angels."
- 23 Q. Thank you. Tim, I'm going to turn now to the redress process that the Society of Mary
24 uses. I'm going to do this in two parts. You set out in your brief for those who are
25 following along the document from paragraph 52 the process from about 2000/2002 when
26 you were appointed the delegate. And then I'm going to talk about the contemporary
27 experience. So these first discussions are just more about the historical development of
28 what the Society did in response. And I'd like to start by mentioning the 0800 helpline that
29 the Society established in 2002 which you talk about in your evidence and can you please
30 explain why the Society set that up and the type of response that the Society got at that
31 time?
- 32 A. Yes. Around about March I think of 2002 there was a television programme New Zealand
33 made probably in response to a lot of other stuff worldwide about sexual abuse of clergy
34 and I think it was entirely Catholic, in New Zealand. And one of our most notorious cases

1 of a person belonging to the Society of Mary, much of what harm he had done was made
2 very public. And because they interviewed the Provincial of the time, the guy who had my
3 role at that time, I knew and he knew that it would cause people to want to report. And so
4 we couldn't set up overnight for it, but we put half a dozen social workers and counsellors
5 into a system where people rang in and they were directed to these people to answer the
6 calls. I think, I'd have to check, but, you know, 137 is what comes to mind the number of
7 calls that we had in a few days. They were not all, I hasten to add, about the Society of
8 Mary, they're not all even about the Catholic Church, they were about all sorts of
9 institutions and organisations in New Zealand that a lot of people didn't have anywhere else
10 to go, and we acted as something of a clearing house for those. So if they're about the
11 Military we would have handed those on to the military, as an example. I hasten to add I
12 have friends in the Military and they were not all about the military.

13 **Q.** So at that point, the Society was quite extensively involved in the early drafts of A Path to
14 Healing. And you set out in your evidence Father Bearsley's role in that and him going to
15 the United States as a representative of the Catholic Bishops Conference as part of that
16 process. As part of that you were appointed as the delegate. So in the context of the
17 Society, what is the delegate and what did you do in that role in the early days?

18 **A.** Basically as the delegate, you are the person that coordinates for the Society, you are the
19 person that coordinates the response, the redress, for each individual as they come forward.
20 And to do that we had a team of others we gathered around us, experts in trauma, in abuse,
21 in social work, in counselling and things like that to help us to respond to what I think
22 would be fair enough to call a tsunami of complaints. It was in fact, it was a terrible thing
23 for the people I'm sure, but it was wonderful, I think that finally people actually could say
24 what they'd probably not been able to say for 100 years or whatever, you know, or however
25 many years. So was it good? No, but was it good? Excellent, yeah, you know.

26 **Q.** I said when I started to ask you questions your evidence talks about the different processes
27 that the Society has.

28 **A.** Sure.

29 **Q.** The Society is a signatory to A Path to Healing?

30 **A.** Mmm-hmm.

31 **Q.** But in addition at paragraph 55, and I'll get this document brought up please, CTH0001743,
32 you talk about this at paragraph 55. This is the Sexual Abuse and Boundary Violation
33 Policy most recently revised in 2006. You're familiar with this policy, Tim? I'm just going
34 to bring it up on the screen.

- 1 A. Sorry, I wasn't sure, yeah.
- 2 Q. So this was first created in 2002 and revised in 2006 as you can see. Why was this
3 document created?
- 4 A. To guide what we did. So, you know, there were already being set up sort of what we call
5 protocols, the ways of dealing with it, but a lot of the times those things are more
6 theoretical and so in this here it was to try and guide what we did as we moved forward.
- 7 Q. If we could go to page 4 please and call up the lower half of the document. You have this
8 in your bundle, Tim, at tab 13 if that's easier for you to have a look at?
- 9 A. That's excellent, thank you.
- 10 Q. You'll see heading "Receiving Complaints", if we could call up the bottom half of that
11 document please on the screen. You'll see there reference to A Path to Healing?
- 12 A. Yes.
- 13 Q. Then instructions for receiving complaints. For the Society, how do these documents fit
14 together, how does this society document and A Path to Healing fit?
- 15 A. This in general is sort of a basic way of sort of writing down what we were going to do. In
16 fact in most cases at this time me and one or two others would have actually been putting it
17 into place and we tried to write this because we knew we'd need a bigger group and the
18 bigger group we brought on these were the guidelines for running it but we trained these
19 too to take part in these receptions of complaint.
- 20 Q. This document is called the Sexual Abuse and Boundary Violations Policy, Tim, and I can
21 tell from your body language it's not a phrase you like. Can you explain what it means?
- 22 A. It sounds a wee bit like something from the wild west or something like that, "boundary
23 violations", but I guess the boundaries that's put around one's life are things like vows, or I
24 don't wish to treat everybody as if they need to be taught about the Catholic Church,
25 Diocesan priests don't have vows, they take a promise of celibacy, okay? So in theory a
26 diocesan priest could be married, in theory. But I may as well say that because it's true.
27 But nonetheless, if you've got a promise of celibacy or a vow then you would be stepping
28 outside your boundaries, if you were to have something like a consensual sexual
29 relationship with another person. I'm not saying you'll abuse them in any way, the other
30 person may in fact totally like that relationship that they're having with the person that they
31 shouldn't be having it with, but nonetheless, if we were to hear of that, we would consider
32 that to be a boundary violation. Sorry about the words.
- 33 Q. Is that language used now?
- 34 A. I've seen it used, some people would use that, it's not what I would say. I would just

- 1 describe what was happening to be perfectly honest.
- 2 **Q.** Your brief of evidence sets this out in chronological order, the developments that the
3 Society have undertaken in terms of responding. You talk about the sexual abuse response
4 team becoming the Sexual Abuse Protocol Committee. Is that Committee still in existence?
- 5 **A.** Yes.
- 6 **Q.** Are you briefly able to explain to the Commission the skills on that Committee and who
7 their role is within the Society?
- 8 **A.** Largely they are an independent body of us. We employ these people as contractors to
9 work for us, to help us to deal with the complaints as they come to us. So they're made up
10 of people like social workers, I'm not going to give you the exact make-up of today because
11 I'm not certain I could, but social workers, counsellors, former Police persons, former
12 customs inspectors, people like that sort of thing, there may be a psychologist or a
13 psychiatrist or all sorts of things like that on that Committee, as well as that there would be
14 a member or two of the Society who was there in the sort of "fill in the gaps" role. They
15 are not directing that, if you were to say to me was Ninian Chambers there in 1842,
16 somebody's got to be able to say the answer to that, never heard that name. Somebody's got
17 to be able to say that. One of the inspectors from the Royal Commission came to us and
18 spoke to us the name of one of our guys, he was one of yours, it says about that in the
19 paper, then they'd be away on a fast camel trying to investigate it –
- 20 **CHAIR:** Excuse me, you're on a fast camel Tim.
- 21 **A.** I'm sorry. One of the inspectors came to us and said this guy was one of yours. And I said
22 I've heard that name in my life. I went through all of our stuff to prove that they'd never
23 been part of us. I met the inspector here, very nice man, but then he discovered in fact he
24 was in a seminary in Auckland, despite the fact that this -- it said in the newspaper they
25 were in the seminary in Hawke's Bay which was definitely ours. Sometimes newspapers
26 don't have it exactly right.
- 27 **QUESTIONING BY MS McKECHNIE CONTINUED:** So what is the Rome of this
28 Committee, Tim, are they an assessment Committee, a decision-making body, a
29 recommending body, what do they do?
- 30 **A.** Okay, so it depends what year you're talking about exactly.
- 31 **Q.** Let's stay with the first part of the process, we'll come to the present later.
- 32 **A.** When I was the delegate?
- 33 **Q.** Yes please.
- 34 **A.** So what we would have done was we would have set aside people to be, as it were, the

1 meters of the complainant. So I have to be honest here and say a whole lot of this we were
2 helped through by a particular social worker by the name of Kitty McKinley. I'd add she's
3 well-known to the Police for being an advocate of all sorts of people but and the courts as
4 well. But she said to us "You must have a robust system whereby you are victim-centred,
5 whereby you are willing and able to go and listen to them and to share with them their story
6 and to ask around that gently and to record all of that", and that, so we took her advice to be
7 honest. And if I might say this, when Tom the other day was talking about best practice,
8 I thought to myself, maybe I might give Kitty an ice cream or something, she put us right,
9 we could have got it wrong, and I'm very grateful for her, her work doing this, but also for
10 several others, and I do want to add this because it's very important to me. Especially that
11 they were women. Men are sometimes very dumb in this area. Very dumb. That includes
12 priests.

13 **Q.** Virginia Noonan from NOPS obviously has just been giving evidence immediately before
14 you, she's been talking about the role of the National Office. The Society of Mary don't
15 participate in the National Office of Professional Standards process. Can you explain why
16 the Society is the only congregation that doesn't participate in NOPS?

17 **A.** Yeah, I can. I'm not sure I want to but I can. I think the way we do it works well for most
18 people and it works well for us. We are able to stay closer to the people that want to deal
19 with us. I wouldn't stop somebody if they wanted to go to NOPS and have it dealt with by
20 them and not come anywhere near us, but in many cases the person that's been harmed
21 wants to actually engage with us and we want to engage with them because what happened
22 to them was done by one of our guys who's ruined in many cases whole aspects of the life
23 of those people. And I don't want to say go out there you know, some extraordinary
24 well-skilled group will deal with you and we'll walk away and say how do we – what do we
25 care, you get dealt with by this independent authority. We have to go there, we have to say
26 we got it wrong, we didn't supervise you as well as you should have been supervised and
27 we allowed terrible people to do very bad things to you.

28 And then when I've been involved in this I have to say and on behalf of our men,
29 we are deeply shamed by this and we're very sorry for what's happened to you, because
30 they have to be told that, they have to have that pastoral care, they have to be listened to
31 and believed and understood and wrapped around and looked after and, you know, yeah it's
32 hard, it's very hard, and sometimes people push back against it and you still keep trying to
33 do the right thing and it's not always possible to do the right thing. But it's important to me
34 that we don't outsource it. It's important that within our Protocol Committee we have

1 people that are entirely independent of us, you know, that are investigators and their job is
2 to investigate, not, you know, but you know, I have to be careful with them, they want us –
3 former policemen – to not show the complainant any pastoral care first. And I have said to
4 them, no, that cannot be the way it is. They say "You contaminate our witnesses" and we
5 say "No, we're not, we're not trying to stop them saying anything, we're just there to listen
6 to them and there to express our sorrow and there to say we're here to work with you." So
7 I know that Police people are good and they're skilful and I really want them to be robust in
8 doing all that stuff, but I also want to make absolutely sure that the person that's been hurt
9 is helped, it's probably the wrong word, I'm going to use it anyway, is shown love.

10 **Q.** Earlier in the week, Tim, counsel assisting asked a question of one of the other witnesses
11 about when in the process a survivor being believed is important and when in the process
12 does a survivor get that feeling.

13 **A.** From us?

14 **Q.** In your experience having done this and sat with 20 or 30 survivors, when do you think a
15 survivor gets that feeling within the Society's process?

16 **A.** It must be on the very first day that you have a meeting with them. How else will they feel
17 they can continue to be part of the process? My absolute horror would be two policemen
18 going to interview them, former policemen sorry. There's nothing wrong with the Police
19 they do a great job. Do I think all cases should go to the Police? Absolutely, I wish
20 everybody had gone on the first day and it had been investigated then, but even now the
21 Police are more sensitive, but not every Police person is as sensitive as I would want them
22 to be in going to see this person, because they might approach that person as a possible liar.
23 And my approach to them is that they are not a possible liar. I could tell you now no-one
24 would come to this process with a lie like that. Within seven seconds of meeting with them
25 you know that they're not lying. And it's important to listen to their whole story, and, you
26 know, I regret to say that "story" is not a great word, sometimes think "story" means made
27 up. But the whole gamut of what they want to tell you and then to say to them "I believe
28 what you're telling me and I'm sorry about it. You got hurt, at a time when you were a
29 lovely, often young person who'd come into our care and we didn't protect you." And
30 whether people believe it or not, two of our hallmarks as a congregation, we're not called
31 the Society of Mary for nothing, we would take what we are as being a group of men who –
32 I have this ideal picture of a woman who was caring and who was loving and who was
33 compassionate and who worked in the world at the time of Jesus, his mother. And I know
34 that that's not everybody's cup of tea and I'm sorry, I'm not trying to preach here. But, you

1 know, they ran out of wine at the wedding so she goes and says "Get off your chuff, go in
2 there and sort that out can you." She was pregnant herself, she goes to see an old relative.
3 Those things we would take from that that we must be compassionate and loving and
4 merciful and some of that goes into the exact opposite of that. And, you know, our guys
5 that haven't done these things are very hurt by it too, but that's secondary I know, I'm sorry.

6 **CHAIR:** Please do not apologise, I'm only concerned for you. Would you like to take a break at
7 this moment?

8 A. No thanks, I'm fine.

9 **Q.** You're fine?

10 A. Yeah, I've dealt with this many times.

11 **Q.** I'm sure you have. We've got another 10 minutes for you to be fine then we'll take a break.

12 A. That's great, thanks.

13 **QUESTIONING BY MS McKECHNIE CONTINUED:** Tim, I've just got a couple more
14 questions to ask you about this then we'll move on to another subject after lunch. You
15 haven't put an apology in your evidence. And we talked about this last night and you made
16 the point to me that almost everybody else has put an apology in their evidence. I want to
17 ask you so you can explain to the Commission and the people listening why have you not
18 done that, why is there not a written apology in the brief.

19 A. I don't want to for one second take away from any apology, any other person that's come
20 here and has made, and I know that Cardinal John intends to apologise on behalf of the
21 entire Catholic Church, and he will include me and my lot, for want of a better word, in that
22 tomorrow too. And I sincerely thank him for doing that.

23 He's a very kind and gentle person and he would be more sincere than I could ever
24 be. But to me an apology has to be made face-to-face. **[Applause]** I was thinking to
25 myself, you know, for me everybody apologies that I've made has been face-to-face of the
26 yes, I've written some down, people sometimes like to have a piece of paper that says this
27 is – this shows that it really happened, you know, maybe even to a family member or
28 something they can go back to and hold on to and say see, this wasn't all made up. But, you
29 know, all of my apologies and all of the apologies that I have seen made from the Society
30 of Mary have all been face-to-face with somebody. It's an important Māori concept too,
31 this face-to-face thing. And, you know, I don't for a second profess to be the great answer
32 to Te Reo Māori, but kanohi ki te kanohi, it's really, really important if you – I think I said
33 to you yesterday when we were preparing, you know, you don't break up with your
34 girlfriend by text message, you don't tell somebody you love them for the first time by

1 e-mail, you do it face-to-face. Nowadays I suppose with Covid and the rest of it it might be
2 that you have to do it on Zoom, but it's still face-to-face.

3 And that is, you know, but the one thing I would like to say – sorry to go on – is
4 that I think that in all spheres of abuse, only some people come forward. And whether
5 we've got the tip of the iceberg or half of the iceberg or whatever percentage of the iceberg,
6 to those people that have found it too difficult, too difficult to come forward, I would say if
7 it was a member of my lot of the Society of Mary, I really do sincerely apologise if you've
8 never come to us. If you want to come now, at any stage come, and even if you just want to
9 talk with us and begin and see what's possible, if you want to be assured that the person that
10 offended against you is not in ministry or anything like that, great. It doesn't have to be
11 public if you don't want it to be. But similarly, go to the Police, go to a lawyer, go to a
12 counsellor, get helped to come forward. It does help I think but for them that may never
13 come forward, I sincerely say, I'm really sorry. Not on my own behalf only, but on behalf
14 of our guys who wanted to do only what was good and ended up doing some of the things
15 or some of our guys doing things which were only bad.

