

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY  
STATE INSTITUTIONAL RESPONSE 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 Anaru Erueti  
Ali'imua Sandra Alofivae  
Paul Gibson  
Julia Steenson

**Counsel:** Mr Simon Mount QC, Ms Kerryn Beaton QC, Dr Allan Cooke, Ms Katherine Anderson, Ms Anne Toohey, Ms Tania Sharkey, Mr Michael Thomas, Ms Ruth Thomas, Ms Kathy Basire, Mr Winston McCarthy, Ms Julia Spelman, Ms Alice McCarthy and Ms Natalie Coates for the Royal Commission

Ms Rachael Schmidt-McCleave, Mr Max Clarke-Parker, Ms Julia White for the Crown

Ms Victoria Heine QC for the Office of the Children's Commissioner

Ms Sally McKechnie for Te Rōpū Tautoko, the Catholic Bishops and congregational leaders

Mr David Stone for the New Zealand State Abuse Survivors Charitable Trust

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

**Date:** 26 August 2022

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**TRANSCRIPT OF PROCEEDINGS**

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**INDEX**

<b>MINISTRY FOR PACIFIC PEOPLES</b>	
Questioning by Mr Clarke-Parker	1000
Questioning by Ms Sharkey	1003
Questioning by Commissioners	1018
<b>TE PUNI KŌKIRI</b>	
Questioning by Ms Schmidt-McCleave	1022
Questioning by Ms Castle	1023
Questioning by Commissioners	1034
<b>CHIEF OMBUDSMAN</b>	
Questioning by Dr Cooke	1039
Questioning by Commissioners	1056
<b>PUBLIC SERVICE COMMISSION</b>	
Questioning by Ms Schmidt-McCleave	1060
Questioning by Ms Toohey	1064
Questioning by Commissioners	1084
<b>CLOSING STATEMENT BY SAGE</b>	1091
<b>CLOSING STATEMENT BY THE CROWN</b>	1098

1 [9.05 am]

2 **CHAIR:** E ngā mana, e ngā reo, e ngā hau e whā, tēnā koutou, tēnā koutou, tēnā koutou katoa.

3 Welcome to this final day of this hearing in Abuse in Care, hearing from the institutions  
4 who have the responsibility for the care of children, young people and vulnerable adults  
5 and this is an important day, as all of them have been.

6 May I just welcome the survivors who are here in the room, including the members  
7 of our Survivor Advisory Group, SAGE, and those survivors who are watching online. It's  
8 quite plain that listening to this evidence can be upsetting, can be triggering, but it is very  
9 important that we do hear from the institutions, their version of events, so that when the  
10 Royal Commission comes to make its decision, it is acting fairly and properly and has  
11 heard from everybody involved. So thank you for your patience and thank you for your  
12 attendance. It really matters to us that we have a strong survivor presence listening  
13 carefully to what's happening.

14 And thank you all to the members of general public who are watching as well. It's  
15 important to us that as many people in Aotearoa New Zealand hear from the survivors and  
16 hear what the State is saying in response.

17 To introduce ourselves for those who cannot see, and before we go to our first set of  
18 witnesses, my name is Coral Shaw. I am the Chair of the Royal Commission. I am elderly.  
19 I have white, chin-length hair. I am wearing glasses. Today I'm wearing a cream jacket  
20 and a burnt orange top underneath. I'll ask my fellow Commissioners to introduce  
21 themselves. I'll start with Commissioner Julia Steenson.

22 **COMMISSIONER STEENSON:** Ata mārie tātou, ko Julia Steenson tōku ingoa. Today I'm  
23 wearing a red dress and a blue jacket. I am a Māori woman in her 40s with brown hair and  
24 brown features. Yeah, kia ora tātou.

25 **CHAIR:** Kia ora, Dr Andrew Erueti.

26 **COMMISSIONER ERUETI:** Tēnā koutou, e mihi ana ki te kaikarakia i te ata nei, tēnei te mihi  
27 ki a koe te rangatira Ngāti Whātua. E mihi ana ki ngā purapura ora, ngā mōrehu i whakauru  
28 mai ana e mātakitaki ana i tēnei rā, ngā mihi. Ngā mihi nui ki ngā kaiwhakautu, tēnā kōrua,  
29 nau mai, haere mai. My name's Anaru Erueti. I'm wearing a blue suit with a pink shirt and  
30 a brownish tie and I'm a middleaged Māori male, kia ora.

31 **CHAIR:** Kia ora. Paul Gibson.

32 **COMMISSIONER GIBSON:** Kia ora, ko Paul Gibson tōku ingoa. I'm a middle-aged Pākehā  
33 male with greying hair. I'm wearing a dark suit and dark shirt and a pounamu, a toki gifted  
34 to me by Kapo Aotearoa to carve a new path towards enlightenment. I generally work with

1 one headphone over one ear listening to a computer, as I'm blind with some peripheral  
2 vision.

3 **CHAIR:** Kia ora and Ali'imuamua Sandra Alofivae.

4 **COMMISSIONER ALOFIVAE:** Thank you. Ata mārie, tēnā koutou katoa. Faatalofa atu i le  
5 pa'ia ma le mamalu ua aofia ua mafai na faatasi mai i lenei aso. Faapitoa lava le faatalofa  
6 atu i le Matagaluega a Tagata Pasifika, lau afioga La'ulu, lau afioga Aiono. Faafetai le  
7 taliaina o le valaau, faafetai le afifio mai ua maualuga lo tatou aso ua oo mai le tou  
8 matagaluega. (Greetings to good health and wellbeing to everyone here today. I extend a  
9 special welcome to the Ministry for Pacific Peoples, your honor Lauulu and Aiono. Thank  
10 you for accepting the invitation, the presence of the ministry is the culmination of today's  
11 gathering). And, of course, my description, for those who cannot see me, I am a Pacific  
12 woman of Samoan and Chinese descent. I have shoulder-length black hair that is quite  
13 curly. Today I'm wearing a very colourful dress with a black jacket and I wear glasses.

14 **CHAIR:** Talofa, Sandra. We will now begin today's hearings and I will invite you, Ms Sharkey,  
15 to introduce yourself and then we'll move to the Crown, thank you.

16 **MS SHARKEY:** Tēnā koutou tātou, malo e lelei Madam Chair, Commissioners and all those  
17 present today, in particular survivors both in person and online. My name is Tania Sharkey  
18 and I am one of the Counsel Assisting the Royal Commission. By way of visual  
19 introduction, I am female of Tongan Palagi descent and today I am wearing red glasses, a  
20 green Pasifika dress and a black jacket.

21 We have representative witnesses here today from the Ministry For Pacific Peoples,  
22 malo lava le soifua. I will let Mr Clarke-Parker introduce them and we will have evidence-  
23 in-chief to begin with.

24 **CHAIR:** Thank you. Tēnā koe, Mr Clarke-Parker.

25 **MR CLARKE-PARKER:** Tēnā koe, tēnā koutou katoa. Ko Max Clarke-Parker ahau. For those  
26 who cannot see me, I am Pākehā. I have brown hair, beard and today a pink tie. Today we  
27 have two witnesses here from the Ministry and, just for completeness, I note that previous  
28 witnesses on the bench behind me are not giving evidence today.

29 **CHAIR:** Thank you.

30 **MR CLARKE-PARKER:** So before I have the witnesses begin their evidence, I'll just hand over  
31 to you, Madam Chair.

32 **CHAIR:** Thank you. Good morning to both of you. Thank you for attending and we really  
33 appreciate your attendance today. Can I just ask you to take the affirmation.

34 **MINISTRY FOR PACIFIC PEOPLES**

1 **LAULU MAC LEAUANAE AND AIONO MATTHEW AILEONE (Affirmed)**

2 **QUESTIONING BY MR CLARKE-PARKER:** Thank you. Before we begin going through  
3 your brief of evidence, may I have you both please introduce yourselves, beginning with  
4 you, Laula.

5 **MR LEAUANAE:** Tuia i runga, tuia i raro, tuia i roto, tuia i waho, tuia te herenga tangata e pae  
6 nei, tēnā koutou, tēnā koutou, tēnā tātou katoa. E faafekai ua muamua mea i Makaukusa.  
7 Ua mae'a ga siikia le viiga ma le faafekai i le Akua. Faafekai i le Kapaau i le lagi ua kakou  
8 pu'e i magu ae le o pu'e o mala, ua kakou kaeao o faafekai ae le o kaeao o faakulou. Ia e  
9 aveā ia lo'u leo faakauvaa e momoli le agaga faafekai ma le faamalo, ma faafeiloai aku i le  
10 paia ma le mamalu ua aofaga pokopoko, ae kaikage le vasega o komesiga ua aofia aua legei  
11 faamoemoe. Ae faapikoa la'u faakalofa i lau afioga Aliimuamua Sandra Alofivae, ia e  
12 faakalofa aku foi i le paia ma le mamalu ua aofia. Kia orana katou katoa, malo ni, fakalofa  
13 lahi atu kino tolosi, malo lelei, ni sa bula vinaka, halo lo keta, ...malo le soifua maua ma le  
14 lagi e mamā. (I'd like to acknowledge first the thanksgiving we had before God. We have  
15 glorified and acknowledged God. Praise God we are gathering in good spirits and not  
16 otherwise, it's a day of thanksgiving and not appeasement. It is my privilege to express  
17 gratitude and to greet you all, in particular the Commission team present today. I want to  
18 make special mention of Aliimuamua Sandra Alofivae, and distinguished guests. (Pacific  
19 Greetings) ... Greetings in good health and wellbeing).

20 My name is Laula Mac Leauanae and I am the Chief Executive and Secretary for  
21 the Ministry of Pacific Peoples. Today I'm wearing dark black glasses and a suit and I'm  
22 following the theme of Anaru, I've got a pink tie on and I'm adorning an ulafala, a  
23 traditional necklace, fa'afetai.

24 **COMMISSIONER ERUETI:** Kia ora.

25 **COMMISSIONER ALOFIVAE:** Malie.

26 **MR AILEONE:** Tuia ki te rangi, tuia ki te whenua, tuia ki te ngākau o ngā tangata. Ko te mea  
27 nui, ko te aroha, tihei mauri ora. Kia tae mai te aroha, ngā manaakitanga o te atua. Te marae  
28 i waho, te whenua te tūranga o te iwi, te whare e tū nei, tēnā koutou. Ko Aiono Matthew  
29 Aileone tōku ingoa, he Tumu Whakaere Tuarua ahau mō Te Manatū mō Ngā Iwi o Te  
30 Moananui-a-Kiwa. E muamua ono sii le viiga ma le faafetai i le Atua ona ua tatou feiloai i  
31 lenei aso. Ou te faatalofa atu i le paia ma le mamalu ua mafai na faatasi mai i lenei aso. Ou  
32 te faatalofa atu i le ta'ita'i faapea foi le Komisi Suesue. Ou te faatalofa atu foi i le afioga  
33 Aliimuamua ... Alofivai. Aveā lo'u tagata vaivai ou te faamalulu atu ai i latou na aafia i ni  
34 sauaga na tutupu. Faamalo le onosai, faamalo le faapalepale, faamalo foi le lototele. (First

1 and foremost I give thanks to God that we are able to gather today. Welcome to  
2 distinguished guests present today. I also extend a welcome to the Chair and the  
3 Ombudsman. I welcome your honor Aliimuamua..Alofivai. It is with a humble heart that I  
4 offer my apologies to the victims of abuse. Thank you for your patience, thank you for your  
5 endurance, thank you for being courageous).

6 My name is Aiono Matthew Aileone, I'm the Deputy Secretary at the Ministry For  
7 Pacific Peoples responsible for policy, research and evaluation, housing and languages. I  
8 am Samoan. I also have part Chinese in me, too. My village in Samoa is called Fasitoo-uta  
9 but I'm born and bred in New Zealand in the best town of Christchurch. I'm wearing a dark  
10 grey suit. I've got a blue tie. I've got straight black hair, brown eyes and brown skin and  
11 I'm also wearing a Samoan necklace. Thank you.

12 **CHAIR:** Thank you.

13 **MR CLARKE-PARKER:** Thank you, both. Lauulu, you have prepared a brief of evidence for  
14 this Commission and that has been filed and will largely be taken as read, but may I have  
15 you just read some short sections of that brief, beginning from paragraph 1.1.

16 **MR LEAUANAE:** Thank you. My name is Laula Mac Leauanae. I'm the Secretary for Pacific  
17 Peoples and Chief Executive for the Ministry. I took up this role in July 2017. I will be  
18 giving evidence to the Commission on the topics it has identified of interest for the  
19 Ministry, together with Aiono Matthew Aileone to my side.

20 Before I begin my evidence, I acknowledge the survivors who have given evidence  
21 in this Inquiry and aiga. I acknowledge your bravery in sharing these very painful accounts  
22 of abuse during your times in State care. In particular, I acknowledge the many Pacific  
23 Peoples affected, such as those who shared their stories in the Tulou - Our Pacific Voices:  
24 Tatala e Pulonga hearing. Listening to these stories and the trauma endured by our people  
25 was similar to the pain and suffering our people endured with the Dawn Raids apology, a  
26 process led by the Ministry. And whilst I am a public servant, I'm also a son of Samoa, a  
27 son of the Pacific, born and raised in Aotearoa New Zealand, so it's extremely distressing to  
28 hear, see and feel the suffering our people have endured.

29 The Ministry, like the rest of the Crown, looks forward to the guidance the  
30 Commission will provide in addressing the wrongs of the past and preventing them  
31 occurring in the future.

32 **MR CLARKE-PARKER:** Thank you. Now can I have you continue reading from paragraph 2.3,  
33 which provides some background on the Ministry.

1 **MR LEAUANAE:** In 1984, the Pacific Island Affairs Unit was established as part of the  
2 Department of Internal Affairs. In February 1990, the Cabinet Policy Committee agreed to  
3 establish an independent Ministry of Pacific Island Affairs, MPIA. MPIA was established  
4 in 1 July 1990 and its role was to promote the development of Pacific Island peoples in  
5 New Zealand in a way which recognises and reflects Pacific Island cultural values and  
6 aspirations so that Pacific Island people can participate and contribute fully to  
7 New Zealand's social, cultural and economic life and help foster and enhance the cultural  
8 values deemed important to the identity of the various Pacific Island people and the identity  
9 of New Zealand as a whole.

10 In particular, MPIA was responsible for providing policy advice to government on  
11 issues related to Pacific Island matters, liaising with and flow of information between  
12 Pacific Island communities in New Zealand and government agencies, servicing the office  
13 of the Minister of Pacific Island Affairs and Pacific Island Affairs Advisory Council, and  
14 administering grants. In 2015, MPIA changed its name from the Ministry of Pacific Island  
15 Affairs to the Ministry For Pacific Peoples. The name change emphasised to the  
16 community and wider New Zealand that the Ministry is here to work for Pacific Peoples.

17 **MR CLARKE-PARKER:** Thank you. In the next section, from paragraphs 2.6 to 2.10, you talk  
18 about the Ministry's current role and responsibilities, so may I have you read that section as  
19 well, please?

20 **MR LEAUANAE:** The Ministry does not have any direct, formal role with the care system. The  
21 extent of the Ministry's involvement in the care system depends on its relationships with  
22 other agencies that do have a role within the care system and work done for or with those  
23 agencies.

24 As the Crown's principal adviser on matters pertaining to Pacific communities, the  
25 Ministry may offer advice to these agencies on Pacific related-, Pacific-relevant matters.  
26 However, the agencies retain responsibility for their work and determine the extent to  
27 which our advice is incorporated in their work.

28 In some circumstances, the Ministry may advise on policy proposals from other  
29 agencies that may have negative distributional impacts on Pacific communities and may  
30 also directly engage with other agencies in relation those policies.

31 The Ministry also influences work through cross-agency working groups on a wide  
32 range of policy areas. We have regular bilateral partnerships with teams in other agencies.

33 The Ministry is responsible for developing and coordinating implementation of the  
34 All-of-Government Pacific Wellbeing Strategy. In April 2022, the All-of-Government

1 Pacific Wellbeing Strategy was endorsed by Cabinet. The strategy was developed and is  
2 being implemented with key agency partners who are members of the Lalanga Fou  
3 crossagency CEs and DCE groups. The Strategy was endorsed by Cabinet in April 2022  
4 and has four key focus areas that guide and capture the Ministry's developing role as  
5 the Crown's principal adviser for Pacific communities: Lalanga Potu: Pacific Values and  
6 Principles; Fale Fono: Partnership and Governance; Vaka Moana: Performance and  
7 Improvement; Te Kupenga: Capability.

8 **MR CLARKE-PARKER:** Thank you very much. We're, of course, very mindful of time this  
9 morning, so the rest of the evidence will be taken as read and so now I hand you over to my  
10 learned friend, Ms Sharkey, for questioning.

11 **CHAIR:** Thank you, Mr Clarke-Parker. Ms Sharkey.

12 **QUESTIONING BY MS SHARKEY:** La'aulu and 'Aiono, Fakafeta'i 'a e 'Eiki 'a e 'ahó ni.  
13 Mālō ho'o mo lava mai. 'Ofa ke kau 'a e 'Eiki he 'etau fepōtalanoa'akí. (La'aulu and  
14 'Aiono, Praise be to the Lord this day. Thank you both for coming. Hope the Lord will be  
15 with us in our discussion). So guide our discussions today, malo 'aupito, thank you for  
16 being here. It's great to hear our Pacific languages being heard in this space and reflecting  
17 on this morning, it's pleasing that we're here today. So I just want to start, -you've covered  
18 a lot in your opening. If we could have a look at your brief of evidence? You might have  
19 that in front of you, but Lafo-ai and Jenna to my side here will bring up your brief of  
20 evidence and we're looking at paragraphs 2.4 down to 2.8. Can you see that there on the  
21 screen? MPIA was responsible for what we see there at 2.4(a) to (d). Would you say that  
22 MPP are largely responsible for the same?

23 **MR LEAUANAE:** Yes.

24 **MS SHARKEY:** Then we have a change of the name and, as you outlined before, the Ministry is  
25 here to work for Pacific Peoples. And the multitude of areas where Pacific Peoples face  
26 inequities is understood, we've heard a lot during this hearing, and I just wanted to ask, is it  
27 with limited fiscal means, or your mandate and the current function that you haven't been  
28 commissioned or directly specifically looking at the care system for Pacific Peoples.

29 **MR LEAUANAE:** The Ministry doesn't have the mandate to deliver care services to our  
30 community. That is the short answer. The long answer is our focus is on systems  
31 stewardship, our focus is on prevention and strategic action, and so, in terms of the system  
32 approach, all these strategies was birthed out of our work with our community. So you may  
33 be aware that in 2018, we did an engagement work with all of Pacific throughout the  
34 country.



1 **CHAIR:** Excuse me. Lulu, would you mind bringing your microphone closer to you? You're  
2 very softly spoken, and we respect that, but it's important that our people hear what you're  
3 saying clearly.

4 **MR LEAUANAE:** Thank you, Madam Chair. I was saying we have a focus around systems  
5 stewardship, influencing the Government system, the public agencies to deliver better care  
6 and services to our people. We engage with our communities and ongoing in 2018 and  
7 through that engagement of over 2,500 people, we're able to frame up the Pacific Aotearoa  
8 Lalanga Fou report. So this is the prevention and the strategy side I think we'll get more  
9 into, but in terms of the focus on care, that's an overarching approach that we take as a  
10 Ministry.

11 **MS SHARKEY:** Okay. So for Pacific Peoples in care, that work has previously been, would you  
12 say, left to service delivery agencies?

13 **MR LEAUANAE:** Those agencies that are mandated to deliver and our role as best as we can  
14 when invited by those care agencies or those that are responsible to provide guidance and  
15 support where and when required.

16 **MS SHARKEY:** Okay. Just looking at that role, MPP is not a service delivery agency, more  
17 policy focused? How does it work?

18 **MR LEAUANAE:** It's a bit of both. We were largely focused on policy and giving advice to the  
19 Crown. We also now provide -- we provide service delivery initiatives. The Pacific  
20 Aotearoa Lalanga Fou report provided a vision: prosperous, thriving, resilient, confident  
21 Pacific Aotearoa. Pacific Aotearoa because 60% of our whānau are now born and raised in  
22 New Zealand.

23 Then out of that was the four strategic goals. So those four strategic goals provided  
24 the types of focus that we needed to provide. So this is where the service delivery comes  
25 through in our Tupu Aotearoa programme or initiative which focuses on getting our  
26 children or our young into jobs that are in need and those types of initiatives. So it's  
27 broader than just the policy shop. We do both policy and service delivery, but focused on  
28 particular areas, housing, languages unit, employment, businesses.

29 **MS SHARKEY:** That's a lot to be looking after and I guess my question, in our communities,  
30 needs are so many. You get pulled from pillar to post often with not much resource and not  
31 much funds. I just wanted to know is one of MPP's most valuable roles to ensure that  
32 departments and agencies that are getting the megabucks for us, to ensure that they are  
33 delivering the goods for our Pacific communities? Would that be one of the most valuable  
34 roles for MPP?

1 **MR LEAUANAE:** Very critical role of the Ministry and, hence, the establishment of the  
2 All-of-Government Pacific Wellbeing Strategy. And whilst we are a small agency and  
3 when I started in July 2017, we were roughly a \$10 million agency with around 40 staff,  
4 but through the vision that was created and the work with the system, have been able to  
5 secure enough resourcing to deliver and service the needs and our initiatives were based on  
6 what our communities had told us, and continue to tell us, because we've just been on the  
7 road again, to go back and report back on the things that we've delivered for Pacific  
8 Aotearoa, so we were in Porirua, around 200 of our community turned up at Pasina hall,  
9 Tokelau. We were in Whanganui earlier on Tuesday and around 150 of our community  
10 were there, and then we were in Palmerston North the night before, hearing from our  
11 community, reporting back to them on the four strategic goals and the initiatives per those  
12 goals and then they were feeding back all the work that we're doing.

13 So there's that work that we're doing, hearing from our community and then feeding  
14 that through the infrastructure of the All-of-Government Pacific Wellbeing Strategy.

15 **MS SHARKEY:** It sounds really busy.

16 **MR LEAUANAE:** It's very busy but, you know, as a son of Samoa, son of the Pacific, you know,  
17 we sit here and see Ali'imuamua, I see you, Tania. We are the vision of our parents and I  
18 can never compare the busyness of what we're going through, what they endured when they  
19 arrived here on these amazing shores in the 60s and the 70s. So, yes, it's busy, but we have  
20 to be busy for the work that's required for our community.

21 **MS SHARKEY:** Okay. Just looking at paragraph 2.8 that you'll see there on the screen:

22 "In some circumstances, the Ministry may advise on policy proposals ... that may  
23 have negative distributional impacts..."

24 I just wanted to ask about that. Can you give me one or two examples of where that  
25 has happened?

26 **MR LEAUANAE:** Probably the most recent is our Dawn Raids apology and the harm that came  
27 through that, and I mean Aiono was heavily involved with the drafting of the Cabinet paper  
28 and the work that we had to do to make that a reality. The negative distribution impacts we  
29 already have seen through the testimony -- the work of the Polynesian Panthers made it  
30 very clear the impact that immigration policies had. So we were -- you know, contributed  
31 to that important piece of acknowledging the harm, that impact, and it was negative for the  
32 various agencies that were heavily involved through that, the Police, Immigration in  
33 particular.

1           And so to usher that programme and that initiative through was really important for  
2 our people. It was amazing when the apology actually happened. In fact, it was the  
3 post-Cabinet press conference, where our Minister, Aupito William Sio, with the Prime  
4 Minister, acknowledged that there would be an apology coming in and then on 1 August we  
5 were able to deliver that apology.

6           But through that process, we got to see and hear all the trauma that our people went  
7 through and endured and the reason we needed to have the apology and the reason why we  
8 needed these -- the redress. We will work with Ngāti Whātua Ōrākei this Saturday,  
9 tomorrow, which is where we will confirm our relationship between Pacific and Ngāti  
10 Whātua because that's where we gave the apology.

11           But also it will be commemorating every year the apology of the Government. So  
12 this is one of those issues,- I hope I'm hearing the question right,- -- that was negatively  
13 impacted and that was the role that we played as an agency.

14 **MS SHARKEY:** And I'll touch on that apology a little bit later on, because that was our first ever  
15 Pacific public redress that we've seen. But just on 2.7, so Crown's principal adviser but the  
16 agencies retain the responsibility for their own work and determine the extent to which your  
17 advice is incorporated.

18           Earlier on in the week, Oranga Tamariki told us that only about 1%, 1% of its  
19 funding is allocated to Pacific providers for Pacific children in care. Through our  
20 community fono, which you will be aware of, we've heard from our community about the  
21 difficulty in applying and getting funding for Pacific children and young people.

22           So my question there is, when we hear those sorts of difficulties, those challenges,  
23 1%, what is it that needs to change? MPP holding these government agencies to account  
24 and ensuring money goes to where it needs to go, is that a shift in your function? Is that  
25 enabling you to be a stronger, I guess, monitor of that service delivery, those funding  
26 allocations?

27 **MR LEAUANAE:** The All-of-Government Pacific Wellbeing Strategy is our approach to keep  
28 agencies accountable and Oranga Tamariki is one of those agencies. We have a Ministers'  
29 group which our Minister chairs, and all of those ministries that are engaged in the process,  
30 their ministers attend. I chair the Chief Executive's group and we meet on a bimonthly  
31 basis. It's by this mechanism and we're developing now the outcomes framework and  
32 through these outcomes framework and indicators, we can measure how our agencies are  
33 delivering for our Pacific communities.

1           In terms of the 1% for Pacific at Oranga Tamariki, that is something that we will  
2 need to talk to them about and address. We have a budget process that we will start and  
3 that will definitely be something that we will look into.

4           My dear colleague, Aiolupotea Sina Aiolupotea Aiono, she was a deputy secretary  
5 at the Ministry For Pacific Peoples and is now there as the Chief Adviser for Pacific, and  
6 we work closely together with the Pacific panel chaired by Fa'amatua'inu Tino Pereira to  
7 look at these areas of focus for our Pacific, so that is definitely something that we will look  
8 into.

9 **MS SHARKEY:** Because whilst that strategy has been implemented and you start these meetings  
10 and they really become well working, there are still Pacific children in care, survivors here  
11 today who want solutions, so you will be talking to Oranga Tamariki about those issues?

12 **MR LEAUANAE:** Yes, we meet regularly with Aiolupotea, who's a key leader and in the senior  
13 leadership there at Oranga Tamariki. I know we want to move a lot quicker in all of our  
14 areas of focus -- better housing; 21% Pacific home ownership, that needs to improve;  
15 employment, we, on average, earn the lowest, you know, not good enough, so there's  
16 multiple areas of focus but definitely in the care system service and now that you've raised  
17 that and brought it to our attention, it's something that we'll talk to with Chappie and with  
18 Aiolupotea.

19 **MS SHARKEY:** Just some questions now about system leadership. In our Pacific public hearing,  
20 we heard from Luamanuvao Dame Winnie Laban. You might have watched her  
21 evidence, -- you're nodding "yes". In that hearing, if I paraphrase her correctly, she said: if  
22 you are not at the table, you're on the menu. And it's fantastic to see you in this space.

23           Can I ask how many Pacific tier 1 Public Service leaders there are in the  
24 Government departments?

25 **MR LEAUANAE:** At the moment, just one, myself, but the vision is 20%. That's the vision:  
26 thriving, resilient, confident, prosperous Pacific Aotearoa. Small intergenerational  
27 transformational steps need to be had and made. The growth and the strength of the  
28 relationship that the Ministry has with the system is something that we've not enjoyed for  
29 a long time and the Ministry today, the All-of-Government Pacific Wellbeing Strategy  
30 being endorsed by Cabinet, ministers, CEs, deputy chief executives of these 11 agencies,  
31 it's something we've never seen before and so whilst, yes, the steps are slow.

32           And then in terms of the resourcing, the Ministry itself, and this is all public,  
33 available -- through the budget process have secured significant resources over the course  
34 of the last four years. So it shows that there is influence to move and do things for our

1 community because we have the voices of our community and the Ministry, through its  
2 initiatives, have been able to show that we can deliver. Things like Tupu Aotearoa  
3 where -- yeah, I'll stop there.

4 **MS SHARKEY:** Because what I would saw, Laulu, is that one Pacific Chief Executive from the  
5 space that we are working in is it's under-represented. Would that be fair to say?

6 **MR LEAUANAE:** We have Margie Apa, who leads the largest business in New Zealand, private  
7 sector, public sector, so I'll probably argue there's two of us, she's in the Public Service, but,  
8 yes, I hear your point, Tania.

9 **MS SHARKEY:** Overall, in terms of tier 1, 2, 3, are Pacific people still under-represented?

10 **MR LEAUANAE:** Not as bad as one out of 34, but there are a growing group of Pacific in deputy  
11 secretary roles and also within tier 3 roles, but as you say, we're still under-represented  
12 when you compare it to the population of 8%, 8.1%, according to the 2018 census.

13 **MS SHARKEY:** Just briefly, you touched on the redress apology for the Dawn Raids and you  
14 might not have seen this, we just received the brief of evidence for Mr Hughes, for Peter  
15 Hughes, and at paragraph 2.3, and I'll read it because you probably haven't seen it:

16 "...work on the Crown response is being progressed by an interagency group set up  
17 to respond to the Royal Commission. It includes the Ministries of Health, Education,  
18 Justice, and Social Development, Oranga Tamariki, Crown Law, Te Puni Kōkiri, the New  
19 Zealand Police, the Department of Corrections, the Public Service Commission and  
20 Archives New Zealand."

21 And I'm, as a -- Pacific Peoples are a priority group in this Inquiry. Is it an error  
22 that MPP aren't noted there?

23 **MR LEAUANAE:** I'll need to speak to Peter to find out exactly what happened there, but I would  
24 assume that we should be part of that group.

25 **MS SHARKEY:** Yes, as one of the priority groups, right. And just on-- the redress report was  
26 released from the Royal Commission and I just wondered, have MPP been consulted on  
27 any of that in terms of the co-design, values-based, the cultural lens, you have experience  
28 with the Dawn Raids, you know about cultural redress, public, have you been consulted on  
29 that?

30 **MR LEAUANAE:** I'll ask if the policy team --

31 **MR AILEONE:** No, we have been engaged on that. In fact, I think the lead over there was  
32 formerly an MPP employee. So exactly drawing on that example of what worked well with  
33 the dawn raids, how can they frame up a Pacific response using some of our lessons learnt.

34 **MS SHARKEY:** Right, okay. And then in Mr Hughes' brief again, at 12.2 he talks about:

1 "Four interdepartmental executive boards have been established making groups of  
2 Chief Executives accountable for cross agency priorities, including the Executive Board for  
3 the Elimination of Family Violence and Sexual Violence..."

4 And I had a look and there are a number of agencies. And, Lulu, what we see from  
5 our survivors is that is a very big issue, family violence, sexual violence, and I notice that  
6 MPP aren't one of those groups. Can I just ask about that?

7 **MR LEAUANAE:** We are a member of the chief executives group and the DCEs group on the  
8 joint venture board.

9 **MS SHARKEY:** Okay, just not the Executive Board for the Elimination of Family Violence and  
10 Sexual Violence? It's in part 3 of the Act, interdepartmental executive boards.

11 **MR LEAUANAE:** We are an associate member so there might be --

12 **MS SHARKEY:** What does that mean?

13 **MR LEAUANAE:** I think we are part of and have the same decision-making rights as other board  
14 members. We are at the table.

15 **MS SHARKEY:** You are at the table, not on the menu.

16 **MR LEAUANAE:** Not on the menu.

17 **MS SHARKEY:** All right. Lulu, just bringing our survivor voice into this session, you might  
18 have heard that during the State hearing, a number of agencies made acknowledgments in  
19 respect of Pacific Peoples and acknowledgments to survivors and I just want to highlight  
20 some of them for you.

21 The Ministry of Health, Dr Sarfati says that some experienced cultural neglect  
22 during the relevant period. The impacts of this abuse are ongoing for survivors and  
23 families. Pacific Peoples were not kept safe from harm when they should have been and  
24 that the Health and Disability settings didn't have adequate policies, processes and  
25 practices; record-keeping, issues such as ethnicity not being recorded; loss of some records  
26 meant that the number of Pacific Peoples in the Health and Disability settings may never be  
27 known during that relevant period; that Pacific Peoples were negatively impacted by either  
28 being over-represented or through settings not meeting their needs; institutional racism has  
29 contributed to the abuse of Pacific Peoples in Health and Disability care settings; whaikaha  
30 Geraldine Woods said between 1950 and 1999, Health and Disability care settings failed to  
31 consistently ensure that Pacific disabled people had adequate access to their culture,  
32 identity, language and communities and this contributed to isolation and cultural  
33 disconnection. Further, that the impacts are ongoing and have impacted individuals, as well  
34 as wider aiga.

1 Ministry of Education, Iona Holsted acknowledges that the education system  
2 continues to underserve Pacific learners. The education system is much slower at  
3 advocating for better Pacific language opportunities. Workforce capability and capacity is  
4 a major challenge for the education system and recruiting and retaining Pacific staff.

5 And, finally, Oranga Tamariki acknowledged that structural racism existed against  
6 Pacific Peoples in care. As a result of poor data collection, we'll never know the true  
7 number of Pacific Peoples in care and the Care and Protection system negatively impacted  
8 Pacific in care, and the Care and Protection system failed to ensure that all Pacific tamariki  
9 in care had adequate access to their culture, identity and language.

10 Given all of those acknowledgments, as the leader for the Ministry working for  
11 Pacific Peoples, my question is, Pacific Peoples in the care system, should that be a system  
12 focus area for the Ministry For Pacific Peoples specifically?

13 **MR LEAUANAE:** Thank you. It's devastating, you know, to hear the acknowledgments by my  
14 learned colleagues and the impact on our people. We, as a Pacific community -- and that's  
15 why I phrased, whilst I'm a public servant, I'm a son of Samoa, son of the Pacific, Aotearoa  
16 New Zealand-born and raised. I'm not divorced by the pain that our people have endured  
17 and gone through. And even as public servants working within the system, we, too, face  
18 these issues. Sometimes people listen and sometimes people don't and, hence, the reason  
19 why we've established the All-of-Government Pacific Wellbeing Strategy.

20 I hear the lack of cultural intelligence and cultural values within our system and,  
21 hence, that's the reason why embedded in the All-of-Government Pacific Wellbeing  
22 Strategy is the importance of our values, the importance of our Pacific cultural values and  
23 these were the values that were signed off by Cabinet and agreed to by our chief executives,  
24 values like aroha, love; values like fakalilifu, respect; pirianga, collectivism; tapuikinga,  
25 spirituality; magafaoa, family; olafetufuake, reciprocity; and soalaupule, consensus.