16 **Q.** Thank you, Tim. So to take you to one other document from this period before the break, if
17 we could call it up please, it's CTH0001749. While it's coming up I'll just explain to the
18 Commission this is a document from 2002. When we see it, Tim, I'll ask you to confirm,
19 Tim, you are the author of this document. If we could pull up the top half please. Tim, it's
20 not dated so can you confirm this is from 2002 and that you wrote it?

21 **A.** I did. It is 2002, absolutely.

22 **Q.** We'll have a look at the rest of the document in a minute. If you could now call up the
23 bottom of half of it. Could you explain what this is and why you wrote it?

24 **A.** I've heard people talk about in the evidence of the other faith-based organisations a matrix.
25 And, you know, I actually did teach maths, I was quite good at matrices, it's really the basis
26 of a lot of computing, which is also why my mind goes that way. But this is an attempt to
27 set out for us how we might sort of work our way through that. What are the factors that
28 you would put into the equation, and I'm not talking about a financial equation, although
29 ultimately it does lead towards that, but what would you take into account if you were
30 going to look at some sort of financial settlement. I don't know what the right word to use
31 nowadays is, because people talk about compensation, they talk about ex gratia payments
32 and they talk about koha. I don't want to call it a koha, I don't want to call it that because I
33 don't want just Te Reo to take the responsibility for something which is – so you know,
34 I wouldn't want to give offence to the Maori people that we were calling this a koha. So I

1 don't know, you know, maybe you might tell me sometime whether that's a good word for
2 it, I don't know, but you know, whatever it is, what would be some sort of financial redress
3 that we could make. And I set out there the factors that I thought should be used.

4 **Q.** If I could just pause you there, Tim, there are three factors we can see on that page. If we
5 can go to the next page please, just call them up, there are in fact 16 factors in this
6 document, so I just want the Commission to briefly see, the people watching, to briefly see
7 this. If we could call up the first half of the document. And then the second half of that
8 same page. Then moving to the final page of the document under the heading "A rough
9 guide". So you've set out in this document, Tim, an extensive list of factors you'll take into
10 account or should be considered when thinking about responding. And then you've set out
11 a rough guide there.

12 **A.** Mmm-hmm.

13 **Q.** This was written in 2002. Has it guided what you've done subsequently?

14 **A.** Yeah, we very quickly had to move the 30 to 50, but I'd hope so. I mean I don't have any
15 hands on involvement with the Protocol Committee nowadays and how they come up with
16 what their recommendation would be. The Society does not make a decision about the
17 financial redress that we would offer. The decision is made by our Protocol Committee and
18 it comes to me and they say to me "This is what we recommend" and sometimes even in the
19 short time that I have dealt with it I have said that I don't think that's enough. But, you
20 know, that's that.

21 What I also think – I want to say this even though it really has nothing to do with
22 the financial thing. What you're dealing with with a person who has been offended against
23 is the severity of the offence as they have received it. I was talking to a young man outside
24 yesterday and he said "This is my truth." And I think you have to realise that as a
25 responder that, you know, no matter how small you might think what happened to
26 somebody is, on this scale they can be still severely hurt. So, you know, to say to
27 somebody it was just a pat on your shoulder is to minimise and to try and – anything like
28 that is to try and reduce what's happened to a person. But at the same time I think you have
29 to have a system which says once put through this matrix, if we want to call it that, once put
30 through this probably highly inadequate document that I wrote, somebody's got to come up
31 with a determination of how we can help.

32 We went through the processes of discussing this with ACC, discussing this with
33 several people in the legal profession, to say what is it that is around about the right – I
34 think they use the word "quantum", I haven't used that word for probably 10 years, and the

1 answer to that really comes down to, what would you have got for a permanent injury like
2 having your arm chopped off in a machine. What might your family have got if – sorry
3 about this – but if you were dragged into the machine and killed, and that sort of thing, and
4 trying to weigh it up in terms of that. It's really hard to, you know, compare my one eye I
5 can't see out of, with your whole leg that you don't have, or Jenny's sexual abuse. But
6 you've got to try, I guess, otherwise you just say well we're stymied by this. This is an
7 attempt to try.

8 **MS McKECHNIE:** Might be an appropriate time to take the adjournment ma'am?

9 **CHAIR:** I'm sure we're all very grateful for that. We will take the lunch adjournment, can I ask is
10 it for an hour, 2 o'clock?

11 **MS GLOVER:** Yes, thank you ma'am. Let's make it 5 past 2.

12 **Luncheon adjournment from 1.08 pm to 2.07 pm**

13 **CHAIR:** Yes Ms McKechnie.

14 **MS McKECHNIE:** Thank you ma'am. Ma'am, before we resume a minor housekeeping matter.

15 I understand from Counsel Assisting the Commissioners are engaging with our time-tabling
16 challenges given we're running a little bit late.

17 **CHAIR:** We're looking for counsel to provide solutions, the sands of time are running out for us
18 pretty rapidly.

19 **MS McKECHNIE:** Yes, they are ma'am. In order to assist your decision-making if I can let you
20 know what the issues are with next week for the Cardinal.

21 **CHAIR:** Yes certainly.

22 **MS McKECHNIE:** Unfortunately, as we've indicated for some time, he can't appear next week.

23 **CHAIR:** It's the holy week, yes.

24 **MS McKECHNIE:** Particularly, ma'am, he has a thing called a Chrism Mass on Monday, in fact
25 the Cardinal has to give three, one at 11 am on Monday in Palmerston North, then on
26 Tuesday in Nelson and then on Wednesday – sorry on Tuesday afternoon in Wellington. If
27 he does not attend as the bishop they cannot take place. So it is unfortunately an
28 unavoidable and unmovable obligation.

29 Tim is happy to sit later this evening, or as long as you need to finish his evidence.
30 The Cardinal has offered, without asking me, ma'am, he can start at 7 am or whatever time
31 you need tomorrow and again can sit as long as is needed tomorrow, but with his apologies,
32 he is not able to attend on Monday or Tuesday.

33 **CHAIR:** I think that's entirely understandable. Thank you for the explanation which will assist.
34 Do we need to make final decisions now? But we'll think about it through the afternoon.

1 Can I just express my gratitude to all of those who are prepared to be flexible and to assure
2 you we will be as flexible as we can to make sure that everybody gets the fullest
3 opportunity. The last thing I want is for anybody to feel that their evidence is being
4 truncated or rushed in any way. Thank you for that information.

5 **MS McKECHNIE:** Thank you ma'am.

6 **CHAIR:** Welcome back, Tim. We'll carry on with your questioning.

7 **MS McKECHNIE:** Thank you ma'am. I have two other areas I'm going to cover with Tim now
8 and I have talked to him about answering my questions succinctly mindful of the sands of
9 time and also that we will both speak slowly and stay away from camels ma'am.

10 **CHAIR:** Yes.

11 **QUESTIONING BY MS McKECHNIE CONTINUED:** So Tim, I said at the beginning I was
12 going to ask you about current process and we have talked quite a lot about some of the
13 things that happened now in the answers to the questions before lunch. So if you are able
14 to briefly summarise, if somebody approaches the Society with a disclosure or to talk to
15 you in 2021, what will happen with that process?

16 A. In the way they approach us we'd probably approach them back that way unless they were
17 by chance to directly connect with the right person. The first thing to do would be to set up
18 a meeting between a delegate usually and one of our priests usually in the same way
19 I talked about going to see people face-to-face. I think it's essential that one of us and one
20 of us in the leadership goes to the person and sits with them wherever they want to, that
21 might be an independent place, they might want to come to our offices, they might want us
22 to come their home, they want us to meet their whānau, whatever. And sit with them to
23 begin the process, to cut it short, which I've already outlined. And it would be at that
24 meeting again that those important things would happen then, there may be some
25 backwards and forwards clarification necessary, you know, that usually could be done by
26 multiple different ways, but sometimes, you know, "You said it happened in 1963, our
27 records show that might have been 64", "Oh yeah, that's right", those sorts of things for
28 clarifications, but then the process would be similar to what I've outlined, to making sure
29 that we've got the statement of the person correct and then if the respondent is alive, there
30 would be a process of assigning interviewers to the respondent and possibly even to assign
31 an interviewer to the complainant. Sometimes if a complaint has been well-documented in
32 an early phase it may not be necessary to go through another what could be retraumatising
33 event to have to explain it to a whole lot of other people who sometimes don't understand
34 all of the realities of what the situation might have been. One of the things with somebody

1 that's worked with for a long time is that they get better at knowing the deal, where we
2 were, what we did and our guys that respond can help them with that too. But then, once
3 all the information is gathered, then our Protocol Committee would meet, the interviewers,
4 independent people, would report to the Protocol Committee, the interviewers would make
5 any statement that they wanted to make and would leave the room. Then the Protocol
6 Committee would make a determination as to the best ways, having already done things
7 like offering counselling and all that sort of stuff that might have been happening, as the
8 best way we could offer further redress. That might be by formal letter, that might be by a
9 meeting, that might be by a payment, that might be by couple's counselling, all sorts of
10 things, and we have had a wide range of other things. I heard other people talk about things
11 that they had done. We have done things like that too, you know, sometimes it's important
12 to somebody "What I really want to do is go and see whānau in Australia" or whatever.
13 That might be a wee bit stymied at the moment but that sort of thing does happen. Then
14 ultimately the delegate would come to me the Provincial and say "This is our determination
15 of what should be done by you to resolve this matter as much as it's able to be done." That
16 might include the payment, that might be the apology letter which I would write and sign
17 and that sort of thing.

18 **COMMISSIONER ERUETI:** May I just quickly ask here, thank you counsel. First it comes to
19 the Society, then –

20 A. It may not first come to the Society, sorry, it could come through NOPS.

21 Q. Right, okay.

22 A. And quite often it probably does come through NOPS, it's probably better known. But
23 sometimes people know us and know where to ring, it comes from various ways. It could
24 be even come to say the Marist Brothers or a diocese and they would redirect.

25 Q. Brilliant, thank you, and redirect it to the Society of Mary?

26 A. Yes.

27 Q. Then there's another step with the interviewers or like the investigators?

28 A. Investigators, right.

29 Q. And then there's the Protocol Committee. And then back to the Marist – sorry, the Society
30 of Mary?

31 A. Yes.

32 Q. Thank you.

33 A. But all the time the person may need to continue having pastoral care, and that would be
34 organised through the delegate and possibly just personally done by the delegate.

1 **Q.** Thank you.

2 **QUESTIONING BY MS McKECHNIE CONTINUED:** I'm sure there'll be some other
3 questions from my friend later about that process, I'm going to move on now to what
4 happens with the respondent. You talked briefly about that then. So if a complaint comes
5 to the Society where the respondent is alive, what is the process in terms of potential
6 discipline of that individual?

7 **A.** A complaint of?

8 **Q.** A serious harm.

9 **A.** To?

10 **Q.** So an individual comes forward with a complaint that a man from the Society who's still
11 alive harmed them in a serious sexual manner.

12 **A.** I draw a distinction between somebody who was at the time of the complaint a minor and a
13 person who was at the time of their complaint possibly a non-vulnerable adult, shall I put it
14 that way. I don't like calling people vulnerable adults, I don't think it's life-affirming or
15 anything like that. I don't believe that people who were badly hurt are always vulnerable.
16 So I don't like that word at all really. I just think they're adults but they've also been hurt.
17 Our first thing would be to say to call that person to us or probably we'd get in our vehicle
18 and get to the person and say "I'm sorry to tell you this has happened, from this moment
19 you are suspended from ministry."

20 **Q.** What does that mean Tim?

21 **A.** What that means is, I think the common parlance would be you're stood aside. Sometimes
22 I've heard words like gardening leave, I don't quite understand that word in business world,
23 but, you know, "You're not on the job. You're no longer to operate, act as a priest,
24 I wouldn't even say you should answer the phone. You're not to operate as a member of the
25 Society and/or a priest." And I would say, "Taking a photo at an event outside a wedding
26 and turning up in your blacks", "I'm not the ministry", I'd say "Yes you are, you're there in
27 your black clothes, maybe they think you're a priest in good standing, so don't do that, just
28 avoid all of those situations."

29 **Q.** So as you set out in your evidence the respondent is interviewed?

30 **A.** Mmm-hmm.

31 **Q.** There was some questions asked earlier in the week about what happens if there is a denial,
32 what's your experience of that?

33 **A.** It's a really good question. We've never had one. Well, I mean there's been guys that have
34 been dead, but of guys that are living not one has said no, that's not true. I don't know

1 whether to say this or not really; for many years I was in charge of boarders. I could tell
2 when a boy's lying and when a boy's not lying, I can tell when a priest is lying and a priest
3 is not lying too. I think that they would think there's not much point lying to me if it were
4 me going to be the interviewer. But our processes are pretty robust and I would say there's
5 little point denying stuff when it's damn well best that you did it.

6 **Q.** Following an admission, what happens to that priest or brother?

7 **A.** Well, they would still be on suspension, so to speak. Because the whole process has to
8 finish, you know, and the judgment made and the rest of it, but at the end of that time, and
9 I've only had to do this once personally, I would write a letter explaining all of the
10 constraints that would be on this person for the rest of his life, I would go personally to see
11 that person, I would make sure they have a support person with them of their choice but
12 probably from their own community, and I would walk them through all of that. I would
13 give them the letter explaining it more carefully, I would then give them time to react to
14 that, to ask questions after that, time to go away and reflect upon it and come back and ask
15 questions. I would speak to that person's community.

16 **Q.** And by that you mean house?

17 **A.** House I do, yeah, that's probably an easy word for you, yes, and say this man is in your
18 midst and has offended against whatever and there would be no names or anything like that,
19 not even the school it happened in as an example or the parish. But from this moment on
20 for the rest of his life, he will be out of ministry. And as I said, we personally in the
21 Society of Mary, are very, very clear that ministry means anything that's face-to-face with
22 anybody else.

23 **Q.** Can they come back into ministry?

24 **A.** No. There's one actual strange exception. If they were a priest they could, say, go to the
25 prayers and celebrations in the community with the others, if there was nobody from
26 outside the organisation there. There's one other thing that I would say, it's strange but I'll
27 say it anyway; a priest – you would have heard Tom say that he was still a priest. No-one
28 that I know would say he's still a priest. Once you're dispensed from being a priest you are
29 no longer a priest. I'm not saying that against him, I'm just saying that against him, I'm just
30 saying that's the facts. But in the event of somebody nearby him being in extremis, about to
31 die, you can again act as a priest. Why? Because the person is more important than the
32 job. So that would be the one possibility of acting as a priest to administer the sacraments
33 to a dying person.

34 **Q.** So you remove the faculties from that individual?

- 1 A. Yeah.
- 2 **Q.** So they are no longer and cannot be in ministry?
- 3 A. Mmm-hmm.
- 4 **Q.** Why don't you remove them from the Society?
- 5 A. It's a good question. If I was the local butcher, he'd get fired because I cannot help him in
6 his ordinary life. I can't say "Hey come and move in with me and my family", or whatever
7 else like that. But I think there's really good reasons for not, say, kicking them out. People
8 say words like defrocking, it's a very strange word to me, it's not a word we use, or have
9 them laicised or dismissed, and we could do that. But then where would he go then? He
10 would go into a little State house somewhere, because he wouldn't have much money, he
11 has had no salary or income for all of that time and he's got to be somewhere, is he going to
12 live next door to some school down the road in a house by himself, not on my watch he's
13 not. Absolutely not. He's going to live in a community where he is supervised and cared
14 for and looked after and hopefully loved inasmuch as we love each other, you know, see
15 how they love each other, not in any immoral sense, and supported. I don't want him to go
16 away and feel so ashamed that he tops himself either, to be blunt. I would take no pleasure
17 in that at all. In fact when anybody takes their life I take absolutely no pleasure in that at
18 all. So I want young people or whoever the person might have as their target one might say
19 to be safe, and I also want to make sure that they don't set up themselves somewhere in a
20 place where they might do something. So I think that we are responsible for this man and
21 we, some of our guys probably think to themselves I wish we didn't have to, but we do have
22 to, we do have to keep him and everybody else safe, and that's our firm commitment. And
23 would I tell the bishop yes, because he must know, he must know that a man who could
24 have been thought to be a priest in his diocese isn't – he must know. And if you want to ask
25 Cardinal John you can tomorrow. I sent him the exact letters that I sent both to the
26 individual handed him personally, and to each of our communities saying this man has been
27 dismissed from ministry and will no longer function with any faculties.
- 28 **Q.** Does that letter go anywhere else?
- 29 A. I send it to Rome too.
- 30 **Q.** Where in Rome?
- 31 A. To our Superior General, he may have reporting functions, I don't know about how many
32 priests have been removed from ministry, they've never asked me to serve in those great
33 heights, I don't honestly know exactly what happens.
- 34 **Q.** Moving on to the information that the Society of Mary collected in relation to your records

1 about complaints and disclosures, Commissioners this is part of a briefing paper you have
2 been given previously and you have a copy in the bundle in front of you for all of the
3 diocese and congregations of the Church, so I'm going to ask Tim about the ones for the
4 Society. To begin, Tim, how do the Society hold their records?

5 A. If we go back a long way they possibly were kept in a file which was sort of a confidential
6 file about things. Once -- again I'm sorry to mention it because it's not her fault at all, but
7 Kitty McKinley came on board with us, she said "You've got to have absolute perfect files
8 for this, you never know when you might need it." I never thought this might happen, but
9 we have kept really good records I believe since those days.

10 Q. And when did Kitty join and start working with the Society?

11 A. At the time of the tsunami, the 2002 tsunami is what I refer to, yeah.

12 Q. So to assemble this information, those records were examined. Did you do that yourself?

13 A. Sometimes, yes, sometimes. But we would -- each complaint comes in, we'd send them a
14 file, we've had to go back and do it for some that existed previously that were not put in a
15 file as well-structured and organised as they are now.

16 Q. Turning now to preparing the information for the Royal Commission.

17 A. Sure.

18 Q. Did you do that yourself?

19 A. No.

20 Q. Who within the Society prepared the information?

21 A. Several people really. And they weren't all members of the Society, at least three of them
22 weren't. A man who was a policeman and a lawyer did some of the work, a guy who
23 developed our database for keeping it and our spreadsheets and that did some of the work,
24 and Kitty McKinley did some of the work too. It seems to us that the familiarity with it
25 was probably helpful. You know, if you go to Kitty and say Jim Smith -- my mother was a
26 Smith so I shouldn't probably take that name in vain -- but she'd say "Yeah, that's that file",
27 so you could find it or whatever, so that was helpful. And our instructions to them were we
28 asked to be part of the Royal Commission, we have to give them everything they ask for.
29 And we have.

30 Q. As you'll know, Tim, because you are on the Tautoko governance group.

31 A. Sure.

32 Q. This process began before the Commission had formally asked for anything. So what sort
33 of information in terms of disclosures abuse complaints, what is included in this data?

34 A. Categorisation of each of the complaints and about the complainants and about the

1 respondents probably including their ethnicity, their age at the time of the offence, both of
2 the individual and the respondent, where it occurred, what sort of situation it was, was it in
3 an educational setting, was it in a parish setting, was it somewhere else, and all that sort of
4 categorising information.

5 **Q.** In order that this information is now public, I'm going to ask you some of these questions
6 so you can share the information with the Commission and with the people watching.
7 Commissioners, you have these documents if you want to follow through, the table
8 numbers I'm referring to are the tables that you also have. So Tim, first I want to ask you
9 about the numbers from your records, how many reports or disclosures of abuse the Society
10 of Mary have on their files. This is table 1.

11 **A.** So the total number is 81. I have to be honest here and say the most recent thing where I
12 was indicating before somebody had been taken out of the ministry I do not know whether
13 that's in here or not. But it would fall in scope.

14 **Q.** I can confirm to the Commission it's not and when we continue our continuous disclosure
15 we will include that. This information was gathered before that event took place. Tim, of
16 those 81 complaints, 58 of them are against children who are classified as being 16 and
17 under and 23 of them are against adults. Of the Church entities this is an unusual
18 proportion of abuse against adults, it's the highest of any of the Catholic Church entities as
19 a proportion of total claims. Do you have any observations about that?

20 **A.** I do. I can't be certain about this but I know, I was going to say anecdotally, anecdotally's
21 not true, but because of my involvement with it, I find this very hard to say. Some of the
22 adults were, I believe, religious women and to me that's terrible, as terrible as it is with a
23 child. Not because they were anything less than a fully functional adult, but women who
24 choose a life like that deserve to be allowed to – the quiet enjoyment of that life in the
25 ordinary sense of the legal term. For somebody to violate that I find it thoroughly
26 repugnant as I do with a child as well. Not that with any other adult I find it fine or
27 anything like that at all, but it just strikes me even as a sharper dagger, one might say.
28 That's what I suspect is partly the problem there.

29 **Q.** There's been a lot of evidence and it's quite well-established that there is a delay between
30 people being harmed, very often, and the complaint being made. At table 4 of this
31 information that is clear in the Society's records. There were three complaints made within
32 six months of the event but then the vast majority are made two, three or four decades later.
33 You've heard quite a lot of evidence in listening about barriers to people coming forward.
34 What observations do you have about the barriers from a – particularly if you can in the

- 1 Society that might have led to this?
- 2 A. I'm going to use a word which I probably use but I'm going to use it anyway. Quite often
3 I get asked to speak to young people. One of the things I talk to them about is the bag of
4 shit that life gives you. I promised you I wouldn't swear but I just have. All of us can pick
5 up in life stuff that really we carry around with us like a knapsack and quite often you get to
6 your – you arrive at midlife and you say I have carried this bag long enough and I must
7 now open it, no matter how bad it is, and how bad -- we won't go there, but, you know, and
8 look at it, open it up, explore it, deal with it, have help with it and try to have a better
9 second part of my life. And I think that a lot of the people that I've been associated with,
10 that was their founded hope, that the harm initially, but even through the early part of their
11 life, because they hadn't dealt with it would encourage them to come forward at midlife,
12 you often re-evaluate it, stupid men buy motorbikes and fast cars, but sensible people
13 evaluate what might have gone wrong and what the cause was that.
- 14 Q. Turning now to table 8, Tim, which is on page 6 of the document you have, in terms of
15 respondents who are alive at the time of the complaint – apologies, if we could go back to
16 table 6, sorry, this is about where the harm took place, the institutional setting. Your
17 records, and I appreciate this is difficult from some of the records, that 45 of these
18 disclosures took place in an education setting, nine in residential care or an orphanage, 11
19 in a parish and some others. Residential care in this table also includes boarding schools
20 and I know you wanted to make a comment about that 45 and 9 in the context of education.
- 21 A. I'd just lump them together. That's where I think it's 54 in my – I wouldn't guarantee that
22 somebody said it happened to me when I was at St Pat's that they were a day boy or a
23 boarder, they are the same thing. I do think, however, that, you know, if we go back to the
24 matrix, if you were in fact a boarder it makes it worse, because you're not going home to
25 mum and dad at night and you are co-institutional with the offender, at least mum and dad
26 is something to go home to and if you're a boarder you don't have that. You might at the
27 end of the term. I think that's a factor I would add into intensifying the experience of
28 badness, which is probably a ridiculous thing to have said.
- 29 Q. Looking at table 8, 45 complaints at the time they were made, the respondent was alive.
30 We've talked about that process, what the Society does when the respondent or accused is
31 alive. 35 of the complaints were made against people who were deceased. What process
32 do the Society use when the man is no longer alive?
- 33 A. Same process. We don't say "Sorry the guy that offended against you is dead so tough luck
34 or go away" or anything like that. We go through the same process, we might have to do it

1 with reviewing the files. I think Peter Horide was saying about if it's a one and only against
2 somebody it makes it more difficult, but if it's a recidivist offender there's no problem at all.
3 But as I said earlier, I don't think that there's a great phalanx of people who come forward
4 with a made-up story. Our first belief would be if you're coming to us to tell us about this,
5 we're here and ready to believe it, and that's why I always said when I was doing these, "I
6 believe you and I believe you on behalf of the Society of Mary." Sadly, I wonder about
7 this, people sometimes came to us within a year or two of the death of the individual. And
8 I'm not attributing any bad motive to the complainant, I'm just saying that might be the only
9 time when you're free enough to do that.

10 **Q.** Ms Anderson asked Virginia Noonan this morning about in the NOPS process why you'd
11 need to do an investigation if the person is dead. I appreciate you don't use the NOPS
12 investigation process, but the process you've just talked about, when a person is dead, why
13 do you still need to do that?

14 **A.** An investigation might be not the best word, but, you know, you've got to know that the
15 person was there at the time, you know, if they say "I was abused by Tim Duckworth when
16 I was in – at Saint – some school, St (inaudible) school, we were working in Whangarei,
17 I've never worked there. So you'd sort of want to check that out. Having said that, we did
18 have one gentleman that came to us that said that he was abused by a particular person and
19 probably, to my shame, I investigated it fully with others and the rest of it. The person that
20 he says abused him was never there at that time. I'm proud to say that others saw better
21 than me that this person was probably abused even though he completely got the name
22 wrong but he was so insistent that was the right name that it wasn't easy. But we've since
23 gone through the whole redress process with that person and I hope that they're okay.
24 I sincerely regret that I didn't see the sensibleness of just believing them anyway even
25 though they got the name wrong. Sometimes that's what you've got to do, I think, but, you
26 know, a lot of people would say you're a damn fool for doing that. But I think I tried not to
27 be a damn fool, but probably made myself a complete fool by not but others have made up
28 for me afterwards, which is often the way, someone else would put it right after I've put it
29 wrong.

30 **Q.** I have a final question about table 9 which is about redress outcomes, and the quantum is
31 there for the Commission to see, but the last questions I wanted to ask you were about the
32 apology and the figure on the table is 55 and that's where there is a record in the file or a
33 written apology. In your experience, is an apology given to somebody in the redress
34 process?

1 A. In my experience always. Now whether that was somehow in a shorthand way left out of
2 some records, I don't know. I didn't do all of the records, in fact I did very few of those
3 records. And whether somebody's counted up where a formal apology was given and
4 written down or they received an apology at the time of the financial settlement, I don't
5 know. But – and I've got no reason to suggest that the figure's wrong, but if I know what
6 I know, I would say that all cases that we have gone through and come out the other side
7 with, they have all had an apology, so yeah.

8 **Q.** Thank you, Tim. For completeness, Commissioners, that document I've been discussing
9 with Tim is EXT0015730. It's appendix 5 to the Cardinal's brief, briefing paper 5.

10 **CHAIR:** Thank you.

11 **QUESTIONING BY MS McKECHNIE CONTINUED:** Thank you Tim.

12 A. Thank you.

13 **Q.** Ms Glover has some questions for you now.

14 **CHAIR:** Thank you Ms Glover.

15 **QUESTIONING BY MS GLOVER:** Thank you Madam Chair. Tim, I'd like to start by asking
16 you just a few questions arising out of some of the things that you've just said.

17 A. Sure.

18 **Q.** One of the comments you made was when you were talking about the role that the bishop
19 has in relation to schools and you said that the care of people all falls within the
20 responsibility of the bishop. And you said "But primarily I'm not going to pass the buck,
21 I'm going to deal with the redress process properly and not shirk responsibility." What do
22 you think the bishop should do if the person in your role did shirk responsibility in any
23 way?

24 A. Well, I guess that's exactly what the bishops have done. They've set up a process which
25 takes it away from the vagaries of what people might or might not be able to do or might do
26 badly. That's what they've tried to do I think. You know, we are a larger congregation.
27 Why I'm not going to shirk away from it is because I think we have the resources to deal
28 with it. But if you're talking about a group of three brothers who are all elderly and about a
29 complaint which happened many, many years ago, they may not be able to deal with that,
30 and so the bishops have set up this process so it can be dealt with, even if the congregation
31 can't. So I think that they are shouldering the responsibility of it not being done by the
32 congregation themselves, even though I would personally see that as ideal.

33 **Q.** So the process, you're talking about the NOPS process here I take it, that takes it so far, but
34 then the end of the process when you're talking about the actual redress provided by a

1 diocese or a congregation to the survivor, that part remains with that particular diocese or
2 congregation. So what ought the bishop do, do you think, if that part of the process falls
3 down, if that's where the congregation or diocese ends up shirking their responsibility, it
4 would be the congregation, sorry, if it were the diocese it would be the bishop anyway?

5 A. I know this is a hypothetical question, but, you know, I'd expect the bishops that I know if it
6 were me to come and apply the blowtorch to me. That's what I'd expect. I must be
7 accountable for what I'm doing. You know, one of the meanings of bishop is overseer.
8 You know, that's a role of governance, it's not necessarily a role of management, but I have
9 a role of management and it's me who's supposed to be managing it. So if it was another
10 religious head of a congregation who wasn't managing it well, and it became known to the
11 bishop, then I think that would be quite fair for the bishop to say to a congregational leader,
12 we believe that you're not doing that as well as you might, maybe this – and if the Cardinal
13 or one of the other bishops said "We don't actually believe that the Society of Mary's
14 redress process is doing what you claim it's doing, if you believe that a congregation or my
15 congregation is not doing what should be being done, then please come and tell me" and
16 my, you know, I would expect a rap over the knuckles in the first instance and then to be
17 giving the assurance that I am doing it. And, you know, I do see that the NOPS CAC
18 bishops processes are working that way.

19 Q. You were talking also about the composition of the Sexual Abuse Protocol Committee.

20 A. Yes.

21 Q. And you were saying that it's largely independent, we employ them as contractors, you've
22 got social workers, counsellors, former Police, former Customs officers, psychiatrists,
23 psychologists, those kind of people, and then you said that you have a member or two from
24 the Society of Mary who act in a filling in the gaps role as a sort of repository of
25 institutional knowledge. I just wanted to ask you about the evidence that we heard in the
26 Phase One hearing in December last year from Ann-Marie Shelley, and we'll come back to
27 her experiences, but her evidence was that your role in the meetings that she had with you
28 was very much not, in her experience, just filling in the gaps, and her words were "He kind
29 of took control of the meeting." So when she's talking about the meeting between you and
30 her and one other person, she's very much directing her comments at you because she saw
31 you as taking that leadership role within the meeting. What would you say to that?

32 A. I'd say to that firstly – I presume you understand the case we're talking about?

33 Q. Yes.

34 A. So I wasn't there as a Marist at all, this was not a case that came to the Society of Mary

1 Abuse Protocol Committee. In fact, to prepare for this I had no, no access even to the file,
2 so that I could reinform myself, because it was a case which would be confidentially held
3 by the Archdiocese.

4 **Q.** I see.

5 **A.** So, you know, did I lead in that regard? Yeah, the woman that I work with, a wonderful
6 woman by the name of Jacqui Dromgool, a very lovely and compassionate woman that was
7 part of the inquiries, she's now deceased, she and I did it together, but she said to me on the
8 very first day "I've not done a lot of this, can you take the lead in this", and I had done a lot
9 of it. And I was sort of as a favour helping the Cardinal, not this Cardinal, the late – sorry,
10 sorry Tom, he's not dead, but the former Cardinal, to help to do theirs because I had more
11 expertise than maybe some of their men did.