26 These are the threads of the values that we will attempt, with all that we have, to  
27 ensure that it's throughout the whole system. This is through the All-of-Government  
28 Pacific Wellbeing Strategy and all of those agencies that you've mentioned are all in this  
29 governance group, all part of the minister's group, all part of the chief executives group, all  
30 part of the working group. It will be a slow burn and a long journey but that's the process  
31 that we're undertaking to ensure that our values are embedded throughout the system.

32 We're in a phase where we're looking at the outcomes and indicators framework and  
33 we have a particular - out of 18,-- one that's focused on State care for our children.

1 **MS SHARKEY:** Sorry, Lulu, can you say that again? I was listening, but I just want to catch  
2 that again.

3 **MR LEAUANAE:** Which part?

4 **MS SHARKEY:** The State care, where you mentioned the role that State care might play.

5 **MR LEAUANAE:** So within our outcomes framework, there are 18 that we have been able to  
6 frame and a lot of the 18 was birthed out of our consultation with our community, because  
7 they've said, "These are the things that we want the system to focus on", and one of the 18  
8 is a focus on the outcomes for children in State care. I might invite my colleague, who  
9 might be able to expand further on that actual outcome and that's how we're focusing.

10 **MS SHARKEY:** Right, so moving forward, there is a concentrated focus on Pacific Peoples in  
11 care, because it's not just Oranga Tamariki, there are a number of other settings as well. Is  
12 that what we're hearing today?

13 **MR LEAUANAE:** It was always part of the approach -- the All-of-Government Pacific  
14 Wellbeing Strategy was developed back in 2019 and continued to evolve. In the earlier  
15 Cabinet papers, it talked about the need for an outcomes framework and we're at an  
16 approach now where we actually can measure based on the 18 and one of them is on the  
17 care for our children in State care.

18 **MS SHARKEY:** Because to ensure that this never happens again, there would need to be some  
19 deliberate intrusive policy or focus on Pacific Peoples in care.

20 **MR LEAUANAE:** Hence, the focus on one of the outcomes being focused on that. I'll invite my  
21 colleague to speak more to the actual outcome that we are measuring.

22 **MR AILEONE:** Thanks Lulu, and, Ms Sharkey. I will be brief. No, Lulu is absolutely correct.  
23 There is a whole range of outcomes that our community have asked us to take forward. It's  
24 a holistic framework and they cover areas like preventative health, mental health and  
25 well-being, children in care, but at the essence is this need to take a very cultural Pacific  
26 design, Pacific family-centred approach.

27 We have a pretty demanding minister, 'aupito William Sio, and he's got a saying  
28 that he uses with us as well: if it doesn't get measured, it doesn't get done. Sometimes the  
29 system-speak that we talk of, we appreciate it's a little bit esoteric but actually we have to  
30 measure it. If we do not measure it, if we do not have a set of indicators that tells us that  
31 we're moving in the right direction, that it's cutting through with our community then we're  
32 really just spinning our wheels. I don't really have much to add to what you said, Lulu.

33 **CHAIR:** If don't mind, just slow down a bit for us?



1 **MR AILEONE:** Sorry, I was getting overly excited. The systems stuff, it's a little bit blasé to  
2 people but that's where I truly believe, if we can record, develop indicators and measures  
3 with our community, it's a small step, but it's a significant step, because I'm not too sure if  
4 the system has been geared that way in the past. So you mentioned all those agencies that  
5 admitted they fell short, so this is our part in putting a bit of structure around measuring all  
6 the outcomes and the investment that's coming to the Pacific, not just through MPP but  
7 across the whole system. Thank you.

8 **MR LEAUANAE:** Just on the data side, we are focused on the importance of capturing data. Our  
9 relationship with Stats New Zealand, we've signed an MOU with them and also with the  
10 Pacific Data Sovereignty network to ensure that the data that's being collected by Stats  
11 New Zealand is captured appropriately and properly.

12 We have key leaders from our research community leading that work, the likes of  
13 Jacinta Falealili, Dr Seini Taufua --

14 **MS SHARKEY:** Is that Moana Connect?

15 **MR LEAUANAE:** Moana Connect. They're part of the Pacific Data Sovereignty. Then I have a  
16 statutory responsibility under the Public Service Act which states that I have to provide a  
17 long-term insights briefing and our focus on our briefing this time is focused on Pacific  
18 data sovereignty, data equity, because we recognise that without data, as Aiono has talked  
19 about, and others have referred to in the various presentations, that without the data,  
20 without that information, proper and appropriate decisions are not made for our people. So  
21 that will be a critical focus area for the Ministry moving forward.

22 **MS SHARKEY:** I'm just going to ask Lahoai to bring up a Pacific hearing transcript from  
23 Folasaitu Dr Julia Ioane and you might have seen her statement in the bundle. We're just  
24 looking at lines 1 to 11 of page 725 of that transcript. There's just a paragraph that I wanted  
25 to bring to your attention, - I think it's about to appear. So she talks about there  
26 being-- the part you don't see is on the page before but she says:

27 "Even within our own government departments there are silos, so how do we  
28 responded to this? I think we go back to our holistic way of doing things. In all of  
29 community, by all of government approach, having one vision, one plan, one direction for  
30 Pasifika that is upheld by all government agencies and it's led by the Ministry For Pacific  
31 Peoples, because the Ministry for Pacific Peoples is what is needed to support the voice of  
32 community at the Government level."

33 And you would agree with what she says there, is that your All-of-Government  
34 Pacific Wellbeing Strategy?

1 **MR LEAUANAE:** That's correct.

2 **MS SHARKEY:** And that is where you have the eye across, is that fair to say?

3 **MR LEAUANAE:** That's correct. If we look at the All-of-Government Pacific Wellbeing  
4 Strategy, that is the ultimate purpose, is to ensure that the social determinants for Pacific  
5 well-being are catered for and looked after because we want to be, at the beginning of the  
6 pipeline, preventative before our children are in State care. Things like housing,  
7 employment, we get those factors correct, preventative.

8 So the All-of-Government Pacific Wellbeing Strategy was also birthed out of what  
9 I mentioned earlier, Pacific Aotearoa Lalanga Fou report. There's our one vision for all of  
10 Government and endorsed by Cabinet and endorsed by my colleagues and the agencies  
11 through the fora that I've just aforementioned.

12 So that's the vision. The four strategic goals, everyone's buying into that, in terms  
13 of that is the measure by which we're measuring all of our government departments and  
14 keeping them accountable, and they are aware the 18 outcomes give life. If they deliver on  
15 those 18 outcomes, it will deliver on the Lalanga Fou goals. It will ultimately deliver a  
16 vision of a thriving, resilient, confident and prosperous Pacific Aotearoa.

17 **MS SHARKEY:** And that sounds wonderful. Those inequities have been around for a long, long  
18 time, it's going to take a long, long time to change, but what we're looking at for the abuse  
19 in care system, MPP having that role and that oversight, which would require you to have  
20 the mandate, I guess, to monitor the service delivery of other agencies.

21 **MR LEAUANAE:** That is the outcomes indicator, as Aiono mentioned before. We've met at  
22 least 600 of our community over the course of the last three days. Prior to that, we've  
23 engaged with our community all through Covid, so at least 10,000. Through our social  
24 media, impacted at over 2 million. There's a strong engagement with our community  
25 leaders and the work that we do. So we have this constant feedback. We met with Hellen  
26 Puhipuhi, who leads the Fijian community in Whanganui, and the feedback and the work  
27 that we're hearing from our community is, "Keep going, we want more, we need more, but  
28 well done". Long journey, like you say. Intergenerational requirements before there's real,  
29 these big shifts. Housing, 21%, it's not going to change next year and be 50%. That will  
30 take -- so what we're doing now is building the pillars, the foundations to ensure the  
31 long-term gain for our Pacific communities, aligned with these Lalanga Fou goals. The  
32 whole system, all these agencies that you've mentioned are all privy and part of this  
33 approach.

1           We read this slice of Julia's and watched her present it and couldn't help but  
2 think -- I wish we had drafted this for her because this aligns with the purpose and the  
3 thinking that we had when we set up Pacific Aotearoa, Lalanga Fou and the  
4 All-of-Government Pacific Wellbeing Strategy.

5 **MS SHARKEY:** That's right, so a lot more of a cohesive us all talking to each other. That last  
6 part of her paragraph, she says:

7           "You see our Pasifika communities cannot be assessed by those of us that do well.  
8 We have to assess our success by those who need our help the most and that is our children  
9 and young people in care, our children and young people in the justice system, our children  
10 and young people with disabilities..."

11           And she goes on. That's where we need to measure our success, not in the  
12 achievements of someone like myself or you, we need to be looking at those children and  
13 our young people.

14 **MR LEAUANAE:** It's so true. When I look at the outcomes for our NEET programme, Tupu  
15 Aotearoa, we have youth that are disenfranchised from school, don't want to go, but our  
16 providers deliver an approach to their well-being which is different from mainstream  
17 providers -- it's a customised, Pacific-centric, Pacific values-led approach to our children.

18           I recall seeing the mentoring talk of one of their youth based in Otago who was in  
19 a neighbourhood that was really struggling and he came on to the course. He has three  
20 brothers. Then on the course, he got into electrical, like a trade, got into employment, had  
21 his own van. His brothers see that and they do the same, jump on the same course. The  
22 neighbourhood see these children with the three vans, because they're all three now  
23 electricians, what happens in their property, growth, prosperity, and it influences others on  
24 that street.

25           So whilst we don't have direct initiatives for our children that are in State care, we  
26 have this overarching mandate through the All-of-Government Pacific Wellbeing Strategy,  
27 but we also have initiatives that target our children that are not doing so well and you are  
28 seeing the prosperity.

29           So over the course of this financial year, 3,000 of our children, our Pacific Peoples,  
30 have been placed into employment or into training. They sound like -- that's big for our  
31 people and when I hear their stories, as I've been hearing over the course of the last couple  
32 of weeks, and will continue to hear, because we have another 12 to do across the country,  
33 and now I can share about this experience with our community and hear from them, too, the  
34 voices that they might bring to this talanoa also.

1 **MS SHARKEY:** That, Lauulu, I guess is the importance of MPP's role, because the Covid  
2 response showed us how you were able to bring communities together, increase our Pacific  
3 Peoples' engagement and involvement there. The response to Pacific Peoples in care, I  
4 would say, requires an even greater intense response, but the connections you have in our  
5 community are far and wide and they could well be used when we're trying to bring  
6 together this system for Pacific Peoples in care. You'd agree with that?

7 **MR LEAUANAE:** I agree.

8 **MS SHARKEY:** I'm aware that Commissioners might have some questions and we've got about  
9 10 minutes to go, so I just want to touch on the All-of-Government Pacific Wellbeing  
10 Strategy, because, as you said, it was endorsed by Cabinet. What does that mean, endorsed  
11 by Cabinet? Is it good to go?

12 **MR LEAUANAE:** We are implementing, and the endorsement of Cabinet is important, because  
13 my colleagues have no excuse but to attend, to be involved, to participate.

14 **MS SHARKEY:** Okay. That means the well-being strategy is in place.

15 **MR LEAUANAE:** That's correct.

16 **MS SHARKEY:** And this is -- Aiono, did you want to say something?

17 **MR AILEONE:** Fa'amalie atu Lauulu. (My apologies, Lauulu.) The framework is in place and  
18 there's a little bit that sits under it, in terms of fleshing out, I mentioned before the  
19 indicators and measures, so that's a co-design with the community and Lauulu mentioned,  
20 yeah, we're going up and down the country to talk to our community and it's testing with  
21 them, validating some of the framework. Being endorsed by Cabinet, for a small ministry,  
22 was huge for the policy shop that I led, because we don't get a lot of stuff in front of  
23 Cabinet but this has been in front of Cabinet three times and a lot of willing around the  
24 table in the system to take it forward.

25 So the strategy is being implemented, will be officially launched in September. But  
26 we haven't waited for the promulgation of the strategy proper. We're going for it now to  
27 implement and a lot of the programmes that we have in place now give life to the strategy.  
28 So I'm not saying my CE is wrong but there's a little bit more to the story, the boring policy  
29 people like me can talk about it.

30 **MS SHARKEY:** I saw "endorsed" and I was, like, hmm, is there a little bit more to it than that?  
31 As you were saying, it's difficult to get things before Cabinet. The portfolio sitting outside  
32 Cabinet, it would be good if it was inside, where, you know, let's aim for the stars, Pacific  
33 Peoples is important; it would make a difference to have it inside that tent?

1 **MR LEAUANAE:** That's a political decision that's got nothing to do with me as an official, but I  
2 would say Minister 'aupito has been -- we've secured, over the course of the last four years,  
3 \$345 million, over the course of the last four years. I remember speaking to a colleague  
4 and he said, "I don't know what you've done. I wasn't able to rub two \$1 coins out of the  
5 system". So this is birthed from Lalanga Fou Pacific Aotearoa, the well-being approach. If  
6 you want to know well-being, this is what Pacific well-being looks like, and then the  
7 implementation of the All-of-Government Pacific Wellbeing Strategy in its various phases  
8 means that the influence is such that - I can't,- -- that will be conjecture to say whether the  
9 Minister and our Ministry inside or outside of Cabinet would be more influential because  
10 we've done a lot with what we have.

11 **MS SHARKEY:** Just on that strategy, looking at the outcomes framework -- you've got that in  
12 front of you -- and that's -- you have the system focus areas and in the system shifts you  
13 talk about confronting and addressing systemic racism and discrimination. Can you explain  
14 what you mean by that?

15 **MR AILEONE:** In short, it's really about addressing, I think, some of the issues you referred to  
16 before, Ms Sharkey, around why is it that we have one or two CEs at the table. It is -- it  
17 wasn't long ago where we couldn't talk about these words in the system, they were a little  
18 bit allergic when you talk about racism. Addressing those, achieving a big shift across the  
19 system comes through in a lot of our planning -- plans that fall under the strategy, the  
20 institutional and structural issues that prevent a lot of our people in the workforce  
21 progressing.

22 So it is changing hearts and minds in the system to understand that it's not merit that  
23 always keeps our people behind, there are other factors, biases that, unfortunately, play into  
24 it. A lot of it is around education, promoting the issue, developing tools, so the,-- in terms  
25 of the public sector at least, there's more awareness about those Pacific values that Lauulu  
26 spoke to about before.

27 There's more awareness, when you are meeting with Pacific people, you need to be  
28 mindful of their protocols. There's more awareness around data that when you design,  
29 collect, analyse, interpret, present data, you need to be working with the Pacific in  
30 partnership, if not devolving some of that stuff out to them.

31 So I think it's a little bit historic and contemporary, but we couldn't put forward  
32 a strategy through the system that didn't have some of those system shifts in mind.

1 **MS SHARKEY:** Right. One cohort we've seen in the Pacific investigation, Pacific Inquiry, a  
2 growing number of Māori and Pacific children in Aotearoa. Is there a kind of focus or look  
3 at that particular cohort, complex needs and your relationship with Te Puni Kōkiri --

4 **CHAIR:** You mean people of ancestry which is both Māori and Pacific?

5 **MS SHARKEY:** Māori and Pacific descent.

6 **MR LEAUANAE:** Yes, we work closely with Māori, if you look at our relationship with Te Puni  
7 Kōkiri and Te Arawhiti, the Crown agents; our relationships with iwi in our work with our  
8 communities. In the last budget 22, we worked closely with Ngāti Toa on a housing  
9 strategy, over 150 million over 10 years to build 300 homes in Porirua. And so we see the  
10 relationship with Māori critical because of this. There is a growing Māori Pacific  
11 population coming through, and iwi, in our tuakana/teina relationship, it's broader, it's not a  
12 marriage, it's brother and sister, sister/brother, brother/brother relationship that we have.

13 I think the recent trip with the Prime Minister's delegation back to Samoa  
14 highlighted the strengthening relationship between Pacific and Māori, because we  
15 requested that iwi leaders were also part of our Treaty of Friendship 60-year celebrations in  
16 Samoa. And we took three iwi leaders to represent also New Zealand, but also shows the  
17 significance of the partnership approach that we want to have with iwi.

18 And so the Ministry is building a strategy where we're building these relationships  
19 with our Crown agents, our Crown agencies, but also with iwi direct to give us a better  
20 understanding of how to best work and deal with this growing Māori Pacific cohort.

21 **MS SHARKEY:** Thank you, Lulu. So just a couple of questions left, for Commissioners. I've  
22 been told 10.30 is the break.

23 **CHAIR:** That's correct.

24 **MS SHARKEY:** Under the Pacific well-being strategy, how do the formal cross agency  
25 arrangements work? What do they look like, what do they enable?

26 **MR AILEONE:** In terms of the cross-agency arrangements, originally, we had invited the main  
27 line agencies that have policies that do involve a lot of Pacific. So the cross-agency work  
28 revolves around, basically, one of the key areas, around governance. The system Lulu  
29 mentioned, we have a ministerial working group made up of the different ministers with  
30 portfolio responsibilities. Similarly, we have -- those ministerial portfolios flow down into  
31 the CEs grouping and then it flows into a DCEs cross-agency grouping, where we are  
32 meeting quite regularly to take forward the Pacific outcomes framework which is a focus  
33 but also other strategies, plans that they're developing which have a disproportionate effect  
34 on Pacific and then we have senior officials as a working group.

1                   So cross agency wise, we bring the agencies together like that. Sorry, I got the sign  
2                   to speak slowly. Sorry about that. So it comes together at the moment by virtue of the  
3                   mandate we have from our community and the mandate we have from Cabinet to have  
4                   those agencies around the table.

5 **MS SHARKEY:** Mandate from Cabinet to have all those big agencies around the table with MPP.

6 **MR AILEONE:** Correct.