12 **Q.** You say that you wouldn't stop someone who wanted to go through the NOPS process from
13 doing so, even if it were a complaint regarding a Member of the Society of Mary. Do you
14 think that complainants, survivors, victims know that?

15 **A.** We provide people with options. And the options that they have are all on the table at all
16 times and at times, you know, people come to us sometimes through the media even,
17 sometimes through the Police, sometimes through legal channels, sometimes they switch
18 from one to the other and over a period of many years they often switch the processes that
19 they're using. It's their choice, it's survivor-led. So yeah, I mean absolutely, if they say
20 "Look, we would prefer, or I would prefer this case to be dealt with by NOPS", then we
21 would have to, we would have to, you know, let NOPS deal with it.

22 **Q.** But that option isn't put directly to the survivors I take it?

23 **A.** I'm not doing it at this stage, it never existed when I was part of it, I am not part of our
24 Protocol Committee and I can't answer that question I'm sorry.

25 **Q.** You also said that you had to quickly move from a cap of around \$30,000 to \$50,000?

26 **A.** Yes.

27 **Q.** Why was that?

28 **A.** As I said earlier, we consulted lawyers who were in this field, we also consulted ACC and
29 what had been given to us we realised was possibly on the low side so we adjust it.

30 **Q.** What led you to consider it was on the low side, was it as a result of that external advice?

31 **A.** Mmm-hmm.

32 **Q.** When was that change made?

33 **A.** Honestly I can't tell you exactly. If you looked at the data we just saw there and you drilled
34 down into it you'd see when we first changed, I think you said there were some that was

- 1 received in that – the first one that received that would tell you when. I'm sure you've got
2 all that data and you could get that answer very simply. I don't have that with me.
- 3 **Q.** You said that in every instance where you've gone to an alleged abuser and said this is the
4 claim against you, they've all admitted it?
- 5 **A.** Mmm-hmm.
- 6 **Q.** And then you spoke about this process where you go to them with a letter and constraints
7 around what they can and cannot do, and those constraints would remain with them for the
8 rest of their lives. And you said "I only needed – I have only done this once." So what
9 happens to the others? What happened to all of the others who admitted that they had
10 abused somebody and yet didn't end up in this position?
- 11 **A.** They all did end up in the position, as Ms McKechnie asked me morning, how long have
12 you had this job, the answer is just over a year. So it was not my responsibility before now.
13 Before me I can give you the list of all of those men that might have had to do that. But it
14 would have been the Provincial at the time that had to do that. They're not going to send
15 some underling along to do it which I would have been.
- 16 **Q.** So do you have any insight as to whether the position that you would take as Provincial
17 would be any different?
- 18 **A.** Absolutely, that's our policy and that's what we've always done, every person has been
19 permanently removed from ministry that has offended against a minor or a vulnerable adult.
- 20 **Q.** You also said in relation to the Society of Mary's involvement with this Inquiry, that "We
21 asked to be involved, we took the approach that we had to provide everything to the
22 Inquiry, we had to do that".
- 23 **A.** Mmm-hmm.
- 24 **Q.** In your personal view, do you think that that obligation to hand over everything should
25 extend to, for example, legally privileged documents?
- 26 **A.** Absolutely, yeah. I mean honestly, and I know this is offensive and I don't mean it to be
27 personally offensive, I think lawyers are very good at hiding and I think that all lawyers
28 should always own up to what they do and say. I say that not in any way offensive but, you
29 know, we have not used lawyers in the large extent and for that very reason. When I first
30 came on the advice that lawyers gave us was very, very bad advice and that was to fight it
31 all, you know, and when I got there I thought to myself why are we fighting this? We say
32 we're compassionate and honest and open and loving and we care about these people, so
33 fight them back with a lawyer; no, that's the wrong thing to do, I absolutely repudiate that.
34 And our men that did that in the early years made a bad mistake but that was the advice

- 1 they were given by very, very well-paid lawyers. And as far as I'm concerned I wouldn't
2 pay a lawyer to give me any advice on any of this stuff at all.
- 3 **Q.** When you say when you first came on board and that was the position, what time period are
4 you talking about there?
- 5 **A.** I'm pretty sure that – hang on, I can check. April 2002.
- 6 **Q.** Okay, so we're talking the tsunami period.
- 7 **A.** Yeah, absolutely. It just happened to coincide with me taking office as Vicar Provincial at
8 that time, vicar meaning second in command, and the boss said to me somebody has got to
9 run this. So I actually stood aside from being a Vicar Provincial and took on this job,
10 because it was, as I said, the tsunami. But previously he had done his level best as well to
11 operate in the same way with the advice of counsellors and social workers and things like
12 that to modify it, so in fact I'm not claiming any of the credit for that change, he initiated
13 that, I just followed along.
- 14 **Q.** I'd like to bring up a document now please, it's EXT0000495. This document, when it
15 comes up on the screen, you'll see it comprises case notes from one of the witnesses from
16 last year, Mr F. So this is the Society of Mary's internal case notes. So I'd like to highlight
17 a passage from page 4, beginning with the phrase "Mr F said that all clergy need to be
18 aware of what is happening in relation to all this abuse. He believes the Church needs to
19 honestly appraise the situation and make an assessment of the size and scope of the
20 situation. " Then missing a sentence there moving on to, "Kitty said that the Society of
21 Mary is genuinely spending time on resolving these sorts of issues and that they are
22 learning from the process but she could not speak on behalf of the whole Church."
- 23 **A.** Mmm-hmm.
- 24 **Q.** So at that time, so August 2002, what was the Society of Mary doing in order to try and
25 assess the size and scope of the abuse problem?
- 26 **A.** Quite honestly at that time we probably had in the order of 35 active cases which we were
27 working. I was meeting at that time, and one of the meetings I know with the Cardinal at
28 the time, Bishop Pat of Auckland and other bishops and things like that to try and say how
29 can we deal with this together. And we came up with a plan for dealing with it which was
30 that you deal with yours and we'll deal with ours. The protocols had already been
31 developed, one of our men, a very intelligent man by the name of Pat Bearsley – he was
32 Oxford-trained, and probably the most intelligent man that ever taught me. No, I could be
33 wrong about that, another gentleman we have, still alive, possibly just as intelligent -- he
34 had done a lot to develop the protocols for this and, you know, we had been a big part of

- 1 that, but the Cardinal and other bishops had asked us to take a lead on that too, because –
- 2 **Q.** Are you saying you were just responding to the tsunami that was in front of you rather than
3 at this stage –
- 4 **A.** No, no I'm not.
- 5 **Q.** – trying to get a scope?
- 6 **A.** No, it's not what I'm saying. I'm saying at that time yes, I was responding to the tsunami
7 but previous to that we had been setting up this stuff, because there had been a small
8 number of cases. So we were starting to deal with this stuff in a better way than we had.
9 And as I said earlier, the big problem with the way we were dealing with it was that a lot of
10 people's first approach to us was through a lawyer. And the legal profession, I'm sad to tell
11 you, let us down badly. And I think they let the Church down badly and I think that they
12 shouldn't try to take on subjects that they don't know much about.
- 13 **Q.** So my question really is more about the data collection and what was being done, not so
14 much in developing the protocols and how to respond to complainants, because – and we'll
15 come to those, but more about was anybody at that time standing back and trying to assess
16 the scale of the problem?
- 17 **A.** I don't know the person who was standing back and trying to assess the scale of the
18 problem. What I do say is this: I maintain that one of the things I'd really like to see from
19 this Royal Commission is mandatory reporting of offences that have been admitted to or,
20 you know, complaints that are brought forward by any organisation in the country.
21 Because only as my very good friend Pope John XXIII said, if you don't open the windows
22 and let the light and the air in then how will you know the truth. And one of the things of
23 wanting to be part of this and, you know, the Cardinal led this, but you know, we need to be
24 part of this, is so that the truth is out. However it is –
- 25 **Q.** When you're talking about mandatory reporting –
- 26 **A.** Yeah.
- 27 **Q.** – how would you envisage that working, who's reporting to whom at what point in the
28 process?
- 29 **A.** I would say that any organisation that has a complaint, I'd say – I'm not attacking you there,
30 but a legal firm that's had these issues like we have had, of sexually inappropriate
31 behaviour within a legal firm, they should have to report it, because otherwise we don't
32 know that what's going on in this country is very bad. And some of it, I'm owning up to
33 and saying a lot of that might have been existent in the Catholic Church. Honestly, I think
34 most of us are surprised to find out how much.

- 1 **Q.** To whom would the report be made, are you talking about to the –
- 2 **A.** The Government's really good at setting up statutory bodies, I'm sure that they could. I just
3 think that should be done. It stops cover up. Cover up doesn't help. Cover up is the enemy
4 of dealing with this sort of stuff. And, you know, if we had to report it to the Police, fine
5 by me. Absolutely. You know, the sooner we get on top of this problem and fix it, and it's
6 not just a problem that we have, even though I absolutely have to say it is a problem we've
7 had, all of us need to care for especially women and children in our society, I think this is
8 really important. And, you know, one of the things that slightly upsets me about this is that
9 this Royal Commission will look at the State and at faith-based institutions, there are a lot
10 of other institutions where this is happening and a recommendation I would suggest would
11 be that everybody has to report it, and that non-reporting of it becomes part of the cover up.
12 Cover up is the problem. It's not the only problem, it's a big part of the problem. And we
13 have to be honest, we have to own up to it.
- 14 **Q.** Just a more minor point, you mentioned that in 2002 the Society established a sexual abuse
15 helpline?
- 16 **A.** We did.
- 17 **Q.** The helpline received a large number of complaints. That helpline's no longer active I take
18 it?
- 19 **A.** That helpline is no longer active but we do have a helpline, yes.
- 20 **Q.** I see, can you explain the chronology of when that helpline was discontinued and why and
21 when the fresh helpline was established?
- 22 **A.** Honestly I can't, but let me just take you through what I believe is what happened.
23 I initiated a helpline for people to call in and we had either a landline or a cellphone which
24 we could switch over from one to the other so it was manned, personed 24 hours a day in
25 the period when it was necessary. There's not a lot of point having a helpline which wasn't
26 being called ever. And so over time the number of complaints diminished significantly. At
27 that stage we took away the 0800 number thing and we gave out information, we publicly
28 said this is the number, we repeated a number of times this is where it is. You can find it
29 online, and if you ring us we'll give you that number. But how long would that have taken?
30 Probably a couple of years before things settled down.
- 31 **Q.** So the original helpline was in place for a couple of years?
- 32 **A.** Yeah. I think so.
- 33 **Q.** And when was the more recent helpline established?
- 34 **A.** From that moment on.

- 1 **Q.** I see, so there was no interregnum between the two?
- 2 **A.** Not as far as I know. I did this job, this initial job, for three years. I'm not trying to push it
3 away, but it almost killed me. I had orange hair on the day this began and within one year I
4 had white hair and serious health issues. At the end of three years I gave up and said I can't
5 do this because it will kill me tomorrow. Then others took over, I think, you know, to
6 continue the task, I've come back into it, I've not gone back into exactly the role that I had
7 there, but others have taken up the task. Fortunately one of our men, Piripi, fluent Maori
8 speaker, was able to take up after me, a man with more compassion than any man I know,
9 and he followed me and did a wonderful job in that role. I really, really take my hat off to
10 him, probably a much, much better job than I ever did. So you know, sometimes you think
11 to yourself you're the one doing the right thing but other people come after you and do it
12 better than you do. Certainly that would be true of him.
- 13 **Q.** I would like to ask you about the relationship between the Society of Mary and the Maori
14 community of this country.
- 15 **A.** Sure.
- 16 **Q.** Because we heard from Peter Horide about the way in which the Marist Brothers came to
17 New Zealand and with the primary purpose of working among the Maori communities,
18 you've described the Marist Brothers as cousins in the Marist family. And equally I take it
19 that that was one of the primary reasons why the Society of Mary came to New Zealand?
- 20 **A.** Exactly right.
- 21 **Q.** And you also mentioned that the Society were keen to establish a college, this is in your
22 written evidence, they were keen to establish a college specifically for Maori boys and that
23 resulted in Hato Paora being established. You've served on that board, I take it, among
24 others?
- 25 **A.** Mmm-hmm.
- 26 **Q.** I assume it's right that you would be familiar with the obligations of boards of trustees to
27 ensure that a school's policies and practises reflect New Zealand's cultural diversity and
28 also to take all reasonable steps to act in a manner that's consistent with the Treaty of
29 Waitangi?
- 30 **A.** [Nods].
- 31 **CHAIR:** We're getting nods here, are you agreeing with these possibilities?
- 32 **A.** Absolutely so far.
- 33 **Q.** It's just if you would say "yes" rather than nodding it would help thank you.
- 34 **QUESTIONING BY MS GLOVER CONTINUED:** Outside the schooling context, has the

1 Society of Mary made any explicit commitments with regard to the Treaty, do you know?

2 A. We've made – in the beginning I need to go back, at the Treaty we were there. One of the
3 things that's – at the time of the signing of Te Tiriti the Crown was doing its best to
4 establish this Treaty but our men, together with Bishop Pompallier, enshrined the 4th article
5 which gives religious freedom, rather than have, you know, a church which was to be the
6 State church, it gave Māori spirituality a place to stand in the Treaty. And I'm absolutely
7 certain that that wouldn't have been there without our men. Secondly, I'm sure that they did
8 it for their own reasons as well, you know, far be it for me to try and pretend that they were
9 doing it solely for the beauty of Māori spirituality. I would add that in my experience
10 Māori are the best people in the world at being ecumenical. So you often will sit on a
11 marae with people of other faiths, including the faiths which I'd say were primarily Māori,
12 but you know, we were there at that first instance.

13 But, you know, the participation and the partnership and the protection they're all
14 enshrined in the Treaty. There's things that we've often grappled with and in more recent
15 times I've been a big part of places where we've been establishing things in terms of that
16 partnership. And in fact with Cardinal John, our most recent achievement would be that
17 something we've done there at Otaki where there's been a very significant local iwi, hapū,
18 that have been negotiating with the Church about land that the Church has been using and
19 where it might be better worked through. We've done a lot of financial work with that too.
20 We continue to offer financial assistance to some pupils at Hato Paora. We have been part
21 of that boards and things like that, you talked about policies, I can tell you with absolute
22 certainty, that everybody policy that Hato Paora had when I was on the board was written
23 by me. They had none when I started on the board, so...

24 Q. So coming back to the question, and I take it from what you're saying that in your
25 perspective this partnership with Māori has been an intrinsic way in which the Society has
26 operated, but there may not necessarily be any particular explicit commitments to Te Tiriti
27 that we can point to?