7 **MS SHARKEY:** That's where you will ensure your advice has been adhered to or listened or...

8 **MR AILEONE:** We actually have them involved in the development of the outcomes framework.

9                   It's critical because they'll be responsible for ensuring that those outcomes are being  
10                  achieved and that's in a co-design fashion with them.

11 **MS SHARKEY:** All right. Aiono, Laulu, malo 'aupito, I don't have any further questions. I'll  
12                  leave it for the Commissioners now.

13 **MR LEAUANAE:** Fa'afetai lava Tania Sharkey.

14 **CHAIR:** Yes, thank you. Our questions are going to be directed through Ali'imuumua.

15 **COMMISSIONER ALOFIVAE:** Faafetai lava, faafetai lava mo le faasoa i leni taeao. (Thank  
16                  you, thank you for sharing this morning). Can I just pick up on the last point that  
17                  Ms Sharkey just left off on. Could you just clarify for us again, so it's been approved to  
18                  work on this outcomes framework but we still haven't got to the end product, you're still  
19                  developing it; is that correct? Did I hear that right?

20 **MR AILEONE:** Thank you for the question, Ali'imuumua. So the strategy as such is finalised,  
21                  accepted by Cabinet and the unsexy bit that we're trying to work out now is how we  
22                  measure and that's the outcomes framework and it has 18 outcomes and underneath those  
23                  outcomes sits these indicators and that's the indicators we need to define, develop,  
24                  establish. The shortcoming we have is whether the data is being collected and so we  
25                  suspect there will be a gaps analysis where we're probably not measuring to understand  
26                  whether that indicator is there. But the other components of the strategy, in terms of  
27                  workforce capability, has stood up. The governance arrangements are stood up and the  
28                  principles and values that Laulu mentioned before have been endorsed.

29 **COMMISSIONER ALOFIVAE:** Congratulations. It's an amazing piece of work and quite  
30                  ground-breaking. It's pioneering. It's the first time this has been done, we're hearing that  
31                  loud and clearly. But do you have an end date by which you should have actually been able  
32                  to have worked through those measures so you can actually start measuring?

33 **MR LEAUANAE:** We are trying to have these indicators established as quickly as possible so we  
34                  can start the measuring. We are not going to wait for all of the measures to be, -we're- not

1 going to wait on all 18 to be perfect to then start measuring. There are some indicators, I'm  
2 sure, out of outcomes that are ready for us to measure.

3 The pertinent one for this is the abuse in State care approach and focus. I'm not sure  
4 how far we are in relation to that outcome and indicator, but we're doing everything in our  
5 ability to work with Oranga Tamariki and the other agencies that are critical to this  
6 indicator outcome to be finalised. And, ideally, it would be finalised by the end of  
7 December so that we're ready for at least the last two quarters, so we're trying our very best.  
8 I know we're launching, - sorry, I'm talking too fast here,- - I- know we're launching the  
9 strategy in September and then --

10 **COMMISSIONER ALOFIVAE:** So the strategy's been approved but it's still very much a work  
11 in progress, I think is a good way, it's a fair way to describe it, but working as fast as you  
12 can, wanting to put pegs in the ground but you can't quite commit to those things. There's  
13 nothing wrong with that. We want to just get clarity on that, fa'afetai lava.

14 Because in our space already, so the care of children and State care, which includes  
15 a range of settings -- health, disability, children in residences -- there are already some  
16 processes. So you might have heard in our first week we heard from the ICM, from the  
17 children's monitor, the Independent Children's Monitor. We've heard from Oranga  
18 Tamariki and the National Care Standards that are there. We also heard yesterday from our  
19 Children's Commissioner and a small team from her office, and later on this morning, we're  
20 going to also hear from the Ombudsman.

21 So I think we're agreeing with you, there are already some processes in place where  
22 the voice of Pasifika is desperately needed in the accountability space. So I'm really just  
23 wanting to put to you, and, you know, we do this, Māori have a treaty that they can rely on.  
24 Pasifika have to be really strategic, we rely on Treaty friendships with the Government, we  
25 rely on Realm Nation arrangements and often we very strongly support of Māori, because  
26 we think if Māori can get through, then we can get through. And I'm using the royal "we"  
27 in terms of Pasifika. I think you're understanding the sentiment that I'm expressing here.

28 I want to come back to the example that you used about going out into our  
29 communities. No question that the Ministry of Pacific Peoples is valued, highly valued by  
30 our Pasifika communities. That's shown by the strength and the extensive networks that  
31 you have and the question that Ms Sharkey put to you was the value of being able to use  
32 those same networks to inform the care space, because that's a powerful voice that is often  
33 missing.



1           Then we understand the tension that you hold as an agency, as a population  
2 Ministry. So you go out to our people. They tell you all these things. They tell you off,  
3 they pat you on the head, but they love you. And then you come back to your colleagues in  
4 the system and the tension is how do you influence? So there some things that we always  
5 do by way of fa'aaloalo, but there are other things when Pasifika just actually needs to stand  
6 up in the accountability space. That's the question, I think, that we're wanting to just  
7 talanoa with around mandates.

8           So the well-being strategy is all good and well, that's going to be part of the new  
9 world, but it's for all of Pasifika well-being. We've got a quite a particular focus, because  
10 we've heard that Pasifika are over-represented, Māori more so, disability are represented  
11 but Pasifika are represented, can't sit well with us as Pasifika people.

12           And is there a role to play if a mandate was available to in actual fact strengthen  
13 that accountability component? Because in the here and now, what's the agency voice into  
14 the ICM, into the National Care Standards, into the Office of Children's Commissioner, into  
15 the Ombudsman's processes? Just some thoughts, fa'amolemole lava.

16 **MR LEAUANAE:** Fa'afetai lava mo le tuu fesili Aliimuamua. (Thank you for the question  
17 Aliimuamua). This has been the fine line, fine balance hearing the voices of our people  
18 devastated by what they go through and then we look at the level of resourcing made  
19 available to us and we have this word "prioritise", because if we spread ourselves too thin  
20 then we're no use to anyone. And I recall the Ministry of yesteryear, you know, small  
21 agency, really difficult, I reflect on the May 2017 PIF report, which showed that we just  
22 weren't connected, and then the shift that we've gone through today.

23           So this is a longwinded way of saying if we were even given the mandate, I'm not  
24 sure if we would have the resources to do that properly. Then if you give us the resources,  
25 when you look at Oranga Tamariki, the last time I read their annual report, I think they  
26 were 1.8 billion and we're 80 -million - grown from 12 -million - and- the impact with our  
27 communities is there.

28           And so if we were to reflect on what do we do with the limited resources, if there  
29 were things like in the Public Service Act, I'm the Chief Executive, maybe I become a  
30 system lead and then a system lead creates criteria by which the government departments  
31 have to adhere to in terms of Pacific. To enforce the already existing AllofGovernment  
32 Pacific Wellbeing Strategy, is there a Cabinet Committee that's created, utilising the  
33 ministers that are already involved in the AllofGovernment Pacific Wellbeing Strategy?  
34 Through Treasury and the budget process, does the AllofGovernment Pacific Wellbeing

1 Strategy have a greater role in determining budgets for Pacific Peoples? Those are  
2 probably the areas of strengthening in terms of our priority with the limited resources that  
3 we have.

4 Now, we could argue what if you got the resourcing that you required to deliver on  
5 this? We would probably defer back to reinforcing the All of Government Pacific Wellbeing  
6 Strategy to take a very systemic approach, because the skill set required to monitor and  
7 evaluate, we don't have the workforce, all these kinds of factors.

8 So a longwinded answer to provide a contextual framework to -answer - to try and  
9 provide an answer to your very good question.-

10 **COMMISSIONER ALOFIVAE:** Fa'afetai lava. Final question, because I'm mindful of time and  
11 also of your role. The agencies that I've just referred to; the ICM, the OCC, the  
12 Ombudsman -- and we'll leave aside Oranga Tamariki because we've got Aiolupotea Sina  
13 in there, so you talk a lot -- have they consulted MPP on the new world that they're going to  
14 be living in? That's the Independent Children's Monitor, the Children's Commission and  
15 the Ombudsman, have they consulted you, your agency?

16 **MR AILEONE:** Yeah, we had a pretty open relationship with Judge Becroft when he was the  
17 Children's Commissioner, very knowledgeable about our work, and that's quite an open  
18 channel. I'm part of -- there is an inter-agency group where ICM is there with the other  
19 children's agencies. Sorry, Ali'imuamua, what was that last group?

20 **COMMISSIONER ALOFIVAE:** I'm really asking you specifically around have they consulted  
21 you around the oversight and monitoring that they are now responsible for and will be held  
22 accountable for, for Pacific children?

23 **MR AILEONE:** I will double-check with my teams. I'm not sure. I have to take that on notice.

24 **COMMISSIONER ALOFIVAE:** Okay. Fa'afetai lava. Faamalulu atu. Leai se afaina, faafetai  
25 lava. Ia avea lo'u leo e fai ma sui o le taitaifono faatasi ma le pa'ia lasilasi o la matou  
26 Komesina e momoli atu le faafetai. Faafetai le loto malosi. Fa'afetai le finau. Faafetai le  
27 galulue faamaoni mo tatou tagata i Aotearoa Niu Sila nei. E le lava upu ae momoli atu le  
28 fiafia i lou oo mai ua maualuga le aso. Faafetai le faasoa, faafetai le lagolago malosi mai foi  
29 i la matou galuega ia matou manuia, ia manuia oulua ma lou aiga, faatasi ma le  
30 matagaluega. (Thank you. I apologise. It's fine, thank you. I extend our gratitude on behalf  
31 of the Chair and members of the Commissioner. Thank you for being strong. Thank you for  
32 your persistence. Thank you for working diligently for our people living in Aotearoa New  
33 Zealand. Words cannot fully express our gratitude in your being here. Thank you for  
34 sharing, thank you for advocating our work).

1 **MR LEAUANAE:** E le mafai ona matou o ese mai i ae le i fa'aleoa se agaga gae'etia i lau  
 2 galuega Aliimuamua. Ua maua le loto ma le agaga alofa ma le agaga foi ga o le vivii oga o  
 3 le vaai aku o lea e ke faasoa i legei galuega makagofie, kāua. Ia faamaguia mai le Akua la  
 4 kakou Komesiga, vasega Komesiga aemaise i lokou kofa mamao i lau afioga Aliimuamua,  
 5 faafetai, soifua ma ia manuia. Manuia. (We cannot depart from here without expressing  
 6 our gratitude to the work you have done Aliimuamua. We have found love and sing praises  
 7 with what's been shared on this important work. May the Lord bless the Commissioners,  
 8 the team especially Aliimuamua, thank you).

9 **CHAIR:** General thanks from all of the Commissioners for your efforts, your works and for the  
 10 work of the teams who sit behind you in providing the evidence to the Royal Commission,  
 11 we're very grateful. Thank you so much. It's time for our morning adjournment. We'll  
 12 take 15 minutes. Thank you.

13 **Adjournment from the 10.31 am to 10.49 am**

14 **CHAIR:** Nau mai hoki mai. I'm going to first of all say tēnā koe ki a koe, Ms Castle, and I invite  
 15 you to introduce yourself and explain what you look like to those who cannot see.

16 **MS CASTLE:** Tēnā koe Madam Chair, tēnā koutou katoa. Mātua rā ko te mihi tuatahi ki ō tātou  
 17 tūpuna kua wehe i te pō, haere atu koutou, haere, haere. Ki a koutou ngā kanohi ora, tēnā  
 18 koutou katoa. Ki te haukāinga o tēnei whenua Ngāti Whātua Ōrākei, ka nui te mihi ki a  
 19 koutou. E mihi ana ki ngā purapura ora ki konei, ā-ipurangi, ki ō koutou kāingā mātakitaki  
 20 mai ana, tēnā koutou katoa. Ki ngā māngai mō te Karauna, tēnā koutou. Kei āku rangatira  
 21 kei te tēpu ngā Kaikōmihana, tēnā koutou, huri noa ki te whare, tēnā tātou i runga i te  
 22 kaupapa o te wā, tēnei kaupapa whakahirahira, tēnā koutou, tēnā koutou, tēnā rawa atu ki a  
 23 koutou katoa.

24 Good morning, everyone. My name is Alisha Castle and I am one of the Counsel  
 25 Assisting the Royal Commission. By way of description for those who cannot see me, I am  
 26 a female in my early 30s of Māori and Pākehā descent. I have brown hair and I am wearing  
 27 a light green top and a black jacket. I'll now hand it over to my friend for the Crown.

28 **CHAIR:** Kia ora, Ms Castle. Mōrena, Ms Schmidt-McCleave.

29 **MS SCHMIDT-McCLEAVE:** Morena anō ngā Kaikōmihana. Ko Rachael Schmidt-McCleave  
 30 tōku ingoa. For those who are unable to see me, I am a tauwiwi, middle aged woman of  
 31 German, Polish and Scottish descent. I have brown hair and brown eyes and today I'm  
 32 wearing a black jacket with a black dress and a number of multi-coloured flowers on it.

33 I'm happy to introduce this morning the two witnesses from Te Puni Kōkiri. We  
 34 have Mr David Samuels, the Chief Executive, and the Secretary For Māori Development,

1 and he's accompanied by Ms Grace Smit, the Deputy Secretary, strategy, finance and  
2 performance for Te Puni Kōkiri. So before I hand over to you, Mr Samuels, to make your  
3 opening statement I'll just ask Madam Chair to administer the oath. Tēnā kōrua.

#### 4 **TE PUNI KŌKIRI**

#### 5 **DAVID SAMUELS AND GRACE SMIT (Affirmed)**

6 **CHAIR:** Thank you very much. We're just going to ask Dr Erueti to mihi ki a kōrua.

7 **COMMISSIONER ERUETI:** E tika ana kia mihi ki ngā kaiwhakautu i tēnei wā, tēnā kōrua, nau  
8 mai haere mai ki te tuku kōrero ki mua te aroaro o te Kōmihana, tēnei te mihi mahana ki a  
9 kōrua, mauria mai ō kōrua mana ō kōrua tikanga ki waenganui i a mātou, tēnā kōrua.

10 **QUESTIONING BY MS SCHMIDT-McCLEAVE:** Tēnā koe, Professor Erueti.

11 Mr Samuels has prepared a written brief of evidence and he's very happy to have  
12 that taken as read and he will make a brief opening statement and then be available for  
13 questioning. Tēnā kōrua.

14 **MR SAMUELS:** Kia ora. Hutia te rito o te harakeke, kei whea te Kōmako e kō? Uia mai, koia rā,  
15 he aha te mea nui? He tangata, he tangata, he tangata. Ka mihi ki a rātou ngā mōrehu, i  
16 runga i te kaupapa o tēnei Kōmihana, ngā hara me ngā mamae, kei te mihi, kei te mihi. Ki a  
17 koutou o ngā Kaiwhakawā, tēnā koutou. Judge Shaw, ki a koe e te kaikōrero, ka mihi ki a  
18 koe, ki a koutou katoa. Ko David Te Tokohau Samuels tōku ingoa. He mokopuna nō  
19 Waikato, ko Ngāti Māhanga te hapū, me te Whakatōhea ko Ngāti Ngahere te hapū. Ko ahau  
20 te Tumu Whakarae o Te Puni Kōkiri. Anei tōku mahi, anei ahau, tēnā koutou.

21 **MS SCHMIDT-McCLEAVE:** Tēnā koe, Mr Samuels. I'll now pass you over to Counsel  
22 Assisting, Ms Castle. If you could just both introduce yourself visually, that would be  
23 appreciated. Thank you.

24 **MR SAMUELS:** Kia ora, my name's Dave Samuels. I'm the Tumu Whakarae, the Chief  
25 Executive of Te Puni Kōkiri. I'm an older Māori male, grey hair. I have a white shirt, a  
26 dark tie and a blue suit.

27 **MS SMIT:** Kia ora, tēnā koe e Kaiwhakawā Shaw, tēnā koutou e ngā mema o te Kōmihana, tēnā  
28 tātou katoa. Ko Grace Smit taku ingoa, he uri ahau nō Te Waka o Takitimu, Ngāti  
29 Kahungunu me Ngāti Rakaipāka taku iwi.

30 My name is Grace Smit. I am the Deputy Secretary for Strategy, Finance and  
31 Performance at Te Puni Kōkiri. Today, I am wearing a blue dress with white and bone  
32 earrings. I am a wahine Māori of fair complexion with white hair of chin length and  
33 wearing bone earrings as well, kia ora.

1 **MS SCHMIDT-McCLEAVE:** Ngā mihi ki a kōrua. Just before I hand you over to Ms Castle, I  
2 will just remind you we have the signers here and Katherine, our stenographer, so if you  
3 can speak slowly, that would be appreciated. Thank you.

4 **QUESTIONING BY MS CASTLE:** Tena kōrua, ngā mihi mahana ki a kōrua. Before I begin,  
5 are you happy for me to address you both as "David" and "Grace"?

6 **MR SAMUELS:** Dave.

7 **MS CASTLE:** Dave, ka pai. I just want to begin by orientating the Commissioners and briefly  
8 talking about the long history that TPK has had, because it isn't a recent construct, is it, and  
9 you describe it in your evidence as TPK having a whakapapa that dates back to the signing  
10 of the Treaty, that's correct?

11 **MR SAMUELS:** Yes.