28 A. Once every four years we hold what's called a chapter and the chapter is the – there can be
29 various types but the correct term for this would be a chapter of affairs, of matters, and the
30 Society has renewed again and again its commitment to the Treaty of Waitangi and to the
31 people Māori, because they were, as it were, our first love in this land. You know,
32 Pompallier came with the Marist, Pompallier was never a great Māori speaker, but the guy
33 that came with him learned English on the boat coming over and Māori within six months.
34 And you know, I have a cousin who's a Marist, and is a Pākehā and is the epitome of what I

- 1 would hope we could all be but we can't.
- 2 **Q.** In terms of that explicit commitment to Te Tiriti, are you saying that we would find that in
3 the records of the chapter minutes or records?
- 4 **A.** Yeah, absolutely.
- 5 **Q.** Thank you. And in terms of the documents that are specific to redress, has the Society, do
6 you know, taken any steps to, because I know that the Society has provided various input
7 into, for example, A Path to Healing submissions and the like. Has it ever made any
8 submissions or suggestions that a commitment to Te Tiriti should be incorporated in A Path
9 to Healing document?
- 10 **A.** To tell you the honest I've never been a part of any of that sending in submissions to how to
11 improve the Path to Healing. I would have thought that that would have been foundational
12 to that document. And I would say that, you know, to our great shame, many of the
13 complainants that came to the Society were Māori and as far as I'm aware, we always dealt
14 with that in a sort of Treaty partnership way with Māori speakers, with the respect with
15 meeting together, with, you know, beginning with a karakia, inviting whānau, and sitting
16 and sharing food with people and carrying on that relationship. In many cases they were
17 not well related to the Society. But, you know, it's sometimes families do bad things to
18 other members of the family.
- 19 **Q.** Thinking about the Society of Mary's own policy document, the Sexual Abuse and
20 Boundary Violations Policy that we looked at earlier, do you think that that policy
21 incorporates Te Tiriti in the way that it ought, is it foundational to that?
- 22 **A.** I think, I mean it's – you probably think it's – it doesn't because, I don't know, I can't
23 remember what it says, but Te Tiriti is not about a document, it's about a way of life, and
24 it's about a commitment and it's about a dedication and, you know, I don't think anybody
25 would say that we as a congregation are not dedicated to the people of the land.
- 26 **Q.** In your second written statement you refer to an example where you say an adapted form of
27 the Samoan ifoga was used for a Samoan complainant. I'm interested to hear what that
28 looked like and in what ways that practice was adopted and incorporated into redress?
- 29 **A.** Can I say to begin with, that I'm aware that we do not have a number of cases of Samoan
30 origin, of the complainant. And so I want to be very generalised in what I say because, you
31 know, I never want to hurt anyone deliberately or accidentally. So I didn't know anything
32 about this as a process and it's a process which is used in Samoan culture and ifoga is a way
33 in which the person who is offended can be restored in relationship with the family and the
34 individual that they have offended against and, you know, from my memory the person

1 who has offended would sit covered with a mat to begin with – I didn't know anything of
2 this, although I did learn quite a bit about Samoa as a 3rd former from a priest who taught
3 me from Samoa, sat I think outside, maybe on the ground outside the fale to – sat in shame
4 as he may well –

5 **CHAIR:** Tim, sorry to interrupt you. Are you describing what happened at the ifoga that was
6 carried out by the Society of Mary or are you describing your general understanding?

7 A. I'm trying to explain both because I'm well aware that in the room most people will have no
8 idea what I'm talking about, I recognise that Sandra will know exactly.

9 **Q.** I think there's at least one. May I suggest that you just tell us what you did.

10 A. Okay. As I said, in adapted form.

11 **Q.** Yes.

12 A. Okay. We're not in Samoa, the individual that was offended against was not Samoan born,
13 but certainly Samoan raised in New Zealand. And so we flew that person's family to
14 Wellington to meet with us, we took advice from – I said a lot of good things about social
15 workers, but from a Samoan social worker. She explained the process to us, she said how it
16 might run, how members of the offended family might participate, how I might participate
17 in it, how the individual that's been the offender might participate, and how I might,
18 together with them, lead prayers, and it finished in sort of a form of reconciliation which
19 I found beautiful actually, absolutely. Do I think everything was hunky dory after that?
20 No, but do I think everything was okay after that? Yeah. And sometimes that formal
21 recognition of the need for us to go through a process, you know, we Catholics have a thing
22 we call reconciliation or confession. And sometimes it's really important to be able to do
23 something like that publicly and say "I sinned, I got it wrong, I'm bad, can you forgive me,
24 would you ever be able to forgive me", and the answer came, I reckon beautifully from the
25 offended against woman and her family, there was a real reconciliation, we shared food
26 together, I thought it was good. I think she thought it was good, I've seen her quite
27 regularly since then, regularly by that I mean in most years since then, sometimes by
28 accident.

29 **COMMISSIONER ALOFIVAE:** Counsel if I may. Tim, can I ask, so it took place at a venue?

30 A. It did, it actually took place at a house.

31 **Q.** So it was survivor-driven?

32 A. Absolutely.

33 **Q.** You put it to them how they wanted it to happen and they essentially then directed –

34 A. Getting advice, worked –

- 1 Q. – put the parameters around –
- 2 A. Absolutely.
- 3 Q. – what should happen and –
- 4 A. Yeah.
- 5 Q. – who should be there? Did they explain simply – we're just trying to understand because
6 this is process that is used often and can be used very powerfully – what the roles were of
7 the different people from the Society of Mary?
- 8 A. The only person of the Society of Mary that was there was me.
- 9 Q. What was your role at the time?
- 10 A. Probably accompanying the offender, sort of, as it were, part of his aiga. But also probably
11 qua priest as well, and was able to offer the blessing to participate in it. To be honest, to
12 make sure it went okay too.
- 13 Q. And were you certain that the survivor was actually participating by consent?
- 14 A. Absolutely.
- 15 Q. There wasn't overt pressure from the family or from the faith?
- 16 A. I don't think before this the family knew of the existence of the problem.
- 17 Q. Thank you.
- 18 A. We can learn lots of things from other cultures, I thought it was wonderful, you know, in
19 the same way when I was at Hato Paora I experienced things there which are remarkable
20 that we can learn from Māori people, you know, the love that they have for each other, that
21 they demonstrate at times of real sadness.
- 22 Q. Thank you Tim. Thank you counsel.
- 23 **QUESTIONING BY MS GLOVER CONTINUED:** In his evidence at the Phase One hearing –
24 sorry, when I say that I mean the hearing at the end of last year when we heard the survivor
25 voices – Mr F said that it is difficult for victims and survivors to come forward and you
26 have echoed that today. Mr F also said that he feels that boys at boarding schools are at
27 particular risk and he says that there needs to be a helpline or something similar, some sort
28 of dedicated avenue that provides an independent way for them to ask for help. You've said
29 there's still a helpline in place and that's always been the case. It's not clear from Mr F's
30 evidence necessarily that he was aware of that. So two questions, firstly, has anything been
31 done specifically in relation to this particular cohort or any other particular cohorts about
32 enabling them to come forward.
- 33 A. I think unfortunately you're conflating several ideas into one. The first is that we don't run
34 boarding schools with Marists in them, so the thought that a Society of Mary priest would

1 offend in boarding school, they're not working in them. So you know, what am
2 I expecting? I'm expecting that the board of the boarding school, by that I mean the Board
3 of Proprietors, would have policies and procedures on how to deal with this. As well,
4 schools nowadays have counsellors and things like that which they never had at the time of
5 the person you call Mr F I think.

6 **Q.** Correct. And we can see from those records that we had up on the screen earlier, I don't
7 think we need to go back to them, but that back in 2003 Mr F also made a specific
8 suggestion to the Society of Mary that letters be placed in church foyers, apologising for
9 abuse in the Roman Catholic Church and providing contact numbers for people to report
10 abuse and seek redress?

11 **A.** Mmm-hmm.

12 **Q.** To your knowledge, were all of those suggestions fully implemented?

13 **A.** I don't know how many Catholic churches there are in New Zealand, I don't walk inside too
14 many of them, I couldn't tell you from personal experience, so you're asking for an opinion
15 I guess.

16 **CHAIR:** I think it's important you give us facts rather than opinion. Do you know of anything
17 like that?

18 **A.** I do, I do know, I've seen in foyers of churches that I've been in things put up that NOPS
19 has made but the diocese has made too, saying this is where you might get help, this is the
20 number to call, this is the abuse thing, you know, the stuff when you go to every diocesan
21 website explanation how you might come forward.

22 **QUESTIONING BY MS GLOVER CONTINUED:** So you would say to Mr F, "Yes to the best
23 of my knowledge we have done that"?

24 **A.** I don't think what Mr F is requesting is that. I think Mr F feels that as a vulnerable young
25 man in a boarding school he had nowhere to turn. I think if you follow through on Mr F's
26 evidence, he also sent his son to a boarding school where his son was abused.

27 **Q.** Correct.

28 **A.** Not, I might add, by a Member of the Society of Mary but that doesn't matter. Would he be
29 concerned about kids in boarding schools? Absolutely, and he should be concerned about
30 kids in boarding schools and we all should be concerned about kids in boarding schools.
31 One of the things as a person that was a dean of boarders was a constant concern to me was
32 that kids in boarding school had an avenue of somewhere they could go for whatever it was
33 that was concerning them. And I think that, you know, it's important that a school
34 recognises that and I think it's essential that a boarding school has the right sort of

1 advocates that, in this case we're talking about boys, but certainly girls as well, could go
2 and would feel safe and could make a disclosure of that matter.

3 **Q.** I think Mr F's concern as he was expressing it there, absolutely there is a concern about
4 boarding schools, but he was also expressing a wider concern about the Catholic
5 community more generally and whether or not the Society of Mary or the Roman Catholic
6 Church as a whole had done enough to try and make people aware of avenues by which
7 they could report abuse. So my question again, your response to Mr F, would that be yes,
8 so far as I know we did do that, we did everything we could?

9 **A.** Absolutely. I've had a lot of people say to me over time that the Church shouldn't make it
10 so much front and centre. I think that shows that we are taking it very seriously, and that
11 the ways of approaching to make a complaint are so obvious that, you know, I mean I hear
12 people say things like "I've never seen it", but, you know, nowadays we don't all sit in front
13 of TV One, you know, and young people, for example, don't. And, you know, putting it out
14 there all over the motu is hard today, it really is, but you know, you said to a person who's
15 21, it's on the website they'd say "What, you want me to go to a website? Is it on
16 Facebook?" And all that sort of stuff, and my answer to that is I'm not an expert on those
17 fields either, but maybe we could do more in that regard to reach out to maybe the social
18 media and other avenues, you know. I know a young man I was talking before about
19 preparing the information for us, never watches TV in his life. He would watch Netflix,
20 he'd watch other stuff, but you know, advertisements would ruin his enjoyment. So how
21 would we reach out to him? I don't know, he could be every day at the church that I know
22 of but he may never go and again, he's got the freedom of the children of God to do that,
23 but –

24 **CHAIR:** I think your answer is we could do more and reach out social media, good idea for these
25 young people.

26 **A.** Yeah, I'm not sure that even social media would reach them, you know, but it's certainly
27 worth looking at.

28 **QUESTIONING BY MS GLOVER CONTINUED:** These comments that are coming to you
29 about the Church, these suggestions that the Church shouldn't be putting this matter --

30 **A.** I didn't say that.

31 **Q.** – front and centre. What did you say?

32 **A.** What I said was I think that people who see these things say why does it have to be
33 everywhere all in front of us all of the time?

34 **Q.** What do you think, where do you think those comments are coming from?

1 A. The comments I think they're coming from is they have no experience, like we do, this is
2 why we put them there. So we have the experience, that's why we do it. They don't have
3 any experience of this. And, you know, if you see an advertisement 53 times on television
4 it normally makes me not want to go and buy that product. I think that's the sort of
5 frustrations with people who have no experience of this are expressing.

6 **CHAIR:** Is this the right time to take a break?

7 **MS GLOVER:** This is the final question on this point.

8 **CHAIR:** I can see fingers getting very tired over here.

9 **QUESTIONING BY MS GLOVER CONTINUED:** My question there, you're saying about
10 people seeing an advertisement 53 times, it might make them less likely to want to purchase
11 the product. Are you saying that there might come a level of over-exposure that would
12 reduce the likelihood of people coming forward?

13 A. I don't know. I mean you'd be asking me for an opinion about something which I have no
14 expertise on at all.

15 **Q.** Thank you, thank you Madam Chair.

16 **CHAIR:** We'll take 15 minutes. Because we know we're short of time we'll make it absolute
17 15 minutes. How much longer do you anticipate being Ms Glover?

18 **MS GLOVER:** Madam Chair, I think I need to consult with Mr Mount QC about that matter.

19 **CHAIR:** Certainly, all right, then we'll talk about timing after that.

20 **MS GLOVER:** Thank you.

21 **Adjournment from 3.33 pm to 3.52 pm**

22 **CHAIR:** Yes Ms Glover.

23 **MS GLOVER:** Thank you Madam Chair. Just a quick indication about the timing issue, the
24 position is that we will endeavour to get through Mr Duckworth and Mr Dew's evidence by
25 the close of play tomorrow but in immediate terms we'll reassess at 5 o'clock regarding
26 progress with Tim.

27 **CHAIR:** You might like to help us, Tim, with just keeping your comments as, not minimal, but as
28 economic as possible.

29 A. If you need to just tell me.

30 **Q.** I will. Bring your microphone forward, thank you.

31 **QUESTIONING BY MS GLOVER CONTINUED:** Thank you Tim. I'd now like to ask you
32 some questions relating to experiences of one of the oral survivors we mentioned
33 previously, Ann-Marie Shelley. And as you know, she was raped by a Diocesan Priest, not
34 a Society of Mary priest, Peter Hercock, but you, as you mentioned, became involved in

1 this complaint because you were a member of the Archdiocese Wellington Protocol
2 Committee that received the complaint. Ann-Marie Shelley said in her evidence that she
3 wanted to know who else apart from the two investigators, and I think there she was
4 referring to you and to Jacqui Dromgool, was on the Protocol Committee but she was
5 refused an answer. Do you know why Ann-Marie was not informed of who was on the
6 Protocol Committee investigating her complaint?

7 A. I don't. I don't believe that I was on their Protocol Committee, I was helping them with this
8 work, but if you ask me the names of people I don't think I could even come up with them.
9 I know a woman was their delegate at the time, but no.

10 Q. Do you think that that refusal was appropriate if that's what happened?

11 A. I think people need as much information as we can give them.

12 Q. So if it were you making that decision, you would have told Ann-Marie who was on that
13 Protocol Committee?

14 A. I guess you've got to be careful with information about persons. You know, if somebody
15 worked for us as an example and then they started to get abusive phone calls all the time,
16 I'd be a bit worried about that. I'm not suggesting for a second Ann-Marie might do that,
17 but you do have to be a little bit careful with people's personal information, their name,
18 I guess. But if your name is Duckworth, you're fairly easy to find in the phone book; if
19 your name is Smith's, like my mother's was, you're quite hard to find.

20 Q. Ann-Marie says she also assumed that the Protocol Committee used investigators with
21 appropriate experience and qualifications and her expectation was that the interview with
22 the abuser, Peter Hercock, would be recorded and notes taken and that she would be fully
23 updated about that interview.

24 A. Mmm-hmm.

25 Q. She told this Inquiry that her assumptions in those regards proved to be very wrong. First,
26 do you accept the criticism that the Protocol Committee did not use investigators with
27 appropriate experience and qualifications?

28 A. I don't know. I don't know what investigations we used in that. I wasn't privy to most of
29 this stuff.

30 Q. I think she was assuming you and -- I think she's referring there to you and Jacqui
31 Dromgool?

32 **CHAIR:** As the investigator?

33 **QUESTIONING BY MS GLOVER CONTINUED:** As the investigators.

34 A. Can you ask me what you're asking me again?

1 **Q.** Ann-Marie criticised the way in which she was -- particularly the way in which Peter
2 Hercock was interviewed. She thinks that the people who interviewed Peter Hercock took
3 his word when he minimised things and she thinks that they should have taken a recording
4 of that conversation with him and full notes and that she should have been updated in a fly
5 on the wall type account after that interview and she says none of those things happened.
6 You were involved in that process, what is your response to her criticisms?

7 **A.** She may well be right. But, you know, what one person wants another person doesn't want.
8 Some people get very involved with their particular case and they've every right to be, but,
9 you know, sometimes you need to make your needs known if that was an unusual way of
10 dealing with it. And --

11 **Q.** Was that an unusual way of dealing with it?

12 **A.** To record them?

13 **Q.** Yes, and to take full notes?

14 **A.** At that stage yes, I didn't take the notes, Jacqui took the notes, that was not my job.

15 **Q.** And to provide a complete or comprehensive account of that?

16 **A.** Again, that wasn't my job, I have no knowledge of what she was provided with.

17 **Q.** Whose job was it?

18 **A.** It was Jacqui Dromgool's job. But I'm not calling her out, I just, you know, sometimes I
19 was given some minutes to sign, I read them, I signed them, the documentation of it was
20 not my job, my job was to go and help these people as much as I could. Sorry, it's just not
21 in my job description that I had for that job then.

22 **CHAIR:** Could I just be clear, Tim, for this particular investigation was it you and Ms Dromgool
23 who did the interview with the respondent?

24 **A.** We did interviews with both of them, yes.

25 **Q.** With both of them, okay.

26 **A.** It was at an early stage in the development process of this. We didn't have dedicated
27 investigators at that stage. Not long after that they started to become part of it. But yeah.

28 **Q.** Thank you.

29 **A.** And I don't believe that, you know, somebody's denials of it or something like that is best
30 fed back to a person. I accepted what she said. We were a long way down that pathway,
31 what she said we accepted. Whether he denies it or what, you know.

32 **QUESTIONING BY MS GLOVER CONTINUED:** So you're saying it's not relevant?

33 **A.** I'm not saying it's not relevant, I'm just saying I'd be really worried of giving some great
34 denials of somebody if that's what you say he did to the individual they'd be complaining. I

1 think they'd be very hurt by that. I said, and I still believe, I believe exactly what she told
2 me and I made that abundantly clear to her. If you read the file which I've recently been
3 given she thinks I made it abundantly clear to her too.

4 **Q.** But that's different from providing her full information about the process?

5 **A.** As I say, that wasn't my task in this.

6 **Q.** So Hercock was interviewed in March 2003 and he admitted his guilt, although he
7 minimised it in certain ways, and then Ann-Marie met with you again to discuss the
8 outcome of the interview with Hercock, and at that point she was told that Hercock had
9 expected the complaint to come not from her but from another complainant. I'd like now to
10 play a short clip of her oral evidence about that meeting with you and Madam Registrar
11 that's Ann-Marie Shelley 1. (Video played). Why did you not see it as your responsibility
12 to assist other victims of Hercock?

13 **A.** I'm very aware that whatever I say here may well hurt Ann-Marie Shelley. If you want me
14 to tell the truth, the whole truth and nothing but the truth I will answer that question. But it
15 may not be a happy answer.

16 **Q.** Please do.

17 **CHAIR:** Ms McKechnie.

18 **MS McKECHNIE:** Ma'am, we raised this with Counsel Assisting in the weeks ahead of the
19 hearing how these particular issues may be addressed and whether it's appropriate to pause
20 the live stream while these matters are being discussed. I appreciate that Ms Shelley may
21 be watching through the live stream and that would be very problematic for her, but Tim is
22 very reluctant, as you can see, to further upset her, even if he is only answering to the best
23 of his knowledge. So I would ask for your direction about how best to do this.

24 **CHAIR:** Ms Glover?

25 **MS GLOVER:** Madam Chair, Ann-Marie Shelley has been in close contact with members of the
26 Inquiry in the lead-up to this hearing and has well-being support in place. She knows these
27 matters are going to be discussed and in fact there is a risk that it may cause her trauma for
28 answers for there to be --

29 **CHAIR:** For it to be closed down.

30 **MS GLOVER:** That's right, Madam Chair.

31 **MS McKECHNIE:** In light of that clarification I'm sure that will give Tim the confidence to be
32 able to answer if Ms Shelley has that support.

33 **CHAIR:** I appreciate that everybody who's spoken so far has got one person's welfare in mind and
34 that's Ms Shelley, and if you can give me that assurance that her well-being is cared for,

1 that it's not unprepared then I think it's in the interests of transparency that we continue.

2 **QUESTIONING BY MS GLOVER CONTINUED:** Thank you Madam Chair. So to repeat the
3 question --

4 A. I don't need it repeated. I did not say that, I would not say that, I would never say that.

5 **Q.** I'd like to play another related clip, Madam Registrar this is video clip 3. It's related to the
6 same issue in a way, but this time rather than looking at your personal responsibility or the
7 responsibility of the Protocol Committee or the Society of Mary --

8 A. Nothing's with the Society of Mary, I'm sorry, but carry on.

9 **Q.** To ask or to seek out other victims, but rather the responsibility of the Roman Catholic
10 Church as a whole to take that stance. (Video played). Do you agree with Ann-Marie
11 Shelley that if people know that they are not the only victim, it is easier to come forward
12 about the abuse that they've experienced?

13 A. Absolutely.

14 **Q.** And do you think that the Church has a moral or an ethical responsibility to seek out other
15 potential victims and to help them come forward?

16 A. Mmm-hmm. I think we've covered that, but yes.

17 **Q.** I'd like to bring up a document please, EXT0015633 and just while that's coming up I'll
18 give you some of the context. Ann-Marie Shelley gave evidence to this Inquiry about her
19 experience sitting in the courtroom when Peter Hercock was sentenced. She said "The
20 tension, while listening to the judge's sentencing speech, was increased when he read out a
21 character reference for Hercock written by Father Tim Duckworth, the Protocol Committee
22 priest who had investigated my original complaint to the Church." She said, "I have trouble
23 articulating my shock and the sense of betrayal by the Church in general and Father Tim
24 Duckworth in particular."

25 I'll go on to the question, I don't think we need to have the letter up on the screen
26 for you to answer this question. Did you consider that you might have been in a position of
27 conflict of interest in providing a letter of support for Hercock, given your role in relation
28 to managing Ann-Marie's complaint to, well, involving you as a representative of the
29 Society of Mary, but the complaint to the diocese?

30 A. I don't think there was any conflict of interest. I had been working for the Archdiocese and
31 I think I made it quite clear to the presiding judge and, you know, I'd be very, very
32 welcome for you to read that letter that I sent to the judge, I'd be only too happy for you to
33 read it entirely to the court because it isn't a character reference for Peter Hercock, it is
34 anything but a character reference for Peter Hercock. I clearly set out that I thought he was

1 a recidivist offender, I clearly set out that I was not supporting him as a --

2 **MS McKECHNIE:** Ma'am, are we able to have the document up please.

3 **CHAIR:** It's coming.

4 **QUESTIONING BY MS GLOVER CONTINUED:** It's coming. I'd like to bring up please the
5 paragraph starting, or the section starting "Some abusers were psychologically unstable".

6 A. Can I just say, though, that you're choosing to take the bits which don't show that I set out
7 clearly, as in the second paragraph, that I write not to excuse any of Mr Hercock's
8 behaviour and you're just going to skip over those things which I think are absolutely core
9 to what I was doing.

10 **Q.** I think in the interests of time we can't go through every aspect of every document.

11 A. Thank you.

12 **Q.** But your comments there are noted. The passage that I'd like to ask you about reads, and I
13 think this will come up so that you can see it on the screen more easily, "Some abusers
14 were psychologically unstable and we might now say that they had a personality disorder.
15 Say, for example, narcissistic personality disorder. Some abuse also occurred where young
16 men were educated in a single sex school, went on to a seminary where they were
17 somewhat cosseted and where their sexual maturity did not reach the level that their age
18 might suggest. I personally think this may be true for Mr Hercock at this time. I did not
19 know Mr Hercock at the time of this offending -- this is further down the page -- my only
20 contact has been more recently, but I write this letter to support him as he faces judgment.
21 I do believe that Mr Hercock who stands before you today is not the same naive young man
22 who committed the crimes." You're not a psychologist.

23 A. I am in fact but, well, I certainly study psychology and so I would say that I have got some
24 expertise in it, yeah. I also know that the absolute report which says what was the cause of
25 Catholic clergy offending, the John Jay report that came out of the United States, says that
26 those things I identified there were two of the major causes for abuse.

27 **Q.** But can you see that from Ann-Marie's perspective that she might take issue with you
28 providing this explanation, given that you didn't know Hercock particularly well and in fact
29 had only met him a couple of times?

30 A. Not really, no. If you want the full and final truth I'll give you what I did. I met with
31 Hercock before this and he wanted to dispute the evidence that was going to be --

32 **Q.** Yes, you've made that clear.

33 A. No, I haven't made that clear at all.

34 **Q.** Ann-Marie made that clear in her evidence, we know that you --

- 1 **CHAIR:** Sorry, Ms Glover, I think the witness is entitled to finish his sentence. Just tell us what
2 your version is.
- 3 A. I convinced Peter Hercock to plead guilty to all charges.
- 4 **Q.** Yes.
- 5 A. He did intend not to do that.
- 6 **Q.** Quite.
- 7 A. I absolutely and firmly believe that I did my best for Ann-Marie Shelley in that regard.
- 8 **Q.** But that's quite a separate issue, is it not --
- 9 A. No, it's not, no, it's not.
- 10 **Q.** -- from the issue of preparing this letter?
- 11 A. No. Because all people deserve help. I don't know whether you're a criminal barrister or
12 not, but if you were, you would know that lawyers, like yourself, defend people who are
13 before the court, and they seek assistance from those that might give assistance. I'm giving
14 assistance to the court here in the way I know I can. And my assistance to the court was to
15 assist the accused to plead guilty, which I think did a huge amount to help those that were
16 standing there as the offended against, because disputing that is to re-abuse people. I think
17 honestly I have worked hard in this case and I'd love to read you, I know we haven't got
18 time, all the many comments Ann-Marie sent to the Cardinal and others saying the work
19 I did was great. I know that she was shocked by this, but I'm not at all excusing anything
20 that Peter Hercock did.
- 21 **Q.** So just my final question in relation to this issue, could you not have encouraged,
22 persuaded Peter Hercock to plead guilty and to thereby save Ann-Marie in a way from
23 having to go through that?
- 24 A. And others, and others.
- 25 **Q.** Without necessarily then going on and providing this letter to the judge?
- 26 A. You're asking me a question that I couldn't possibly answer. Couldn't I have saved her? I
27 don't know, I did what I believed was the right thing to do.
- 28 **Q.** So was this letter tied to the fact of him pleading guilty?
- 29 A. Yes.
- 30 **Q.** So in your view he wouldn't have pleaded guilty --
- 31 A. That's right.
- 32 **Q.** -- if you had not --
- 33 A. Absolutely.
- 34 **Q.** -- you personally had not written this letter?

1 A. Absolutely, absolutely and I did it solely for that reason, to assist, in particular, Ann-Marie
2 and none of the others because I didn't know any of the others.

3 Q. So I said that was my final question, this is my final question in relation to this issue. Do
4 you think in retrospect it might have been helpful to Ann-Marie if you had told her that
5 that's what you were proposing to do and sought her consent to it?

6 A. It might have been. I didn't have -- I was 10, 12, more years, I had no contact with her, I
7 had no contact information for her, you know, I had done many things for her and she'd
8 actually, you know, despite what's been said here today, had recommended me to other
9 victims as the person to go to. And I could prove that if you'd like me to. I know she was
10 upset by this, I understand she would be upset by it, but I would really like her to know that
11 I did this entirely for her. I did this to help her. She was badly hurt, very badly hurt, and
12 this man had done it and I haven't excused anything that he did and I've tried to explain to
13 the judge the situation that existed.

14 Q. I'd like to ask you now some specific questions about another of the survivor witnesses with
15 whom you were involved, Mr F, we've spoken of him previously.

16 A. We have.

17 Q. Mr F's evidence was that -- this is at paragraph 4.6 and 4.7 of his written statement -- "Tim
18 Duckworth told me that Frank Durning had abused other boys. Also on 1 August 2002
19 Duckworth told me that Durning was a scumbag and referred to by his fellow priests as
20 'Fred the fiddler'. Duckworth later denied making this comment when interviewed by Phil
21 Pennington of Radio New Zealand." Did you tell Mr F that Durning had abused other boys
22 or that he was referred to by his fellow priests as 'Fred the fiddler'?

23 A. My answer to that is no, I didn't. I'd never heard the term 'Fred the fiddler'. The radio
24 reporter thought he'd caught me, you know, he rang one day and straight out asked me if I'd
25 said that. I have no memory of saying that -- no, I wouldn't say that; I would not say that.
26 And I can absolutely guarantee, bring the witness up here right now to say to you they were
27 in the room at the time that all that meeting occurred and I never said that. And what's
28 more, I know Kitty McKinley --

29 **CHAIR:** I'm sorry, but please slow down.

30 A. Okay, I know Kitty McKinley well, and she would always tell the truth, and I said to her
31 "Kitty, I didn't say that did I" and she said "No, and what's more, if you had have said that
32 I've have given you -- her words -- a slap about the head." Believe me she would have.

33 **QUESTIONING BY MS GLOVER CONTINUED:** As you'll know, Mr F also said, and this is
34 in that paragraph 4.51 of his written statement, "I rang Tim Duckworth in 2019 to get a

1 copy of the file on Durning. I was told and assured by Duckworth that after Stream -- St
2 Patrick's Silverstream -- Durning had no more access to students. I know this not to be
3 true. I have talked to fellow survivors who have contacted the radio stating they were
4 abused when Durning was moved to St Patrick's in Wellington. This just shows Tim
5 Duckworth again minimises and covers up the truth." That's what Mr F told this Inquiry.
6 What do you say in response to Mr F's comments?

7 A. I want to say if he says I said it I did, but I didn't. All of that information, sometimes
8 somebody like that rings you and says "Oh hi, how are you today, you know, and, you
9 know, did -- can you tell me, you know, can you send me a copy of something", which
10 I did. And you know, I wasn't working in this area and hadn't been working in this area,
11 and had no access to the files even of this area for a dozen years or more since I'd seen
12 Mr F. If I said that, and I don't believe that I did, but if I did say that it would be by
13 mistake. I was not trying to cover it up, I am the one that is trying not to cover it up. And
14 I -- I sincerely apologise to him if I did say that, I don't believe I did say that.

15 At times, however, you will see, and among his documents, sometimes we record
16 things as the appointment of a person was Wellington. And I notice there's a magazine
17 which we publish call the Marist Messenger and in it it says Wellington. Sometimes that's
18 unclear as to what the person was doing. I might have relied on something like that.
19 I didn't think he taught ever again, I'm not even sure he was teaching then at St Pat's.

20 Q. I think his obituary, and I'll just give the reference, EXT0000493 shows that Durning was
21 moved a number of times. I take it from what you're saying you're not in a position to
22 confirm or deny that he was moved on from those roles as a result of reports of abuse?

23 A. I'm absolutely confident that we had no reports of abuse at that time that any of those
24 moves took place. They all came to light more recently. I can actually give you the dates
25 of them all coming to light if you'd like me to.

26 Q. Actually that would be helpful, but we'll do it in a written --

27 A. It's all been submitted to the Royal Commission, but --

28 Q. Thank you.

29 **CHAIR:** We acknowledge it has been submitted, we will take note of it.