12 **MS CASTLE:** So we see in 1840, the protectorate department being established, and this is a  
13 summary because I'm mindful you refer to there being 29 administrative heads of TPK.  
14 We then have the Native Department established in 1861, disestablished in 1893. That is  
15 reconstituted in 1906. In 1847, we see the Department of Maori Affairs established and the  
16 1989 mainstreaming with the establishment of the Ministry of Maori Affairs and then, with  
17 the 1991 act, Te Puni Kōkiri being established. So it's been in place in various forms for a  
18 very long time, hasn't it?

19 **MR SAMUELS:** Yes.

20 **MS CASTLE:** And TPK in its current form, you say, is the Government's principal adviser on  
21 Māori well-being and development. Māori well-being, that's a big concept, you'd agree?

22 **MR SAMUELS:** Just a correction, the principal policy adviser.

23 **MS CASTLE:** Ka pai. How do you see TPK's leadership role in relation to Māori well-being?

24 **MR SAMUELS:** We are a policy Ministry, so if I just step back in terms of -- I'll slow down. In  
25 terms of where decisions are made, it's very important for Te Puni Kōkiri to have a strong  
26 policy function, because at the centre of government, and government don't make all the  
27 decisions in New Zealand, but certainly at the centre of government is Cabinet. The contest  
28 of ideas in government occurs around the Cabinet table and it's very important for the  
29 Māori voice to be at that table and to have a strong and capable policy voice. So, first and  
30 foremost, we have to have that capability and that's not easy to come by.

31 If you look across the Public Service in New Zealand, if you look at any of the  
32 sectors in the Public Service -- justice, health, education, employment, housing, to name a  
33 few -- you will see that there are disparities and inequities.

1           From a government perspective, at the centre of that is Cabinet and for us to be  
2 effective, we have to have a strong policy voice.

3           The second component of Te Puni Kōkiri is our capability building and that's  
4 focused on the community and building the community. We have 17 offices throughout the  
5 country. We have our regional staff, but they also link in to our policy function so that our  
6 policy is grounded in reality. With that regional presence, coupled with our strong policy  
7 capability, underpinned by a clear framework, that's how we bring about change in terms of  
8 well-being and development, which is reflected in our role.

9 **MS CASTLE:** Can you briefly explain for the public how what TPK does on a daily basis differs  
10 from Te Arawhiti, the office for Māori-Crown relations?

11 **MR SAMUELS:** All right, if I start with Te Arawhiti first, Te Arawhiti, broadly, has four  
12 functions, the first being the overall Treaty relationship; the second being building the  
13 capability of the Public Service to engage in a meaningful way with Māori and the Treaty  
14 partner; the third being the Marine and Coastal Area Act settlements; and the fourth being  
15 Treaty settlements.

16           Te Puni Kōkiri, as I said, our role is the principal policy adviser, but we also have  
17 an Act, which differentiates us from Te Arawhiti. Under our Act, the 1991 Māori  
18 Development Act, we have a number of functions. One is to promote the achievements of  
19 Māori, under section 5. We also have a role in monitoring those agencies -- monitoring and  
20 liaising with those agencies that have a responsibility to deliver services to Māori with  
21 regards to the adequacy of those services. So that, in a nutshell, is the difference.

22           The only other thing I'd say is that we focus on building the capability of the Māori  
23 community, which is different to Te Arawhiti which focuses on building the capability of  
24 the Public Service.

25 **MS CASTLE:** Kia ora. And those two responsibilities that are set out in section 5 of the Act, the  
26 first, promoting increases in the levels of achievement attained by Māori, that references  
27 particular areas, doesn't it, education, employment, health, economic development, but to  
28 clarify, the second arm, the monitoring and liaising function, that applies to any agency or  
29 department that delivers services to Māori?

30 **MR SAMUELS:** With regards to the first part of your question, it's not confined to those, it's right  
31 across the Public Service; and the second part, yes, it's all agencies.

32 **MS CASTLE:** You referred to Te Arawhiti's role in terms of the Treaty relationship. What is  
33 TPK's role in terms of giving effect to Te Tiriti in supporting the Crown in meeting its  
34 Treaty obligations?

1 **MR SAMUELS:** We are a policy adviser. Our policy is founded on a Treaty framework. That  
2 framework is called Te TautihiōRongo and that really provides us with an understanding of  
3 when we are engaging with Māori, when we are engaging with the Treaty partner, for what  
4 purpose and with whom. So everything that we do is founded on the Treaty and a policy  
5 framework that we apply with regards to the Treaty.

6 **MS CASTLE:** As the Ministry responsible for Māori well-being and development outcomes,  
7 what levers does TPK have to keep Māori children in care safe?

8 **MR SAMUELS:** If you follow the Act, there is the monitoring function, and that is the second  
9 part of section 5 -- in fact, both of them, I would say, we have a role in what you have just  
10 described.

11 **MS CASTLE:** We'll certainly get into how that function works. Just in terms of closing off,  
12 understanding TPK's role, can you briefly explain TPK's role in terms of fulfilling  
13 New Zealand's commitment to the United Nations Declaration on the Rights of Indigenous  
14 Peoples?

15 **MR SAMUELS:** Within government, in conjunction with Māori, we are developing the  
16 implementation plan.

17 **MS CASTLE:** And what about in terms of the Convention on the Rights of Persons With  
18 Disabilities?

19 **MR SAMUELS:** We would have the same responsibilities as every other government department.

20 **MS CASTLE:** Looking more closely at TPK's monitoring role and you say, I think at paragraph  
21 18 of your evidence, the purpose is to ensure adequacy of services provided by other Crown  
22 agencies for Māori, if we look at it, TPK's response to the notice to produce -- just for those  
23 watching who aren't aware, this is a response to an information request that was made to  
24 TPK -- at paragraph 8.11 of the response -- do you have that in front of you, the notice to  
25 produce? You'd like it on the screen? If I can ask my friend to bring up paragraph 8.11 of  
26 the notice to produce response and that is WITN2017003 at page 28.

27 **CHAIR:** For those in the room and those watching on the website, you won't see this. We're not  
28 putting up documents for public view, due to a variety of reasons, including privacy, but  
29 counsel will identify the document and read the portion that she's referring to, so we all  
30 know what is being referred to.

31 **MS CASTLE:** I'm told there's difficulty in bringing it up on the screen so if I read out the  
32 portion? Talking about TPK's monitoring responsibilities, it says:

33 "Te Puni Kōkiri considers that the monitoring function denotes a series of checks  
34 over time to assess progress and is not a one-off exercise. Te Puni Kōkiri also prioritises

1 which departments and agencies it monitors, having regard to the availability of resources  
2 and other factors that indicate a need for monitoring."

3 Can you tell us more about how Te Puni Kōkiri prioritises its monitoring and what  
4 that assessment looks like?

5 **MR SAMUELS:** I think I'll start with the second part first with regards to monitoring, because I  
6 think there's a number of different ways you can define "monitoring" and Te Puni Kōkiri  
7 has gone through different periods where different monitoring processes were used. Back  
8 in the early 2000s, for example, there were effectiveness audits that were run by Te Puni  
9 Kōkiri. Those subsequently stopped and there've been various iterations of monitoring  
10 which have ranged from, if I try and paint an image, officials in hi-vests with a clip board in  
11 other agencies right through to policy development.

12 If I take us to where we are now and my approach to monitoring, which, I think, is  
13 at the heart of the question, if I look at Te Puni Kōkiri and I mentioned the different sectors  
14 across the Public Service, if I was to adopt an approach that was akin to effectiveness  
15 audits, the 383 staff in Te Puni Kōkiri would be sucked up in any one of those sectors,  
16 whether that be justice or health, just to name two.

17 The other way that you can monitor and the way that I currently monitor, because  
18 the Act doesn't define "monitoring", is monitoring by doing and that's walking beside those  
19 agencies that are delivering services for Māori and showing them how to do it. The  
20 examples that I would give, and are recent examples, and they relate to this kaupapa, would  
21 be Covid19, Ngā Tini Whetū, which is a partnership between Oranga Tamariki, ACC, Te  
22 Puni Kōkiri and the Whānau Ora commissioning agency, to deliver outcomes for whānau  
23 and, in particular, children at risk. Those are examples of the monitoring I speak of. I'll  
24 leave it there.

25 **MS CASTLE:** Have you both been following the proceedings over the last two weeks?

26 **MR SAMUELS:** Yes.

27 **MS CASTLE:** So you would have heard some of the acknowledgments made by the various  
28 agencies and ministries about Māori experiences in care settings within the ambit of those  
29 ministries, and the adverse impacts that Māori have suffered in those settings. How do you  
30 see Te Puni Kōkiri's role in addressing that? Are those examples that you just talked about  
31 mechanisms that you use to influence what we've heard have been these outcomes and  
32 impacts for Māori?

33 **MR SAMUELS:** If I can just refer to my brief? The examples that you refer to I think in every  
34 case were complex and, fundamentally, in terms of how Te Puni Kōkiri approaches this, is



1 that we would argue that for interventions to succeed for Māori, they need to be  
2 whānau-centred. Currently, within the Public Service, and it's a result of our history, the  
3 focus is on the individual. Our interventions are all focused on the person. We argue, from  
4 a Māori perspective, that you need to focus on the collective and the whānau. Whānau  
5 have the solutions and only when the whānau, as the smallest unit within Māori society, is  
6 well, will the individual be well.

7 So the primary unit we serve, if you like, is not the single person, but the whānau of  
8 which that person is a part. And those examples that I gave you, if I just can unpack some  
9 of those, are examples of how we view that.

10 If we take Oranga Tamariki and children at risk and the Ngā Tini Whetū  
11 pilot -- that's what it is, it's a pilot -- that's an intense programme working with 800 whānau  
12 and what we have done in that is that we reduce the number of whānau that navigators will  
13 work with from 20 down to 10. So it's quite intense. What we know, and this has been  
14 running for a year now, is that of the 150 children that were at risk to be referred to Oranga  
15 Tamariki, none have been referred to Oranga Tamariki and none are currently at risk.  
16 That's an example of how we monitor, monitor by doing. That's a pilot because Te Puni  
17 Kōkiri, in terms of our resources and what we do, we look for innovation and that's  
18 an innovative approach.

19 Fundamentally, with whānau at the centre and if you think of Te Puni Kōkiri back at  
20 central government level, what we are trying to achieve is to enable the community to  
21 deliver. In between the whānau and Te Puni Kōkiri, we have a commissioning agency. Te  
22 Puni Kōkiri funds that commissioning agency for outcomes. It's not the normal  
23 funder/provider relationship, where you have some milestones and you have deliverables  
24 and you have to deliver those on time and within budget. These are based on seven high  
25 level outcomes.

26 From there, and it's multi-year, and from there it moves to the commissioning  
27 agency that coordinates and also funds for outcomes. And those outcomes are the  
28 outcomes that ACC, Oranga Tamariki and Te Puni Kōkiri are collectively after, the  
29 individual outcomes, because they have different requirements. Those other agencies, they  
30 have different requirements that they need to meet, but the innovation is how you wrap  
31 those up into outcomes and then deliver them to the whānau in need, and that's done  
32 through that commissioning agency or the intermediary.

33 The same thing happened in Covid. If you think about Covid in September  
34 last year, clearly, Māori were not being vaccinated at the same rate as the rest of the

1 population. In fact, I think at that point in September, we were looking at about 48%  
2 vaccination rates.

3 Dr Ashley Bloomfield has publicly commented how he wished he had engaged the  
4 community earlier. Te Puni Kōkiri was at the forefront of that and, again, it was  
5 innovation. We used those intermediaries; in that case, it was Whānau Ora, but also the  
6 national Hauora group as well, and those vaccination rates lifted from 48% up to 88% by  
7 the following year, early in the year.

8 In both those cases, it was delivery through the community to the community and in  
9 both those cases, it was putting whānau at the centre.

10 **MS CASTLE:** Does TPK experience challenges in scaling some of these pilots, because you  
11 referred to how Tini Whetū is a pilot programme?

12 **MR SAMUELS:** The programmes that I talk about come to Te Puni Kōkiri because we should be  
13 the agency of excellence around Māori development and well-being. They come to us for  
14 us to test and then once they are tested, they can be adopted by mainstream.

15 If they are worthwhile to be adopted, then that is a decision that will be taken across  
16 government, and we have to prove that case. The idea is not that it stays within Te Puni  
17 Kōkiri, because we have to innovate and change the system so we do that by incubating  
18 these types of programmes within Te Puni Kōkiri and then taking them out into the wider  
19 Public Service. In the case of Ngā Tini Whetū, we have those Public Service agencies with  
20 us. In the case of whānau ora, that is Te Puni Kōkiri, and has been for about the last  
21 decade, running that, but another example would be housing. And in that case, and it is a  
22 different case, but I feel it provides another explanation of how we engage and innovate; in  
23 that case, Iwi Chairs went to the Government and said, "We stood up in a crisis with  
24 regards to Covid. We now have a housing crisis. We have the land, we have the  
25 workforce, we have the capability, we know our communities, we know the local  
26 authorities. Give us an opportunity to deliver housing". That was at Waitangi in 2021.

27 That was subsequently handed to Te Puni Kōkiri and in partnership with the  
28 Ministry of Housing and Urban Development, we developed a programme whereby iwi are  
29 now those entities between the Government and the whānau and there are four prototypes,  
30 where we are in the early stages of commissioning them to deliver houses to their people.  
31 So those are examples of how Te Puni Kōkiri innovates.

32 Where that goes to in the future, I would expect that the Ministry of Housing and  
33 Urban Development and those iwi will be able to partner and Te Puni Kōkiri will pull back.  
34 Before Waitangi Day in 2021, we weren't doing that, but after Waitangi, we were. So you

1 have to be innovative but you have to look at how do you pass this over to mainstream.

2 That's the strength of Te Puni Kōkiri and that's the strength of our monitoring by doing.

3 **MS CASTLE:** In terms of -- you've told us about the approach to monitoring that TPK takes now  
4 and that's really helpful. Stepping back to the prioritisation process assessment that Te Puni  
5 Kōkiri carries out, just to use an example, yesterday the Commissioners heard about the  
6 very recent report titled "Care to Custody: Incarceration Rates"; that's document  
7 MSC0008257. Are you familiar with that report?

8 **MR SAMUELS:** I saw the news articles.

9 **MS CASTLE:** If we can go to page 10 of the report and the second bullet point there in the  
10 summary of key findings says:

11 "Māori who had been in State care were usually around 4 to 7 times more likely to  
12 receive a custodial sentence than the matched cohort."

13 Just to understand in practical terms what the prioritisation process might look like,  
14 do statistics like this influence how Te Puni Kōkiri prioritises its monitoring or, to put it  
15 another way, would this influence Te Puni Kōkiri prioritising monitoring State care  
16 agencies in terms of ensuring adequacy of outcomes for Māori?

17 **MR SAMUELS:** Well, again, I would argue that we just -- I just explained to you how we did  
18 with Oranga Tamariki and ACC that influenced where we focused our resources.

19 **MS CASTLE:** Can you describe for the Commission some of the challenges that Te Puni Kōkiri  
20 might face in prioritising its resources, thinking about the wide range of areas where Māori  
21 are impacted?

22 **MR SAMUELS:** In my brief of evidence, you'll have our strategy on a page. In that strategy,  
23 you'll see that there is our vision and then our purpose, our role, the three strategic priorities  
24 and nine focus areas. Those nine focus areas and, to be honest, nine focus areas for a  
25 government Ministry is a lot of focus areas, but they are all important. That's how we  
26 determine where our focus will be with regards to our resources. There's a lot else, a lot  
27 more work that is done because we administer 40 pieces of legislation as well, but that's  
28 generally the way in which we organise ourselves and where we focus.

29 In there, you will see -- under effective and equitable public sector performance for  
30 Māori, you will see that there is whānau-centred approaches, policy and well-being  
31 monitoring. What we've been discussing would fit there.

32 **MS CASTLE:** Around paragraphs 18 and 19 of your evidence, you talked about some of the  
33 previous struggles that Te Puni Kōkiri has experienced in carrying out its monitoring role.  
34 Do you have that in front of you? I can paraphrase what it says, I'm mindful of the time,

1 but you talk about Te Puni Kōkiri largely being denied the opportunity to make a  
2 fundamental difference through working closely with responsible agencies. Can you  
3 explain by who or how Te Puni Kōkiri was prevented in developing those relationships?

4 **CHAIR: [Fire alarm]** Given there's only one bell, I think we might remain seated unless we're  
5 instructed to do otherwise.

6 **MR SAMUELS:** I think that's a period when Te Puni Kōkiri did run effectiveness audits. And I'd  
7 put it like this: if you're a system influencer, you need to partner with the agencies and  
8 partner with Māori. That's the way you influence. In fact, the higher you go within the  
9 Public Service, the less authority you have. It is about influence, particularly when you're  
10 trying to influence across a whole range of sectors because Māori are in them all. Under  
11 those effectiveness monitoring arrangements, Te Puni Kōkiri became isolated and its  
12 influence waned.

13 **MS CASTLE:** So you consider that the monitoring by doing approach has enabled Te Puni Kōkiri  
14 to be more effective in its ability to influence, am I understanding that correctly?

15 **MR SAMUELS:** We proved it in Covid. We're proving it in housing and we're proving it in Ngā  
16 Tini Whetū.

17 **MS CASTLE:** Has TPK in its monitoring role in relation -- had any role, sorry, in relation to  
18 Māori abused in faith-based contexts, bearing in mind the placement by the State of Māori  
19 in the care of faith-based institutions?

20 **MR SAMUELS:** Because we are a policy Ministry and have been for some time, I would say that  
21 any -certainly, any Cabinet material that was being developed would have come across Te  
22 Puni Kōkiri's- desks to comment on. That's part of what we do. But in terms of  
23 specifically being involved in the care of children?