30 **QUESTIONING BY MS GLOVER CONTINUED:** Thank you Madam Chair. On a slightly
31 different topic then, you've said that the -- and this relates to treatment of offenders, and
32 you've said that you're either a psychologist or you've got some psychological training.
33 You say that the Society of Mary records indicate that psychological assessment and
34 treatment was sought for men accused of wrongdoing, and that sometimes this involved

- 1 treatment in Australia.
- 2 A. Mmm-hmm.
- 3 **Q.** And you say that at that time the nature of recidivism for sexual offending was not well
4 understood in the late 1980s and early 1990s and it was thought that the drivers behind that
5 sort of offending could be cured. So I take it from your use of the past tense and your
6 reference to those previous decades that you no longer believe that --
- 7 A. I never -- I'm not saying I ever believed that, I'm saying people did believe that.
- 8 **Q.** What are your views on the treatment of offenders?
- 9 A. I think residential treatment of offenders can assist them to understand the enormity of their
10 crimes. Do I think that it can overcome the psychological difficulties that they have or the
11 propensity to commit crimes? I'm not willing to take the risk, I'm sorry. So my answer is
12 no I don't believe that it will. That's why we have the policy, that's why I've explained all
13 that to you fairly well already I think.
- 14 **Q.** I'd like to bring up now document CTH0001469 on to the screen. This is the notes of a
15 meeting on 10 September 2002.
- 16 A. Mmm-hmm.
- 17 **Q.** It's a meeting that you've described in your evidence, it's a meeting that you attended. And
18 it was a meeting to discuss the financial implications of sexual abuse claims. If we could
19 bring up please paragraphs 1 to 3 on page 1 we see there at number 1 "The dioceses and
20 religious orders in New Zealand need to have a common policy and act within agreed
21 parameters." And then at paragraph 3, "In discussing the limits of our financial
22 commitments, our objective is not to evade any moral obligation we might have to redress
23 injustices, but is to exercise responsible stewardship over the resources that have come
24 mainly from the Catholic people. How the people feel about payments is a proper matter to
25 take into consideration. The Catholic people have already contributed to the ACC fund set
26 up by the Government specifically to meet these needs."
- 27 Who are the people referred to here, is this the laity? I know you don't like that
28 term, but ordinary Catholics, is that what it's talking about here?
- 29 A. I imagine it's anybody who might call themselves Catholic really, yeah.
- 30 **Q.** And it talks about taking into account how those people feel about the payments.
- 31 A. Mmm-hmm.
- 32 **Q.** Do you think that it is likely or possible that some of those people might have felt that
33 providing financial compensation, even perhaps quite generous compensation, to victims of
34 sexual abuse was the right thing to do?

- 1 A. They may very well have. I didn't write this but, you know.
- 2 **Q.** And then moving slightly further down this document looking at paragraph 4 on that first
3 page, which reads -- this is referring to ACC claims and saying that "The financial
4 compensation should be based on objective standards and for this reason we wish to use
5 ACC assessments." You've already said today that different people can suffer markedly
6 different consequences from similar instances of abuse. I'm interested in your thoughts on
7 how ideally a redress scheme ought to balance, on the one hand, providing consistency of
8 redress to people who have suffered similar types of abuse, and on the other hand meeting a
9 particular victim's actual needs, whether that's paying for addictions treatment or health
10 treatments, or housing, or education, or training, or whatever else they may need. I take it
11 from what you've said earlier your preference is for the latter?
- 12 A. Mmm. Yes.
- 13 **Q.** Do you think that that should be determinative or do you think it should just be weighed
14 more heavily in the balance?
- 15 A. Well, it all should be weighed in the balance. You know, to be blunt, I dealt with people
16 whom a financial compensation, small or large, would have made no difference to their
17 lives. I dealt with others who \$20 a week in the pay packet would have made a huge
18 difference to their lives. Do I think we should possibly be more generous to those that
19 would help more? Yes. But, you know, all of that needs to be taken into the determination,
20 because at the same time I just add one more thing. Sometimes a person can believe that
21 everything that hasn't gone right in their life is caused by one external thing that has
22 happened to them. And you've got to be able to weigh that up. By that I mean, I have dealt
23 with a person who probably in the modern parlance would be said to be differently abled,
24 and you know, my,-- as an example, this isn't a quote but it will do,- my brother is a lawyer,
25 my sister is a doctor but I'm not. Realistically if I'm honest I would have to say I don't
26 think that you were going to be a l-awyer or a doctor or whatever. So the person's belief
27 may be sometimes slightly erroneous as to the cause of their impairment.
- 28 **Q.** I'd like to move to paragraph 8 of this document which says, "The amounts being paid out
29 will not be made public by the diocese or religious order. There will be no public
30 disclosure of agreed ceilings." Do you know why there was not to be any public
31 disclosure?
- 32 A. No idea at all. If you look at the list of participants, I'm the boy in the room. You know, I
33 don't know whether you've experienced that, but the others are much, much more senior to
34 me.

- 1 **Q.** Can you see that there might be a level of suspicion amongst survivors and their advocates
2 that one reason why the amounts being paid out were not to be made public, was to keep
3 other potential victims in the dark about the going rate, as it were, and therefore less able to
4 negotiate effectively for a larger sum?
- 5 **A.** I do, but can I put the converse of that to you too. Two brothers were abused by a member
6 of the Society of Mary. What happened to one and what happened to the other were vastly
7 different. I would, if I was to recommend, and I think they actually got this, one got a
8 significantly high pay-out, shall we say; the other one, what happened to him was
9 significantly different, and if one brother tells the other this is what you will get, it isn't that
10 helpful. So sometimes confidentiality about amounts like that can be helpful to the person.
11 Similarly if you read in the newspaper that everybody in the United States gets 180 million,
12 like George Floyd's family recently did, you might expect that in New Zealand. But you
13 might expect it but you probably need to realise that that's not the truth, that's not what's
14 going to happen.
- 15 **Q.** Another thing I'd like to ask you about is there is some references in these documents to the
16 use of mediators. I'd like to bring up please CTH0001738. This will be a document that is
17 familiar to you is an exhibit to your statement. It's the minutes of the November 2002
18 Provincial Council. I'd like to bring up please the section that reads "In light of the bishops
19 recently adopted policy, the Society of Mary will appoint a person to act as a mediator
20 in -- this is referring to abuse cases -- that have been brought against our organisation." Did
21 the Society of Mary ever employ a mediation-style process?
- 22 **A.** I see it's a name of gentleman there I'm not going to read out, you might want to. I don't
23 think a man of that calibre would be the best person to use that, use that process. I'm not
24 sure -- what I'm saying by that is, I don't think that a man of his high experience and skill
25 should have been used in this. But would a mediator have been good? Yeah, I think that
26 would have been a good idea.
- 27 **Q.** So my question was really, to your knowledge has it actually --
- 28 **A.** We have used, we have tried to use mediators, it hasn't been particularly successful as far as
29 I remember.
- 30 **Q.** And why was that?
- 31 **A.** I don't remember but I could give you an answer, but it's not going to be pure fact it's going
32 to be my opinion.
- 33 **CHAIR:** Was it tried and not continued, the use of mediators?
- 34 **A.** Yeah, that's what I would think, yes.

1 **QUESTIONING BY MS GLOVER CONTINUED:** Would you accept that there is a
2 considerable difference in power between a victim of abuse who may still be suffering from
3 all the issues that flow from that abuse, and the institution at which the abuse occurred?

4 A. Absolutely.

5 **Q.** That power imbalance would be presumably exacerbated by the fact that this is the victim's
6 first time embarking on such a process, whereas the Society of Mary would have been
7 through the process a number of times, there's a knowledge imbalance there as well?

8 A. [Nods].

9 **Q.** And would you accept that that might be one reason why a mediation process could be
10 problematic in this sort of case?

11 A. It could be. The only other thing I'd add to that to help you is that when we were talking
12 about, for want of a better word, I'll use the word settlement, we always advise people to go
13 to a lawyer and ask is this what you think is fair, you know, consult a lawyer. Because if
14 we're going to offer something which is completely in the wrong ballpark then they need
15 somebody to be able to say to them, that's completely in the wrong ballpark. You know,
16 you should go back and say that's not acceptable.

17 **Q.** I'd like to bring up another document please, CTH0001740, and again this is minutes from
18 the Provincial Council dated December 2002. If we could pull out the part that reads,
19 number 3, "A process for financial compensation -- at the top of the page -- for sexually
20 abused." We can see the subheading there, or the note there, "Council discussed a process
21 of settling financially with victims of sexual abuse." And underneath that we see that the
22 Council agreed to offer ex gratia payments up to \$20,000 to persons seeking a financial
23 settlement, but no more than \$10,000 would be paid out to victims of deceased confreres.
24 If the offer is not accepted a mediator would be used to resolve the issue". And then as you
25 say, "The complainant would be invited to engage a lawyer. Criteria will be developed to
26 determine what the initial offer would be set at. The mediator would have an ability to set
27 an amount of up to \$20,000 only. This fits within the approved budgeted figure for these
28 settlements and this work in the financial years 2002, 2003 and 2004. Council will look at
29 the protection of assets sufficient to provide for confreres living in the province."

30 The first point I'd like to draw out is this comment that the mediator would have an
31 ability to set an amount of up to \$20,000. So in perhaps a more usual understanding of
32 what a mediation would look like, the mediator would be completely independent and not
33 acting as an agent for one or other of the parties and wouldn't have any control over the
34 outcome of the mediation. Would you accept that the role that's been described here is

- 1 actually closer to a professional external negotiator rather than a mediator?
- 2 A. That might be a better word.
- 3 Q. And is this the process that was in place when you said that mediation was trialled and then
4 ultimately rejected?
- 5 A. I'd like to give you an honestly, I honestly don't know.
- 6 Q. The other point I'd like to draw out is the comment about the approved budgeted figure for
7 these settlements, do you know who sets that budget?
- 8 A. It would have been set in a conversation between the person that was the bursar and the
9 Provincial Council.
- 10 Q. And do you have any knowledge of how that budgeted figure would have been arrived at?
- 11 A. I don't know what the budgeted figure is, so it would be hard for me to calculate that, but,
12 you know, if you've got 100 people wanting \$20 you need 20 hundred, so I guess you've
13 got to sort of set out for how much money you've got for your income and how much
14 you've got to spend and all of us live within budgets like that I think.
- 15 Q. So are you saying that -- is this something outside your knowledge, are we moving into the
16 realm of speculation here about how it was set, because I don't want to push you on it?
- 17 A. Pretty much, but I mean if I was part of this, and I don't know that I was, I certainly have no
18 memory of it. My financial acumen at that stage would not have been great. I've learned a
19 lot since.
- 20 Q. We also see here this statement that counsel will look at the protection of assets, sufficient
21 to provide for the confreres living in the province. What do you think the reference to the
22 assets being protected means, is it a reference to the assets being ring-fenced somehow or a
23 settlement budget capped at a level that would mean there was enough left over to provide
24 for the lifestyle of the confreres in the province? What do you take that reference to mean?
- 25 A. My understanding of what the reference would mean is, if you did -- I think it's, you know,
26 you get a person that looks at the longevity of people and how long they might live and
27 how much they might need to continue to live and their income and the rest of it, you've got
28 to work out whether you've got enough to do what you're doing for the people and also
29 carry on the ministry that we're doing which costs money and to work out are we going to
30 have to say to everybody sorry, there's no money for food from now on, I think that's what
31 it's saying. Now I don't know whether it's even a sensible thing to suggest, I don't know,
32 but you do have to, in any budget, work out, you know, it's great to have spent a lot of
33 money, say, on insurance, but if that means that you can't afford a car, there's not a lot of
34 point having the insurance, if you know what I mean.

- 1 **Q.** In his evidence Mr F said at paragraph 4.23 -- this is why we're on to a slightly different
2 topic. He said that, "In July 2005 Philip Cody wrote to my solicitors regarding the issue of
3 compensation. He stated that the Society of Mary does not make and has never made
4 compensation payments in respect of sexual abuse, but that they do make ex gratia payment
5 gifts to acknowledge a person's suffering and to assist them with rehabilitation." He says
6 "The Society offered me an ex gratia payment of \$5,000 which he stated was the amount
7 offered to a complainant when a respondent was dead." Does that accord with your
8 understanding of the position at the time that the ex gratia payment of \$5,000 was the
9 standard amount offered to a complainant when the respondent was deceased?
- 10 **A.** I think we've probably seeing two things, one which said the smallest amount we gave
11 anybody was \$5,000 and we've also seen that when making a judgment about a
12 complainant that names a deceased person, that the desire was to pay a lower amount
13 because the corroboration, you know, as I've said previously, all of our guys that were
14 accused that were alive said "Yes, I put my hand up I did this." You have no person to put
15 their hand up to say "I did this." In terms of the person we're talking about here, and I'm
16 talking not about Mr --
- 17 **Q.** F.
- 18 **A.** -- F but in terms of the respondent we might call him, I don't think that there was a lot of
19 justification to think that he didn't do what he said. But in terms of the matrix that people
20 have talked about, and I don't want to say this but you keep wanting me to say these things
21 and you assure me that people will not be offended by this: I worry that the offending
22 would be considered to be at a lower level than some other offending.
- 23 **Q.** I'm interested in your comment about corroboration where the person is deceased, because
24 you've also said that you don't believe that there is a huge phalanx of people who come
25 forward, I'm talking survivors, who come forward and make these claims when they're
26 untrue.
- 27 **A.** And I would absolutely emphasise I totally believe Mr F.
- 28 **Q.** Can you see that from a survivor's point of view, if they're coming forward to you and
29 making their reports of abuse and you say that you can tell within 7 seconds whether or not
30 they are telling the truth or not, from their perspective, why ought it make any difference to
31 their redress depending on whether or not the perpetrator is still alive?
- 32 **A.** Was there a question there? I didn't see the question.
- 33 **Q.** So the question is, from a survivor's perspective, do you see that it might be seen as
34 somewhat arbitrary if they come forward to you with a complaint of abuse that you believe,

1 but yet their redress outcome might vary depending on whether or not the perpetrator is
2 alive or deceased?

3 A. I can see that they might think that. Given that a huge number of years had gone by, people
4 have opportunities to do what they want to do and I guess, you know, there's two things that
5 I'd say. One is that the offences that Mr F speaks of were not just what Frank Durning did
6 to him, and I think that that compounds his understanding of where compensation should
7 sit. But secondly, the longer one waits to do the right thing here, for one's self, the more
8 chance there is of finding that the information that might corroborate it goes away. And
9 even finding people that knew and worked alongside Durning by that stage was minimal,
10 you know. I'm absolutely convinced when I read Mr F's evidence he believes we all knew
11 about it all of the time. But I can and I would, if you wanted me to, and will subsequently
12 show you that that's not true, and couldn't have been true.

13 **CHAIR:** Can I clarify something with you.

14 A. Sure.

15 **Q.** Given all that you've said, I'm having difficulty -- I'm struggling with this concept that if
16 you see -- and we'll take Mr F out of it, just hypothetically -- if you hear the account of a
17 survivor A and you believe them implicitly from the start, as you've said, and the
18 perpetrator is alive, then you might give them \$20,000, but if you hear the same account
19 from survivor B and you implicitly believe them and the perpetrator is deceased for
20 whatever reason, and they only get 5 or 10 because of the death, I'm struggling to see the
21 difference conceptually between the two amounts.

22 A. Totally agree with you, Judge. Totally agree with you. That was then, this is now.

23 **Q.** Have things changed?

24 A. Absolutely. We wouldn't make a determination based on the death of the respondent shall
25 we say. Not now, no.

26 **Q.** Okay, thank you.

27 A. It does leave us a little bit exposed, I admit that.

28 **Q.** Only if you don't believe them when you speak to the person.

29 A. **[Nods]**.

30 **Q.** If you had doubts then obviously you'd have to --

31 A. There's a fairly famous case in New Zealand of someone who was paid out a huge amount
32 of money that was proved to have told a lie; it does happen, it does happen.

33 **Q.** But in any event, this is a realisation that was possibly not the best criteria to apply.

34 A. Yeah, I know, but to be honest you don't always get it right the first time.

1 **Q.** Absolutely. I think we've learned that.