24 **MS CASTLE:** I acknowledge that Te Puni Kōkiri has never had a role in the provision of care.  
25 Just in terms of its monitoring function and the placement in care of Māori children by the  
26 State in the care of faith-based institutions, just whether Te Puni Kōkiri has had any  
27 monitoring role in that context.

28 **MR SAMUELS:** Not that I know of.

29 **MS CASTLE:** Given Māori having been abused in the care of those faithbased institutions, do  
30 you consider that Te Puni Kōkiri's monitoring role should have, or can currently extend into  
31 that setting?

32 **MR SAMUELS:** Well, I hate to change this into a question, but it depends where you want to put  
33 your main effort, because that kaupapa that you have just described, I suggest if I said,  
34 "We're going to focus on that and monitor", and what I think you're describing, which is an

1 effectiveness audit, then we would do nothing else. The fact that we focus on  
2 whānau-centred approaches and delivery mechanisms that empower the community, I think  
3 that is an approach and that would impact upon the kaupapa that you're talking about.

4 The backdrop to this is multi-faceted, but one of the components here is open  
5 government. We've been signed up in New Zealand to open government since 2014. It's  
6 under the International Association For Public Participation. In there -- and it's on the  
7 Public Service Commission's website as their long-term insights briefing. In there, it's  
8 acknowledged internationally that participation by the public provides for better outcomes.  
9 Also in there, it describes an engagement framework that is tiered, that moves from inform  
10 to consult to involve to collaborate and then to empower. That, in conjunction with a  
11 whānau-centred approach, commissioning for outcomes is where we will make a change in  
12 terms of well-being outcomes for Māori right across the spectrum, whether that be in  
13 health, housing, education, justice.

14 **MS CASTLE:** Earlier this week, when we heard from Oranga Tamariki in an exchange between  
15 my colleague, Ms Coates, and their Chief Social Worker, and I'm paraphrasing, he said,  
16 "We don't have enough regard to the fact that there are changes in government and there is  
17 influence on the agency from a direction and practice perspective, and agencies are at times  
18 subject to pendulum swings". Does TPK see pendulum swings to a barrier to effectively  
19 carrying out its role or effecting change?

20 **MR SAMUELS:** The Public Service, and in particular chief executives within the Public Service,  
21 we're stewards of the Public Service. So whilst policy differences may change in terms of  
22 governments and we serve the Government of the day, what we're talking about in terms of  
23 well-being for Māori, I think will straddle across whatever governing body is in place. It's  
24 for the Public Service to steward that. So, no, I don't accept that.

25 **MS CASTLE:** Okay. Do you have any reflections on TPK and its predecessor's performance of  
26 its mandate over the same period of time we're looking at, so the terms of reference period,  
27 when we know that Māori were subject to very high levels of abuse in various State care  
28 settings?

29 **MR SAMUELS:** What was the first part of that question, sorry?

30 **MS CASTLE:** Do you have any reflections to make in terms of TPK's performance of its mandate  
31 over that period, in light of what we've heard through this Inquiry about Māori abuse in  
32 care?

1 **MR SAMUELS:** Clearly, there have been failings within the system. Te Puni Kōkiri is part of  
2 the system and so I accept that we are part of the system that has resulted in those hara and  
3 that pain that I mentioned earlier.

4 In terms of Te Puni Kōkiri over the period of 1950 through to 1999, our purpose in  
5 Te Puni Kōkiri, and it's really why we exist and that's how I explain it to our staff, is to  
6 build an Aotearoa New Zealand where whānau can all stand, thrive and belong. We do that  
7 by drawing strength on our past. I think in the various iterations in Te Puni Kōkiri and the  
8 Ministry of Maori Affairs, there have been very, very good intentions and very good  
9 innovations that probably were ahead of their time. And if you look back in the records,  
10 you'll see that delivering through the community, delivering by the community,  
11 empowering the community and putting whānau in the centre has been a strong theme  
12 throughout the existence of Te Puni Kōkiri and its predecessors. I think there is a  
13 convergence now and Covid has been part of that, that we can see that that approach will  
14 work and has worked.

15 So I think we've learned from our past, we're drawing strength from our past.

16 **MS CASTLE:** Is an example of that moving away from that effectiveness auditing approach to  
17 TPK's monitoring role?

18 **MR SAMUELS:** Well, if we did it, we would fail.

19 **MS CASTLE:** That previous approach being taken, is that part of the part in the system that you  
20 think TPK played when you talk about TPK being part of the system that failed Māori who  
21 were abused in care?

22 **MR SAMUELS:** No, the failure I talk about there is in TPK's role and it is my judgment and my  
23 leadership that has determined that is not how we will carry out the monitoring function,  
24 because, in my view, we will fail.

25 **MS CASTLE:** Do you consider that function being carried out in that way during part of the  
26 terms of reference period, had any part to play in the system failing in terms of Māori  
27 abused in care?

28 **MR SAMUELS:** I don't know that I could draw a direct link, but I do, on reflection, and  
29 remember I wasn't -- it's very easy to be critical of predecessors and I don't want to do that,  
30 but clearly, that function, if you look across the system, wasn't successful.

31 **MS CASTLE:** You say in your evidence there needs to be, and this is talking currently, at system  
32 level, a better way of ensuring that government services are being delivered effectively to  
33 Māori. You say that at paragraph 20 of your brief. If you were to have a wish list in terms

1 of what those changes at system level would look like, what are the top three things, to your  
2 mind?

3 **MR SAMUELS:** There would be three component to this. One is we would take account of the  
4 whānau and not just the individual. We would deliver for the individual, but we would also  
5 see the whānau as the primary focus. Secondly is that we would empower communities to  
6 deliver into the community; and, thirdly, we would take a commissioning approach, where  
7 we commission for outcomes, as opposed to a contractual funder/provider arrangement.

8 **MS CASTLE:** You talk a lot about a whānaucentred approach and you referred to Whānau Ora in  
9 your evidence. What do you think would be the benefits to taking a Whānau Ora approach  
10 as the first building block for designing a safe system focused on the prevention of abuse?

11 **MR SAMUELS:** I think there would be an argument that it would be more efficient. There  
12 would be funding required upfront, but I think the long-term outcomes would mean that,  
13 ultimately, the costs -- the benefits would outweigh the costs.

14 **MS CASTLE:** So is the costs the only disadvantage that you identify in terms of taking that  
15 approach?

16 **MR SAMUELS:** No, because rather than deal with the multiple issues in whānau at risk, whether  
17 that be drug abuse, whether that be family violence, whether that be substance abuse, etc,  
18 rather than deal with those individually, you'd deal with them as a whānau unit, because if  
19 you deal with the individual alone and those other issues aren't managed, then the  
20 environment that that individual is in will be unwell.

21 **MS CASTLE:** You referred to this earlier as well in terms of there being too much focus on the  
22 individual. Is there anything else that you think needs to change to enable ministries to take  
23 on a more whānau-centred approach and to move away from looking at individuals in a  
24 vacuum?

25 **MR SAMUELS:** It's an evolution and so I don't expect -- I don't expect my colleagues to just  
26 change because I said they should. I need to prove this. I need to ensure that in the contest  
27 of ideas, we demonstrate that this works and we're close to that point. Many agencies now  
28 talk about whānau-centred. Collectively, we -- if we come together collectively to work out  
29 how we would deliver in that way across the system, that would be success, in my view.

30 **MS CASTLE:** Madam Chair, I'm mindful there's 5 minutes remaining and the Commissioners are  
31 likely to have questions so I'll end it there.

32 **CHAIR:** Kia ora, Ms Castle, yes, we do and the questioning will be done by Dr Erueti and Julia  
33 Steenson.

1 **COMMISSIONER ERUETI:** Kia ora kōrua. Can I just, Mr Samuels, start with clarifying Ngā  
2 Tini Whetū. This pilot project seems to be focused on having more kairaranga directed  
3 towards helping these whānau at risk, is that the essence of it?

4 **MR SAMUELS:** Yes, it is, so it is more intense, so you move from 20 down to 10. So it is more  
5 intense with those 800 whānau at risk. It is through the commissioning agencies, and it has  
6 evolved with the Whānau Ora Commissioning Agency and it's quite sophisticated, so that  
7 the outcomes that we are purchasing are translated by the commissioning agency down to  
8 provider level, in terms of those outcomes and how they deliver those. Yeah.

9 **COMMISSIONER ERUETI:** Okay. Are you funding -- is TPK funding this, one of the funders?

10 **MR SAMUELS:** We are one of the funders. The other funders are ACC and Oranga Tamariki.  
11 So ACC 5.2 million; Oranga Tamariki 7.95 million; and Te Puni Kōkiri around 7 million.

12 **COMMISSIONER ERUETI:** Ka pai. Over the last few weeks, we've heard a lot about the need  
13 to build the capacity and empower whānau, hapū, iwi, urban Māori, these collectives to  
14 provide services to our tamariki and adults at risk. It's a platform for Oranga Tamariki, we  
15 have heard, and I wondered, as part of your statutory function, whether TPK sees itself as  
16 having a role here in advancing that kaupapa?

17 **MR SAMUELS:** I see it as part of our function. I wouldn't necessarily rely on statute for that.  
18 I mean, it's what we are doing currently. And the reason I say that is because Whānau Ora  
19 has resided within TPK for over a decade now and what we see now in Whānau Ora is not  
20 what we started with and that has evolved. So there is a whole body of evidence and  
21 learning residing both in Te Puni Kōkiri but, more importantly, I think, in the  
22 commissioning agencies around how you can do exactly what you had heard from the other  
23 witnesses.

24 **COMMISSIONER ERUETI:** Ka pai. What I should have added is that progress has been very  
25 slow. The Māori providers participating in providing these services are really thin on the  
26 ground. There has been some progress but there's a real desire, we're hearing in  
27 communities, for Māori to -- for these services to escalate quickly and I wonder what role  
28 your Ministry would have in providing a significant boost to this initiative.

29 **MR SAMUELS:** In terms of funding?

30 **COMMISSIONER ERUETI:** You speak of -- well, I go back to your statutory functions, the  
31 network that you have with 18 officers throughout the country, with capability building,  
32 with monitoring, with the innovation that you've talked about.

33 **MR SAMUELS:** Absolutely, we have a role and if I again use the example in front of me now,  
34 which would be housing, immediately when you think about housing, you do think about



1 construction. But if we look at Iwi Chairs, and this was a Treaty partnership, which is  
2 different to some of the other engagements we have around capability build, the building of  
3 the house, I guess, is the entry point in terms of well-being in this case study. And  
4 \$730 million was secured across the housing -- between us and HUD to be able to deliver  
5 on Māori housing. In there, by getting iwi, in this case, entities to be able to stand up,  
6 partner with the Crown and, through their own development arms, delivering houses, what  
7 sits behind there -- and it is across the whole system, and Te Puni Kōkiri is nurturing this  
8 with Housing and Urban Development -- are cadetships, where you would get employment  
9 and moving up the ladder in terms of employment in those building activities. Behind that  
10 should sit apprenticeships and behind that should be enterprise, such as the delivery of  
11 services, and Te Puni Kōkiri, along with the Ministry for Business, Innovation and  
12 Employment, has now got through Cabinet the progressive procurement.

13 **COMMISSIONER ERUETI:** Tēnā koe, I don't mean to cut you off but I just did want to focus  
14 on the care and protection, about whether you see a role in building Māori capacity to be  
15 providers in this area, to accelerate the rate of progress that we're seeing.

16 **MR SAMUELS:** I think we're doing that with Ngā Tini Whetū.

17 **COMMISSIONER ERUETI:** Ka pai. We have very limited time, we have lots of questions, of  
18 course, but we appreciate your contribution. Thank you. I'll pass now to my colleague.

19 **COMMISSIONER STEENSON:** Tēnā koe, tēnā kōrua. So just staying on that theme around the  
20 commissioning agencies, because they're your intermediaries, as you termed it, and I'm just  
21 wanting to understand that a little bit better. So they take the pūtea and decide who the  
22 third parties to deliver the outcomes to will be; is that correct?

23 **MR SAMUELS:** They deliver through their providers.

24 **COMMISSIONER STEENSON:** Through their own providers or --

25 **MR SAMUELS:** They have a whole network of providers. There are three commissioning  
26 agencies. There's one for the North Island, one for the South Island and one for Pasifika  
27 and then they go through their own providers to deliver to communities in need through  
28 their navigators.

29 **COMMISSIONER STEENSON:** Right, and so are they part of them or are they third party  
30 contractors that they choose?

31 **MR SAMUELS:** They may be both. There are Whānau Ora providers that will provide for other  
32 social services as well.

33 **COMMISSIONER STEENSON:** I'm assuming they'll be the likes of marae-based.

34 **MR SAMUELS:** They can be, yes.

1 **COMMISSIONER STEENSON:** That's helped me understand that. That means they have quite  
2 a bit of -- they're pretty important in the ecosystem that you're trying to achieve, in terms of  
3 outcomes and wrap-around services with Whānau Ora. Just wondering if you have any  
4 insights around any barriers that they might have in delivering and whether you think  
5 Whānau Ora is currently delivering what it needs to in the way it was envisaged.

6 **MR SAMUELS:** Well, Whānau Ora is limited by -- if you like, by Te Puni Kōkiri in terms of the  
7 Māori development vote, so it's limited by my vote.

8 **COMMISSIONER STEENSON:** And by "vote", you mean funding.

9 **MR SAMUELS:** Sorry, yes, vote by funding. If a decision was taken in the future to expand  
10 those services then either Te Puni Kōkiri's vote would need to grow, or Whānau Ora would  
11 need to go into a wider network of funding, enabling funding to occur. To do that, for  
12 example, for Ngā Tini Whetū, we take the funds from the other agencies, but in the future,  
13 you might see agencies coming together in much larger groupings to provide a funding  
14 funnel into a Whānau Ora type arrangement, or any other entity such as the housing entity  
15 I explained or hauora.

16 **COMMISSIONER STEENSON:** Okay, because I am aware, with my other potae, that some iwi  
17 and hapū get funding to do this delivery, but is there any policy around, say, certain funding  
18 priorities to deliver Whānau Ora, just thinking the importance of that, if -- yeah, how is that  
19 prioritised? Is it done on a -- you have a settlement so you can use that settlement versus  
20 this hapū that doesn't?

21 **MR SAMUELS:** For Whānau Ora?

22 **COMMISSIONER STEENSON:** For Whānau Ora.

23 **MR SAMUELS:** For Whānau Ora, there's a budget for Whānau Ora. If I just very quickly go  
24 back ten years ago, through a procurement process, those three entities, commissioning  
25 agencies were identified and agreed to by Cabinet. So there was a whole process by which  
26 they were selected, the procurement process if you like. And so now there's a budget that  
27 comes through Te Puni Kōkiri, that goes out through Te Puni Kōkiri through investment  
28 plans and multi-year plans and then every year gets funded out through the commissioning  
29 agencies.

30 **COMMISSIONER STEENSON:** So they will have their procurement policies on how that's  
31 distributed, is basically what you're saying?

32 **MR SAMUELS:** Yes, yes, and we do as well.

33 **COMMISSIONER STEENSON:** And you have a say in what that looks like and how that's  
34 done.

- 1 **MR SAMUELS:** Yes, we negotiate with them on the investment plans.
- 2 **COMMISSIONER STEENSON:** I'm just trying to get to how those outcomes are monitored that  
3 are required because, obviously, it's such an important front end for whānau, as you know.
- 4 **MR SAMUELS:** Yeah, and they report back through to us on those outcomes.
- 5 **COMMISSIONER STEENSON:** Okay, thank you. Just wondering, with the -- you talk about  
6 not wanting, basically, TPK to do greater monitoring with regards to mokopuna in State  
7 care because you think TPK would fail. Can you just expand on why, your reasons around  
8 that? You'll have reasons, no doubt.
- 9 **MR SAMUELS:** Can I just clarify, we are monitoring. We're just not doing it in the way that I  
10 think the questioning led me, which is around effectiveness audits, but we are  
11 monitoring -- the fact that we are working with Oranga Tamariki now and monitoring by  
12 doing.
- 13 **COMMISSIONER STEENSON:** Okay, so for a mokopuna, a tamariki who is in the care of the  
14 State today, how will they feel that?
- 15 **MR SAMUELS:** If we're successful in this innovation, we'll change the system.
- 16 **COMMISSIONER STEENSON:** Okay, I see where you're going with that. So it's around the  
17 shifting of what the system looks like.
- 18 **MR SAMUELS:** That's my role. I'm here to change the system, to get the system to deliver for  
19 Māori. That hasn't over the period in question. You can either focus on individual actions  
20 or you can look at the system and how you shift the system to change. That's my focus.
- 21 **COMMISSIONER STEENSON:** Kei te pai. In your statement you do talk about there needing  
22 to be a system level change. Do you have a vision for what that is or is it that  
23 whānau-centric vision of a system?
- 24 **MR SAMUELS:** It is our vision of thriving whānau and when whānau thrive, so do hapū, iwi,  
25 communities.
- 26 **COMMISSIONER STEENSON:** So all the agencies having that central driver.
- 27 **MR SAMUELS:** Having a whānau-centred approach. And I have to say agencies are open to  
28 this.
- 29 **COMMISSIONER STEENSON:** Ka pai, thank you. And just on monitoring still, if we talk  
30 about the Act that's just been passed, did the agencies consult with TPK at all around what  
31 that has now -- the policy and the Act and was there any engagement with, say,  
32 the Ombudsman, the OCC or the ICM at all?
- 33 **MR SAMUELS:** I would expect -- on the last part of your question, I would expect that there was  
34 from the lead agency and certainly they have engaged with us.