2 **A.** We have.

3 **Q.** At great length. Thank you Ms Glover.

4 **QUESTIONING BY MS GLOVER CONTINUED:** Thank you Madam Chair. I would also
5 like to explore with you this concept of an ex gratia payment and I know you've had some
6 discussions about this already. You may be familiar perhaps with the recommendations of
7 the Australian Royal Commission?

8 **A.** I am.

9 **Q.** And one of those recommendations was that the purpose of a monetary payment under
10 redress should be to provide a tangible recognition of the seriousness of the hurt and injury
11 suffered by a survivor. I take it from the fact you're nodding you would agree?

12 **A.** Yes, I know exactly what you mean, yeah.

13 **Q.** And you would agree with that proposition I take it?

14 **A.** Yes. To go back to that terrible Q word, quantum. Australian religious orders and dioceses
15 have insurance for this. We were informed that with ACC, and this is why we go back to
16 this over and over again, that that was unnecessary in our case. If it was necessary, fine, we
17 should have had it. But once you're told it's not necessary, that's why we went back to what
18 ACC was recommending. It wasn't so that we could minimise the amount that was being
19 paid, what we were trying to do was to set the correct amount.

20 **CHAIR:** But I think the question, just to focus is, is -- we've heard that and I accept that evidence.
21 It's the question of what the purpose of the payment is for and I think Ms Glover has asked
22 you do you agree with the Australian concept of redress being a tangible recognition of the
23 suffering of the survivor. In other words, focusing on the impact to the survivor as a result
24 of the abuse.

25 **A.** Yes and no. Some people desperately want it, others would be offended by it. So it's
26 not -- my answer is no, it's not universally acceptable, even to a complainant.

27 **QUESTIONING BY MS GLOVER CONTINUED:** I'd like to take you to one final document
28 which is CTH0001743. Again, this is a document with which you'll be very familiar, it's an
29 exhibit to your statement as one we've looked at already today, The Society of Mary Sexual
30 Abuse and Boundary Violations procedural document. I'd like to go to page 13 and look
31 there at the fourth bullet point. This notes that in relation to ex gratia payments, if the
32 complainant requests financial settlement the abuse response team meets to assess and
33 discuss the settlement request. And my question is, if a complainant did not request a
34 financial settlement, whether because they didn't know it was an option or for whatever

- 1 other reason, would the Society of Mary check with them to see whether this was
2 something that they would want or that might be helpful to them?
- 3 A. I think so. But I said previously to my previous answer that some people are offended
4 they're being offered money. Some people see that as an attempt to buy them off, and
5 I wouldn't want to in any way give that impression to people. You know, and some people
6 are also actually retraumatized by an offer. You've got to make the offer very delicately in
7 my experience.
- 8 Q. So given your concern for the impact of the victim of making a financial offer and your
9 concern that that might retraumatize them, do you think that there's a possibility that might
10 have led to an inequity in the redress that is provided to different complainants?
- 11 A. One thing that I would say, and it reminds me a little bit of the workings out of the tribunal
12 of Te Tiriti, you know, it's possible that what was paid in an early time might need to be
13 looked at again. But, you know, the talk I've heard of a matrix might help that, but it's hard
14 to know, it's hard to know, you know, I don't know -- you know, I also said earlier that the
15 effect on a person's life can vary, so you've got to be very careful of the 1 plus A plus B
16 plus 2 equals X. I think, you know, some people, because of their life and the way it is,
17 sometimes, it's like your children and your family. Sometimes you treat them all equally
18 but sometimes some are more equal than others because they need that at that time.
- 19 Q. But if you're not asking them what they need because of a level of --
- 20 A. We always, we are always asking them what they need, you know, "How can we help you,
21 what do you need?"
- 22 Q. But you're saying that one of the options that might be available to them isn't necessarily
23 made explicit and that may be because of a degree of sensitivity on your part to their
24 feelings about that option?
- 25 A. No, I'd probably put it something like this, if I were doing it and I'm not: There are many
26 ways in which people seek to move towards some sort of closure with dealing with this.
27 You know, some people want a formal apology, some people want a written apology, some
28 people would like some sort of recognition of it, you know, say something like receiving a
29 taonga or something like that. Some people might want a financial settlement, some
30 people -- but I wouldn't say "Do you want a financial settlement?"
- 31 Q. I see.
- 32 A. It's a kind of different --
- 33 Q. It would be flagged in some way?
- 34 A. Sure, absolutely, absolutely.

- 1 **Q.** I'd just like to pull out looking at all four of those bullet points please. So this is a
2 non-exhaustive list of the suite of options available to survivors. Noting that it's
3 non-exhaustive, it's still striking, perhaps, what is left off this list. So, for example, there's
4 nothing there about providing answers, survivors tell this Inquiry that they want to know
5 who knew about the abuse, how it could have happened, was it covered up, did it happen to
6 others. Do you think that that is something that could usefully be included here?
- 7 **A.** I think that's the very nature of the close relationship that exists between whoever it is that's
8 providing pastoral support around the person. If you go, as an example, to Mr F's case and
9 you read through his case notes, you will see that probably something like 100 or more
10 times he was asking questions. And at every opportunity those were answered for him.
- 11 **Q.** So you're saying that is an integral part of the process?
- 12 **A.** Absolutely, some people require them a lot more than others do. It would be fair to say that
13 I think he was dealt with really well in terms of getting answers.
- 14 **Q.** Another omission from this list potentially is there's nothing here about ensuring proper
15 consequences for the perpetrator, and we've heard that this sense of justice being achieved
16 is something that is important to survivors?
- 17 **A.** Always talk to the people, if the person's alive they would be absolutely assured the person
18 is out of it. As you said in the beginning when you were asking these questions it's not an
19 exhaustive list. And it's not there because it doesn't apply to all the people that were dead
20 and things like that.
- 21 **Q.** But you accept that it --
- 22 **A.** Always, absolutely.
- 23 **Q.** -- it is something important to survivors?
- 24 **A.** Totally and I would always hope that they are told that.
- 25 **Q.** Finally and this is my last question for you, this comes back to something we were talking
26 about earlier, there's nothing in this process about seeking out other potential victims or
27 publicising the issue so that others might be encouraged to come forward, and I'd like to ask
28 you what you think the proper process is or what should be done in that regard?
- 29 **A.** I think I answered that question earlier when I said about what the Church has been doing.
30 And at every opportunity when publicity arrives around this, this situation of the abuse
31 that's occurred in the Catholic Church, we, both the Society of Mary but especially and
32 much more so even than us, the bishops are always saying, you know, if you have a
33 complaint, bring it forward. You know, every time the microphone gets shoved in front of
34 one of the hierarchy that's what they say.

- 1 **Q.** What about in particular cases, so for example if you know that there is a perpetrator in a
2 particular setting who has abused one person, what do you think the Society of Mary should
3 be doing about finding others who may have been exposed to that same perpetrator?
- 4 **A.** One of the things we have done at times is where there's something like a school jubilee,
5 we have been to those and fessed up and said things like sadly -- I could give you the text
6 of Craig Larkin who was one of our provincials what he said at a jubilee; "Sadly we
7 also -- we do believe we've done some great things here but sadly we've done some other
8 things." I think that those sort of occasions when the great cohort of former pupils gets told
9 something's coming up, that's a good time to tell them. If it were now something happened
10 today in this parish, then it should be absolutely plastered all over every wall of every
11 parish.
- 12 **Q.** That it happened?
- 13 **A.** Yeah, absolutely.
- 14 **Q.** And there may be other victims and they're encouraged to come forward?
- 15 **A.** Yeah, we don't have, as far as I know, cases that involve situations which are current. You
16 know, so you know, I know people don't like the other word, the H word, but, you know,
17 we're not talking about a situation where it's happened at a school that we're in, I'm talking
18 about something that happened in the past. And that cohort of people, in fact, you know,
19 I feel sorry sometimes for the principals of a Catholic school that people say, you know,
20 "What are you doing about this?" They don't even know, I mean there's not one person in
21 that school that even knows any of the people that were at the school at the time, no
22 teachers are the same, the principal's not the same. So you've got to contact -- a terrible
23 word, certainly it's okay in the male but not in the female -- the old boys should be told.
- 24 **Q.** And you think that is something that should be done?
- 25 **A.** Absolutely.
- 26 **Q.** The old boys should be contacted --
- 27 **A.** Absolutely.
- 28 **Q.** -- if there was instances of abuse in a school at a particular year when they were there, they
29 should be advised of that and invited to come forward?
- 30 **A.** It would be a great thing to do, yeah.
- 31 **Q.** Thank you. That concludes my questions Madam Chair.
- 32 **CHAIR:** Thank you Ms Glover.
- 33 **COMMISSIONER ERUETI:** Tēnā koe Tim. Just a quick question, you note how the Society of
34 Mary has taken responsibility for providing redress themselves. And you said that with

- 1 great enthusiasm and emotion at the beginning of your evidence, and that was very
2 important to you personally, you made that clear. But I wonder whether from a survivor's
3 perspective about whether that could actually be contrary to their aspirations and desires,
4 because it's not an independent process. So I wonder how would you respond to that
5 comment from a survivor?
- 6 A. I understand what you mean and at one level I agree with you about independence. There's
7 nothing quite so straight up and honest as somebody else investigates it, you know, that's
8 exactly what you're doing here, somebody else is investigating it. At the same time I think
9 I made it fairly clear that what we did -- by "we" I mean us as a congregation did -- is
10 something we need to own up to and it's something we need to apologise about. And
11 maybe there's a mixture of the two. You know, a totally and utterly independent thing I
12 think would be to try and pass it off to somebody else to deal with.
- 13 Q. So perhaps there's a role for the Society of Mary to offer an apology as part of an
14 independent process, but otherwise they're not involved in it?
- 15 A. Not only an apology, but, you know, to go face-to-face and to say -- but the person has to
16 want that, you know, I mean I would hope that even with an independent process that we
17 could offer to meet with a person face-to-face if that's what they'd like.
- 18 Q. Just briefly the other point you made was about the Treaty being more than a document and
19 being a way of life. Of course words in documents matter, the Treaty is the cornerstone of
20 our constitution and what it says is very important to Māori and to the Treaty partner the
21 Crown. I just wonder whether, particularly given your involvement with Māori
22 communities over many, many years, including you talked about your time at Hato Paora
23 College, it seemed that referring to the Treaty in the minutes of a chapter meeting once
24 every four years would be a disappointment to many Māori, they would have higher
25 expectations of your order?
- 26 A. The very first thing I'd say is that the highest body in the province is the chapter, the
27 chapter is over the top of me, and that is for me the most appropriate place where it can be
28 said because it says this is enshrined in who we are, you know, this is foundational to who
29 we are and our relationship, our partnership with Māori is fundamental to us. So you might
30 be right, you probably are right that we need to do more than that. I think we do do quite a
31 lot more than that. But for us as a congregation, that's where we talk to ourselves and say
32 this is what's important to us.
- 33 Q. Would your Māori members know about these minutes in these chapters?
- 34 A. Absolutely, absolutely. While I'm aware I'm hoping they're preparing the most recent

- 1 chapter stuff to be printed to go out to all of our men absolutely.
- 2 **Q.** Thank you for your time, kia ora.
- 3 **COMMISSIONER STEENSON:** Tēnā koe.
- 4 **A.** Tēnā koe.
- 5 **Q.** So you've explained that the Society of Mary removes abusers from the ministry but not as
6 a member, that's correct?
- 7 **A.** That's right, certainly.
- 8 **Q.** And there is support given to the abuser once they are removed, somewhere to live and feel
9 safe and supported I think you talked about?
- 10 **A.** Yes. And therapy and supervision and all of that, yeah.
- 11 **Q.** Okay. Whereas in society if somebody commits a crime like rape, for example, they go to
12 jail and many survivors who live in poverty with the impacts of the abuse and many with
13 serious illness as a result. So from a survivor's perspective, do you think that the kind of
14 support and commitment to the abuser makes them feel further aggrieved?
- 15 **A.** Makes the?
- 16 **Q.** Survivor feel. What's your view on that?
- 17 **A.** People have been saying, and one of the things that I've been saying is that one of the
18 reasons for coming forward is to ensure that it doesn't happen again. Can I give you have a
19 very quick -- I'll try to do it quickly -- example. One of our men went to prison, rightly so
20 for offences he had a done in this area. He then came to live at one of our houses after his
21 release from prison, the Government said that is within a kilometre of a school, in fact two
22 schools, two girls schools -- he offended entirely against boys, but, you know -- and so he
23 cannot live there. And so they wanted him to live somewhere else. We found a place
24 where he had to live by himself with absolutely no supervision of us. If that was better, you
25 know, not in my book I'm sorry.
- 26 **Q.** I guess I can understand the supervision in terms of safety, the part I'm struggling with
27 around is the support, the kind of pastoral support that they seem to get continually,
28 whereas many survivors go without that.
- 29 **A.** Pastoral support is something that occurs in families too, and when somebody in your
30 family does something wrong you've got to stand around them as well. I mean Tom was
31 saying exactly the same thing when he was talking about, you know, you've got to assist the
32 person too, because they're an offender. I can see your point, totally. But, you know, the
33 options --
- 34 **Q.** Sorry, I'm not making a point, I'm just trying to understand your thinking around it.

- 1 A. Yeah, the options, you know, maybe you'll put in the reporting is that you suggest is a
2 better way of doing it, I don't know.
- 3 Q. Thank you.
- 4 A. Thanks.
- 5 **COMMISSIONER ALOFIVAE:** Talofa, good afternoon.
- 6 A. Talofa.
- 7 Q. Thank you, a lot of the stuff that I had wanted to ask you you've answered very fully, thank
8 you very much to counsel. Just one point on the data. You have said you've got 100
9 members in the Society?
- 10 A. Currently roughly, yeah.
- 11 Q. And that there were four in formation, are they part of the 100?
- 12 A. Two of them are, because two of them are professed. You know how I went through --
- 13 Q. Yeah.
- 14 A. Two of them are junior, three of them are junior so there's actually five, but four of them in
15 New Zealand.
- 16 Q. And we've got the male and the female, but do you keep the ethnicity as well of your
17 membership?
- 18 A. The ethnicity of our membership?
- 19 Q. Yes, of the Brothers.
- 20 A. In New Zealand?
- 21 Q. Mmm.
- 22 A. And the fathers?
- 23 Q. Mmm.
- 24 A. Yes absolutely, absolutely. Would you like to know --
- 25 Q. Yeah, out of 100.
- 26 A. -- how many priests are Māori?
- 27 Q. Yes, and others.
- 28 A. Okay. We have one guy who's Samoan, we have one guy who is Māori, we have one guy
29 who is Chinese, we have one guy who is Filipino, not huge numbers, no.
- 30 Q. So the balance is European?
- 31 A. Well, Kiwis, yes.
- 32 Q. Thank you, that's it, thank you.
- 33 **CHAIR:** I think I've asked my fair share of questions during the examination. It remains for me
34 to thank you very much for coming. You've given us a unique view into the Society of

1 Mary and without your evidence the Commission would have lacked that and, as we've
2 been told, we've received great education and you've added to that, so thank you very much
3 for explaining that so carefully, and for your description of the very important time when
4 you received the tsunami of --

5 A. Complaints.

6 Q. -- complaints and how you dealt with them, that's added very much to our knowledge so
7 thank you very much for that and thank you also for enabling us to finish on time, very
8 grateful for that. Thank you very much Tim. And I think that brings our proceedings to a
9 close for the day.

10 **Hearing closes with waiata and karakia mutunga by Ngāti Whātua Ōrākei**

11 **Hearing adjourns at 5.14 pm to Friday, 26 March 2021 at 9.30 am**

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