1 **COMMISSIONER STEENSON:** So you've had input into that, what it now looks like.

2 **MR SAMUELS:** We will have had input, yes.

3 **COMMISSIONER STEENSON:** It just leaves me then, that's all my pātai, so I will say on  
4 behalf of the Commission --

5 **COMMISSIONER GIBSON:** Can I ask one last question? We've heard many stories of tāngata  
6 whaikaha, tāngata whaiora Māori and their whānau and the abuse they experienced in care.  
7 Do I take it from the absence of the kōrero in the brief of evidence that they're not one of  
8 the -- and the agencies that are there to support them are not one of the monitoring priorities  
9 for Te Puni Kōkiri?

10 **MR SAMUELS:** The system is the monitoring priority; they're part of the system.

11 **COMMISSIONER GIBSON:** But, in a sense, if you walk alongside some agencies to guide  
12 them.

13 **MR SAMUELS:** I wouldn't rule them out, no. No, because -- well, if you look across the system  
14 right now, you'll see multiple agencies that aren't walking with Te Puni Kōkiri right now.  
15 What I'm trying to do is to create an invasion to get the system to change and that would  
16 impact on the communities right across that whole system, Māori communities.

17 **COMMISSIONER GIBSON:** Is there a proposal to do similar work, for example, with the new  
18 ministry Whaikaha in the same way you're working with Oranga Tamariki?

19 **MR SAMUELS:** There's not a proposal right now that I know of, no, but that doesn't mean that  
20 what we're doing, if we get a whānau-centred approach adopted, if we get delivery to the  
21 community through the community, if we get commissioning taken up across the system,  
22 that doesn't mean that all communities within that system wouldn't benefit.

23 **COMMISSIONER GIBSON:** Kia ora, thanks.

24 **COMMISSIONER STEENSON:** Tēnei te mihi, tēnei te mihi, tēnei te mihi ki a kōrua e rangatira  
25 o Te Puni Kōkiri. Kei te takere nui o tō tātou waka te Kōkiri atu nei. Nō reira, tēnā koutou o  
26 te rā, tēnā koutou katoa. Kia ora.

27 **CHAIR:** Yes, thank you both for coming and to your teams behind you who have done all the  
28 preparation of work, we appreciate that very much. It's now time for us to take a short  
29 break. Shall we cut that down to, say, 10 minutes because I'm conscious we've got the  
30 Ombudsman to follow before lunch. Is that suitable to everybody? All right, we'll take  
31 10 minutes.

32 **Adjournment from 11.57 am to 12.12 pm**

33 **CHAIR:** Kia ora anō. Good afternoon, Dr Cooke.

1 **DR COOKE:** Tēnā koutou, tēnā koutou, tēnā tātou katoa, ko Allan Cooke tāku ingoa, I'm one of  
 2 the Counsel Assisting the Commission. For those of you who are online, I am a Pākehā  
 3 male, I'm towards the elderly end of my years. I'm wearing a black suit with a blue shirt  
 4 and a coloured tie and I have white hair.

5 We're now going to hear from the Chief Ombudsman, Mr Boshier. He is going to  
 6 do a mihi mihi. He will then read a brief opening statement. He understands that you will  
 7 swear him in and once that occurs and he does the mihi mihi and the statement then I'll ask  
 8 him some questions.

9 **CHIEF OMBUDSMAN**

10 **PETER BOSHIER (Affirmed)**

11 **QUESTIONING BY DR COOKE:** Mr Boshier, as I've outlined, you're going to do a mihi mihi  
 12 and then read a brief opening statement. I'd be grateful if you could commence those tasks.

13 **MR BOSHIER:** Thank you, ngā mihi nui. Just before I start, I'm a 70-year-old male of slightly  
 14 below average height with greying hair and a red tie and I'm wearing a black suit. Me  
 15 pēnei he kōrero tīmatanga māku. Hutia te rito o te harakeke, kei hea te Kōmako e ko? Kī  
 16 mai ki ahau, he aha te mea nui o te ao nei? Māku e ki atu, he tamariki, he rangatahi, he  
 17 tangata, he tangata, he tangata. Ko tēnei te kaupapa o tāku tari. Nō reira, tēnā koutou, tēnā  
 18 koutou. Ka haere tika tonu ngā mihi ki a koe Judge Shaw, talofa lava Laufiga  
 19 Ali'imua Sandra Alofivae. Ka tukua ngā mihi mahana e mātou nō Tari o te Kaitiaki  
 20 Manata [Mana Tangata], nō reira, tēnā koutou anō.

21 I'd like to thank the Commission for inviting me to speak. I realise we have time  
 22 constraints and I'd like to be helpful and tidy, but I would like to start with some personal  
 23 reflections. I've witnessed the State Care system in action for more than 40 years and  
 24 I make the following observations from the point of view of a family lawyer, a judge and  
 25 now as Te Amo Kapua o Kaitiaki Mana Tangata, guardian of the mana of the people, the  
 26 Chief Ombudsman.

27 The revolutionary Children, Young Persons and Their Families Act, whilst passed  
 28 in 1988, the year I was appointed as a judge, and enacted the following year, I have grown  
 29 up with this Act. Things started out with so much hope and so much promise. The new  
 30 Act represented a quantum shift away from court-based resolutions and the power of the  
 31 State in favour of community and, specifically, iwi, hapū and whānau.

32 But there simply wasn't the will to sustain that momentum and power shifted back.  
 33 As a judge in the Family Court, I witnessed the State's oversight of the welfare and

1 protection of children become increasingly dislocated and on too many occasions tragedy  
2 resulted.

3 There have been a number of reviews over the years, often held as a result of such  
4 tragedies. Unfortunately, from my point of view, in the position I hold today, Chief  
5 Ombudsman, I see too many poor practices continuing. For example, Māori culture and  
6 tikanga should hold their rightful place in the system but do not, in my opinion.

7 Some of those shortcomings were highlighted in one of our seminal reports, "He  
8 Take Kōhukihuki: A Matter of Urgency", published in August 2020. This was an  
9 investigation into Oranga Tamariki policy and practice when removing new-born pēpi from  
10 their parents. We were critical and yet in that same report there was evidence of good  
11 cultural practice in some parts of the country and we focused on Blenheim as an example.

12 So what does the future hold, members of the Commission? Children need a sense  
13 of security, safety and well-being. They need to feel loved, but, at present, the level of  
14 protection offered to a child across the State system can just be a matter of chance. When  
15 the state intervenes, it can save lives. On the other hand, its intervention may not always be  
16 meaningful, appropriate to the situation, or can simply come too late.

17 And I choose my words carefully. To put it plainly, it seems to be random whether  
18 a child is rescued, continues to be neglected, or worse. The future of all of our children  
19 should be certain, not just a matter of luck.

20 We need to have a country, a system, a culture, an ethos where children's safety and  
21 well-being can be assured. As I've previously advised the Commission, when I give my  
22 evidence today, the law under which I operate does not permit me to give details of actual  
23 cases, but I can talk about the flavour and also case notes which we have published. Within  
24 those limitations, I hope that the contribution I make may move us towards betterment for  
25 children of Aotearoa. Thank you.

26 **DR COOKE:** I first want to get you to confirm that under section 13 of the Ombudsman Act, you  
27 investigate decisions or recommendations made or acts done or not done by government  
28 agencies and including, for present purposes, Oranga Tamariki?

29 **MR BOSHIER:** Correct.

30 **DR COOKE:** And you've always had a power since 1962 to investigate agencies, including  
31 Oranga Tamariki?

32 **MR BOSHIER:** That's correct.

33 **DR COOKE:** Any person, including a child, may make a complaint to the Ombudsman?

34 **MR BOSHIER:** Yes.

1 **DR COOKE:** You may also, as we know, decide to make investigations of your own initiative.

2 **MR BOSHIER:** Correct.

3 **DR COOKE:** The Prime Minister may also ask you to investigate.

4 **MR BOSHIER:** Correct.

5 **DR COOKE:** And you are an officer of parliament, of course.

6 **MR BOSHIER:** Yes.

7 **DR COOKE:** Which means necessarily that you are truly independent of the State system; you  
8 are not a public servant, as such, are you?

9 **MR BOSHIER:** That's correct, and so there are three Officers of Parliament: the Auditor-General,  
10 the Parliamentary Commissioner for the Environment and the Ombudsman. We are  
11 appointed by the Parliament, by a debate and motion in the House, and the appointment --

12 **CHAIR:** Sorry to do this, but we are constrained by our stenographer and our signers, so just  
13 please keep an eye.

14 **MR BOSHIER:** Thank you.

15 **CHAIR:** Arms will be waved and signs should be shown if you transgress again.

16 **MR BOSHIER:** Sorry. I should have known better.

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

18 **MR BOSHIER:** Yes, there are three Officers of Parliament, the Auditor-General, the  
19 Parliamentary Commissioner for the Environment, and the Ombudsman.

20 **DR COOKE:** I take it means that you are not subject to ministerial direction or guidance; is that a  
21 correct understanding?

22 **MR BOSHIER:** That is the correct constitutional basis, yes.

23 **DR COOKE:** We also understand that some agencies of State, such as Oranga Tamariki, I  
24 believe, get their funding via perhaps a Ministry of Social Development, through that  
25 source. I understand that your funding is completely separate and is via a direct  
26 appropriation from the House of Parliament?

27 **MR BOSHIER:** That's correct, and New Zealand is one of the few countries in the world with  
28 this ideal constitutional purity.

29 **DR COOKE:** Can you tell us, in relation to the working of your office and the work that is to be  
30 done under the changes that arise, what your budget is and to what extent it may have risen  
31 in recent years?

32 **MR BOSHIER:** Yes, when I commenced having been a Law Commissioner prior to this position,  
33 so when I commenced at the end of 2015, the office budget was \$10.4 million. In the  
34 current financial year, it is \$55 million.

1 **DR COOKE:** Given the work that you are to do, does that current budget incorporate the new  
2 task that you have, I think from 1 July 2023?

3 **MR BOSHIER:** Yes, and I should explain that we were funded, in fact, by Parliament about two  
4 years ago in anticipation of us needing to ramp up this part of our work. It is already part  
5 of our budget.

6 **DR COOKE:** Going back to the complaint process, does a child or person who wants to make a  
7 complaint to you about Oranga Tamariki have to first make a complaint to Oranga  
8 Tamariki?

9 **MR BOSHIER:** The answer is no, but we will take a complaint, triage it and decide whether that  
10 should head back to Oranga Tamariki on our recommendation.

11 **DR COOKE:** If that complaint is referred back to Oranga Tamariki without there being an  
12 investigation, is there any follow-up process by your office with Oranga Tamariki to see  
13 what, in fact, has occurred with that complaint?

14 **MR BOSHIER:** Yes, and one of my own requirements, because I'm strongly driven by outcomes,  
15 is to ask my staff to follow up with both the complainant and the agency to see that  
16 something's happened. It's more aggravating for a complainant if then nothing happens.

17 **DR COOKE:** Irrespective of whether your office formally takes up the complaint and conducts  
18 an investigation, there is nonetheless a process by which a person who makes a complaint  
19 may nonetheless receive -- have an "investigation", in inverted commas, and have that  
20 complaint looked at?

21 **MR BOSHIER:** Yes, and I like my staff to make it clear to tamariki, rangatahi or whānau that if  
22 this doesn't proceed in a satisfactory direction, they're to come back to us.

23 **DR COOKE:** In terms of your office and the complaint system, there is also the internal Oranga  
24 Tamariki independent review panel. I'm not sure that we've actually heard a great deal  
25 about this, for some reason, and that may be an oversight on the part of a number of us,  
26 which we'll have to do a mea culpa about, but perhaps you could just explain your  
27 understanding of the independent review panel.

28 **MR BOSHIER:** Yes. Some years ago, the then Chief Executive of Oranga Tamariki created an  
29 independent review panel within Oranga Tamariki, but with people not employed by  
30 Oranga Tamariki. At present, it has on it, amongst others, the retired Judge von Dadelszen;  
31 Mary Slater, a former Deputy Public Service Commissioner; Shenagh Gleisner, a former  
32 Chief Executive of Ministry of Women's Affairs, and others. Their role is to endeavour to  
33 investigate a certain tier of complaints and report to the Chief Executive on action that  
34 might be taken.



1 **DR COOKE:** Are you able to offer any observation or comment as to the success or otherwise of  
2 what you describe as being an independent review panel?

3 **MR BOSHIER:** I know a lot about it because we've been in discussions about the future of this  
4 panel, in view of our enhanced investigation status. I think this will go in the direction of  
5 the independent review panel being more of a restorative justice resolution  
6 non-investigative body, and we will focus more on cases requiring investigation resource,  
7 because this panel does not have it.

8 **DR COOKE:** You've already told us that you have an obligation as to secrecy on matters that  
9 come to your office and to your staff. In some situations relating to investigations, you are  
10 able to disclose information as is appropriate, aren't you, but, again, for present purposes  
11 and just to re-affirm it for those listening and watching, we will not be talking about actual  
12 cases today.

13 **MR BOSHIER:** Correct. Can I just say why?

14 **DR COOKE:** Yes.

15 **MR BOSHIER:** I want people to be able to come to my office and find that their personal  
16 situation is not aired publicly and further aggravate any harm.

17 **DR COOKE:** Where you have a complaint and you open an investigation, you will either find the  
18 complaint not made out or it will be made out. Are they the two essential options?

19 **MR BOSHIER:** Can I endeavour to describe the process --

20 **DR COOKE:** Sure.

21 **MR BOSHIER:** -- as it now works and for some of the Commission who have been Family Court  
22 lawyers, they have heard about what was the Family Court's early intervention system. A  
23 complaint comes in and we assess it. We endeavour to resolve it. That's informal and  
24 doesn't necessarily head with the formality of an investigation. In present law, I can only  
25 investigate, in terms of the legal definition, if I notify an investigation.

26 One of the good things about the changes which will occur in the legislation just  
27 passed is that I do not need to go through that formal notification process in order to get the  
28 information I want from the agency. It's an important shift for me, that I have power and  
29 confidentiality at the outset.

30 At the moment, there's a bit of trust involved in trying to resolve at the outset and  
31 being given information on that basis. To answer your question, if it's needing to go  
32 through to a formal investigation, and a number do, that's what happens and, at the end,  
33 there is a process of a provisional report and a final report with recommendations.

1 **CHAIR:** Judge, to whom do you have to notify this investigation, is it to Oranga Tamariki or to  
2 whom?

3 **MR BOSHIER:** To the Chief Executive of the agency.

4 **CHAIR:** So they get advanced warning that an investigation is coming.

5 **MR BOSHIER:** Correct, and what the central issue is, yes.

6 **CHAIR:** Thank you.

7 **DR COOKE:** Are you able to tell us about the number of complaints that your office would  
8 formally investigate in relation to Oranga Tamariki?

9 **MR BOSHIER:** Yes, I can. As at 1 July this year, we had 81 complaints on hand concerning  
10 Oranga Tamariki. In the last 12 months, we've completed 218 complaints. Six complaints  
11 were from children directly and in relation to the complaints which we investigated, we  
12 recommended and attained remedies in 140 cases.

13 **DR COOKE:** In relation to those in which you've made recommendations, and I'm talking  
14 specifically in relation to Oranga Tamariki here, have there been occasions where you have  
15 not achieved a remedy that's arisen from a recommendation you have made?

16 **MR BOSHIER:** No, but with the caveat that I've had to get fairly assertive at times in requiring  
17 performance of my expectations, and I don't mean to be overly assertive about this, but  
18 there are times when I have to be very clear and Oranga Tamariki needs to be very clear on  
19 what will happen if a recommendation is not implemented. Sometimes I need to go to that  
20 extra stage.

21 **DR COOKE:** With any complaints system, it has to have integrity as to its process and its  
22 outcomes. And certainly now that your office is going to have a greater jurisdiction in  
23 relation to complaints, there are two questions that would arise around the need to have  
24 integrity and trust. One is getting the trust of Māori in particular, given that the greatest  
25 cohort of children who are in care are Māori; and then, secondly, being seen by those who  
26 make complaints, and also to the public as a whole, that when you do an investigation, you  
27 are able to hold agencies, and this particular agency, clearly to account. I'm going to talk a  
28 little bit later about some aspects of this, but just on that particular point, are you able to  
29 comment about the aspect of trust and the aspect of being seen to hold the agency to  
30 account in a very clear and transparent way?

31 **MR BOSHIER:** Yes, and I'll endeavour to be succinct because it's a big topic. I believe Māori  
32 have had the right to not trust the Crown. The Children, Young Persons and Their Families  
33 Act should have worked. It had all the ingredients in it of an act which should have

1 embraced tikanga and a relationship with Māori. In fact, in some ways, it was ahead of its  
2 time. It should have been a reflection of Te Tiriti o Waitangi principles.

3 About three years ago, I decided that my office needed, if it was to do well in this  
4 work, to engage with Māori. I, therefore, set up an Advisory Board, which is called Pūhara  
5 Mana Tangata. "Pūhara" meaning an oversight of a platform; "mana", we know what that  
6 means; and "tangata". This has on it powerful but feisty Māori, people such as Dame Naida  
7 Glavish, Lady Tureiti Moxon, Arihia Bennett from Ngai Tahu, recently, Ngira  
8 Simmonds -- Archdeacon Ngira Simmonds has been appointed from the Kingitanga and  
9 we have members from Wellington as well.

10 This has revolutionised my office's approach and embracing of Te Ao Māori and  
11 I just want to say that the seminal moment for me was a wānanga we held at Waitangi,  
12 where we talked about the fact that we aren't the Crown and should not be seen as the  
13 Crown, Māori need to see us as holding the Crown to account, so where does that leave us  
14 in terms of Te Tiriti o Waitangi? And it means that we should observe and implement the  
15 Treaty as a non-Crown agency, but make sure the Crown agencies do observe it.

16 Your second question was holding agencies to account. I have the rare ability to  
17 table a report in Parliament and so it gets the attention of the Parliament upon tabling. It's a  
18 process that's put by the Speaker in front of the Parliament. I have found it particularly in  
19 the OPCAT jurisdiction. That's jargon. It stands for the Optional Protocol of Crimes  
20 Against Torture. This is when I inspect prisons, mental health units and so on and  
21 sometimes we find what see unacceptable, and I did it just on Monday of this week in  
22 relation to the Otago prison, where we criticised, as you may you know, the use of CCTV  
23 footage constantly on prisoners who were abluting and undertaking all their personal  
24 chores. And we table reports such as that in Parliament and it's a fairly powerful thing to  
25 do.

26 **DR COOKE:** Just on that point then, in what situations -- how often would you have tabled such  
27 a report in Parliament, given that would be the pinnacle of where you would go in terms of  
28 addressing a concern arising out of an investigation?

29 **MR BOSHIER:** We go through an assessment. We have forms for everything, and this is called  
30 a publication assessment, and we look to see what we've found. We don't want to fire shots  
31 constantly, you don't enhance your reputation by doing that. So we look to see whether  
32 we've already made recommendations that haven't been implemented and we, therefore,  
33 need to hold the agency to greater account, and we look to see how serious the issue is.

1           Can I give you an example. When we did our report on 6 August 2020 in relation to  
2           Oranga Tamariki it was called "He Take Kōhukihuki: A Matter of Urgency". We tabled  
3           that in Parliament because it needed the attention of Parliament. Some other smaller  
4           reports we do don't need to hold Parliament's attention.

5           **DR COOKE:** So that report and the issues that it addressed would be indicative of the type of  
6           issue that would call for the attention of Parliament?

7           **MR BOSHIER:** Yes.

8           **DR COOKE:** I asked you the question about holding Oranga Tamariki to account, because for  
9           many of the survivors who have come to the Commission, they have expressed frustration  
10          in many respects about how their history, their narrative, their kōrero has been dealt with by  
11          Oranga Tamariki, by MSD, etc, by various systems that they've had to go through.  
12          It would be important to know the significance that you hold to being seen in making sure  
13          that Oranga Tamariki is held to account and the extent to which that can be -- is going to be  
14          done, if you're able to do that within --

15          **MR BOSHIER:** A short time.

16          **DR COOKE:** Politic time.

17          **MR BOSHIER:** Yes, when the Ombudsman office was created in 1962, the first Ombudsman  
18          was probably our most famous, Sir Guy Powles, and he said the Ombudsman's task is to  
19          shine a light and to show in dark places things that an agency might not want to see and  
20          I believe that to be my task. I found frustrations as a judge in asking plans to be  
21          implemented which weren't, and I carry -- part of my kaupapa now is I will not tolerate it.  
22          If someone is meant to be doing a job and doesn't do it, my job is to hold them to account.

23          **DR COOKE:** You opened in your statement about your work over many years, both as a lawyer,  
24          as a judge, you were with the Law Commission. I just want to turn briefly to that history  
25          and then ask you some questions that arise from that, because you've had warrants -- as a  
26          District Court judge, you would have sat in the District Court's criminal jurisdiction, you  
27          would have sentenced people to terms of imprisonment. You have to say "yes".

28          **MR BOSHIER:** I beg your pardon. I'm so sorry, yes.

29          **DR COOKE:** And you've sat -- for many, many years, your primary role was as a Family Court  
30          judge.

31          **MR BOSHIER:** Correct.

32          **DR COOKE:** And within that, you would have sat on many, many occasions sitting in the  
33          children and young person's jurisdiction.

34          **MR BOSHIER:** Correct.

1 **DR COOKE:** You were also a Youth Court judge.

2 **MR BOSHIER:** Yes.

3 **DR COOKE:** And you, therefore, would have seen and come across many rangatahi who were  
4 within that jurisdiction as well, of course.

5 **MR BOSHIER:** Yes.

6 **DR COOKE:** You would then be able to see -- if you reflect, do you see any pattern between care  
7 and protection cases that arise, first of all, in the Family Court, where you may have  
8 children who are taken into care, and then, subsequently, children who go through the  
9 Youth Court and then into the adult system? Do you see any correlation at all?

10 **MR BOSHIER:** I do.

11 **DR COOKE:** Do you want to tell us about that.

12 **MR BOSHIER:** I think if there can be meaningful intervention -- this, what I'm about to say will  
13 not be not known. If our intervention is just going through the motions and there is not  
14 good accountability, in all senses initially, the chances of any change are slim. I think huge  
15 change really matters at the very beginning of a child's life. I often felt, if I can say so, in  
16 the Youth Court, I was never going to achieve a great deal. I felt in the Family Court, when  
17 doing care and protection cases, that opportunities had been missed -- if there had been  
18 meaningful whānau hui or family group conferences, the correlation is simply  
19 unmistakable.

20 **DR COOKE:** Do you see a correlation between children coming into care and those same  
21 children, as they pass through their care journey, going into the residence system and then  
22 into the criminal justice system?

23 **MR BOSHIER:** Yes, I don't want to pretend to be an expert on this. I sat, particularly in the  
24 latter part of my principal Family Court judge, seldom in the criminal court, so I don't have  
25 the level of knowledge as some others here today do. But the answer to that is that it was  
26 usual to see of a number of criminals a past which reflected their history which had led  
27 them to this situation.

28 **DR COOKE:** Because when you're sitting in the District Court in its criminal jurisdiction and you  
29 sentence a person to a term of imprisonment, you do so having regard to a number of  
30 factors and one of those would be that person's criminal history. That's correct, isn't it?

31 **MR BOSHIER:** Yes.

32 **DR COOKE:** When you look at that person's criminal history, you will often see a history that is  
33 within the District Court itself and then within the Youth Court, or the old Children and  
34 Young Persons Court, wouldn't you?

1 **MR BOSHIER:** Yes.

2 **DR COOKE:** And many, many of those who would appear in the District Court would have an  
3 extensive history that would run back to the time of their being in their teenage years.

4 **MR BOSHIER:** Yes, and my caveat is I'm not so knowledgeable about this as some of my former  
5 colleagues.

6 **DR COOKE:** I understand that, but you would recall sitting as a judge and being presented with a  
7 conviction history that would reflect that type of history.

8 **MR BOSHIER:** Correct.

9 **DR COOKE:** Thank you. Just arising out of the same background and looking now -- you may  
10 have answered this but I'll ask it again, if you look back from your position where you sit  
11 today at the care system, back through to 1950 and perhaps, from your perspective, more  
12 the period in the 1980s and the 1990s and through to today, do you see any continuum of  
13 themes that arise as problems in the care system?

14 **MR BOSHIER:** Can I answer that in this way: if I start from my appointment as a Family Court  
15 judge, I felt the family group conference system and empowerment of the whānau was  
16 fabulous and it worked for a period. Secondly, a lot of my initial sitting as a Family Court  
17 judge was on circuit in my hometown of Gisborne, but also the far north, and the system  
18 worked. It then began to fall off the pace and I became disillusioned. There would be  
19 family group conferences with virtually no-one present. There had not been the work that  
20 was required to change the destiny of the case.

21 I felt that when I came into this position, if I can fast-forward, I was reliving my  
22 past. And we have a children in care team, which I'm happy to talk to you about, if you  
23 wish, but it is seeing a continuation of the problems that I experienced as a judge.

24 **DR COOKE:** Would it be fair for me to say then that your view would be children today are still  
25 at risk of being harmed and are actually being harmed within the care system?

26 **MR BOSHIER:** Yes, I am dealing with cases where children have been harmed and have died, by  
27 way of a complaint from whānau, and I have cases where I'm looking at those very issues  
28 right now. That's why I'm being fairly passionate about this.

29 **DR COOKE:** I want to ask you some questions about your OPCAT jurisdiction. As I understand  
30 it, it is not a complaint jurisdiction, but is an inspection and monitoring jurisdiction.

31 **MR BOSHIER:** Correct.

32 **DR COOKE:** So it's conceptually different from what we've been talking about.

33 **MR BOSHIER:** Yes.

1 **DR COOKE:** But it's a jurisdiction that embraces those who are detained against their will.  
2 That's, essentially, it, isn't it?

3 **MR BOSHIER:** Yes.

4 **DR COOKE:** That would cover prisons, court facilities, facilities for those who are detained  
5 under the Intellectual Disability Compulsory Care and Rehabilitation Act, and those  
6 agencies who provide care under that provision.

7 **MR BOSHIER:** Yes.

8 **DR COOKE:** Aged care, Covid-19 facilities, immigration centres and mental health.

9 **MR BOSHIER:** Correct, and the latest one is we have morphed from MIQ facilities,  
10 recommissioned hotels, to what are called AIAs and those stand for alternative isolation  
11 accommodation facilities, motels sprinkled around Aotearoa where people are in them  
12 because they cannot self-isolate at home.

13 **DR COOKE:** Within each of those venues -- I'll call it that, for want of a better word -- there are  
14 going to be children and vulnerable people who will be detained.

15 **MR BOSHIER:** "Yes" is the answer. The Children's Commissioner oversees, under OPCAT, the  
16 youth side residences. We defer -- and the Children's Commissioner does that. We do the  
17 whole of the balance and, for the sake of completion, there is one other aspect of this  
18 preventative work and it's the Armed Forces prison, which is in Burnham Military Camp.  
19 We do the whole rest of the balance.

20 **DR COOKE:** Just to be clear on the distinction between the Children's Commissioner and your  
21 office, and I'm thinking particularly of the IDCCR Act, where you have a child who is  
22 charged with an offence but is found not fit to plead under CPMIP, that child may then be  
23 subject to detention under the IDCCR Act.

24 **MR BOSHIER:** Correct.

25 **DR COOKE:** Does that become your responsibility, that child, or is that child under the auspices  
26 of the Children's Commissioner?

27 **MR BOSHIER:** We have an agreement with the Children's Commissioner that, according to age,  
28 the Children's Commissioner exercises oversight. Can I quickly explain something  
29 complicated? Mr Gibson knows this because he was involved in what's called the  
30 Independent Monitoring Mechanism and the National Preventative Mechanism, but I do  
31 need, if you don't mind, to spend a minute on this.

32 The National Preventative Mechanism comprises the Children's Commissioner, the  
33 Independent Police Conduct Authority, me, the Armed Forces personnel and the Human  
34 Rights Commission. We divide up who does what in terms of overseeing. We, in short,

1 agree on any aspect that there could be an overlap. For instance, the Independent Police  
2 Conduct Authority will do some court cells and we won't. We just come, we collaborate  
3 and we agree.

4 The Independent Monitoring Mechanism is a collaboration between the Human  
5 Rights Commission, the disabled people's organisations and the Ombudsman. We  
6 collaborate and work out who's going to do what and work in a partnership, though  
7 respecting each other's roles, and mine has to be independent of the Crown.

8 **MS CASTLE:** So in terms of those relationships that you're describing, are they formal  
9 relationships where it's recorded or is it based on -- is it, essentially, one of relationships  
10 that are formed between the individuals fulfilling the particular roles?

11 **MR BOSHIER:** It's formal. Each -- in the case of the National Preventative Mechanism, there's  
12 domestic legislation called the Crimes of Torture Act, there is a requirement to set up a  
13 National Preventative Mechanism. It's statute and we do it.

14 The Independent Monitoring Mechanism is a designation from Parliament pursuant  
15 to the United Nations Convention on the Rights of People With Disabilities. So there is  
16 formality, there is minutes. We do a report. In fact, we have just filed a report in  
17 Parliament from the IMM.

18 **DR COOKE:** I raise that question because it's one that's pertinent to an issue I was going to cover  
19 later but I'll do it now and that is the new oversight functions that are going to be put in  
20 place through the Act or the legislation that was just passed the other day. One of the  
21 issues that arises for this Commission is going to be how is this new tripartite system going  
22 to work between the Children's Commissioner, the Ombudsman and the ICM, the monitor,  
23 and whether or not you're going to have an obligation under the statute to work together,  
24 but it's the -- perhaps you'd be able to assist the Commission by telling us how you envisage  
25 that is going to work.

26 **MR BOSHIER:** I think everything depends on good leadership, and my life has been about  
27 collaboration. That's how you make a court work or anything else work. You get the best  
28 results with a collaboration of resources.

29 I mentioned the NPM and the IMM as examples of the fact that collaboration has  
30 been occurring for many, many years and it works. There is trust and there is cooperation.

31 In terms of the legislation which Parliament has passed, it exhorts me to work  
32 collaboratively with the Independent Children's Monitor and the Children's Commissioner  
33 and that's just what we will do.



1 I think the clarity of roles is helpful, personally. Right now, in conjunction with the  
2 others, a detailed agreement on how this will work now the legislation has been passed is  
3 being written.

4 **DR COOKE:** You're aware of the concerns that are held, particularly in relation to the Office of  
5 the Children's Commissioner and ostensible diminution of its role; you're aware of those  
6 concerns?

7 **MR BOSHIER:** My concern, if I can centre on my concern, which I hope is helpful to the  
8 Commission, is the enhanced powers of investigation which I will have. I will be able to  
9 do my job better because I can go in earlier with more power. There's another important  
10 thing that this legislation gives me and that is when I need to, I'm allowed to breach  
11 secrecy. I could not do that before. I just want to focus on my broader investigative role,  
12 which will be much more potent than it has been able to be.

13 **DR COOKE:** I want to go back briefly, and I'm mindful of the time now, to OPCAT, because  
14 you've told us that it's -- you don't take complaints, so, obviously, people cannot complain  
15 to you. The next question I would have is, in terms of the work you've done under that, is it  
16 leading to the elimination of abuse and neglect in the facilities that are covered? I'm  
17 mindful of issues such as those related to tie-down beds or seclusion of autistic children and  
18 there may be others, but I use those two examples in this instance.

19 **MR BOSHIER:** Yes, well, in terms of tie-down beds, which I felt, and said, was extremely  
20 inhumane, and the graphic nature of this should be said, because sometimes agencies need  
21 to be held to account by us. So just going back to a question of restraint report, prisoner A  
22 at 4 o'clock with the change of shifts, and I saw the video footage, taken into a cell,  
23 restrained with leather straps from 4 o'clock for 16 hours, 37 consecutive days, and that was  
24 happening in Aotearoa New Zealand until some years ago. And as a result of our report,  
25 that's now been banned within the prison system. Pepper spraying continues to be an issue  
26 where the Ombudsman exerts influence on having that diminished.

27 **DR COOKE:** One area, and this isn't within OPCAT but it may be a matter you have a view on,  
28 is there are some vulnerable people may be in facilities -- and I'm thinking of aged care  
29 facilities, for example -- where their well-being can be at risk and prejudiced, and one  
30 safeguard for them is the Health and Disability Act, but the jurisdiction there is very  
31 specific, isn't it? Do you have a view around areas of oversight that are missing for  
32 vulnerable people who are within our community?

33 **MR BOSHIER:** I think the new Ministry for Disabled People Whaikaha will be a step in the right  
34 direction. I understand the Government may reflect disability legislation enacted in Canada

1 and New Zealand. I would have thought that is good, because it holds agencies to statutory  
2 account in providing the proper equality for disabled people.

3 I think, and I have just said in our report to the United Nations, we are not along the  
4 journey enough to create equality and equal chance for people with disabilities in Aotearoa.

5 **DR COOKE:** I spoke earlier about the involvement of Māori within your organisation and, of  
6 course, the new Act is going to require you to take a tikanga Māori perspective and the  
7 process that you're going to follow and be visible and accessible to families and whānau,  
8 etc, and you're also to make reasonable efforts to develop relationships with iwi and Māori  
9 organisations.

10 You've referred to the advisory group. There would be a school of thought that  
11 could say that is as good insofar as it goes, but you would be better off having someone at  
12 the table with you of equal standing/status who was Māori and would be able to then give  
13 the Ombudsman's office that very clear Māori dimension. Do you want to make a  
14 comment about that?

15 **MR BOSHIER:** Well, my role will conclude by statute in March 2024 and I think it's open to the  
16 Parliament to decide how they want the face of the Ombudsman to then look.

17 **DR COOKE:** Do you have a view as to whether or not the work your office does is missing  
18 anything by not having that presence at the top table?

19 **MR BOSHIER:** I was particularly -- what's the word now -- reinforced when Dame Naida  
20 Glavish was recently filmed doing a documentary for our 60th anniversary and I watched  
21 the footage yesterday, which is why I mention it, and I'll try and be succinct. She said to  
22 the interviewer, "Māori will sit back and look long and hard before we trust you, we'll size  
23 you up. Why should we trust you and other agencies? We've seen you at work. Māori  
24 trust the Ombudsman, we will use you". And I think, inasmuch as she and other Iwi Chairs  
25 such as Rahui Papa have that view, we are well on the way to our journey in enhancing  
26 mana, as far as Māori are concerned.

27 **DR COOKE:** I want to leave time for questions from the Commissioners, so I want to address  
28 now briefly the oversight system as it's going to be and the amending legislation. It's going  
29 to cover those children, tamariki, rangatahi who are the subject of custody orders, sole  
30 guardianship orders or care agreement, that's correct, isn't it?

31 **MR BOSHIER:** Yes.

32 **DR COOKE:** When we talk about custody orders, we're going to talk about what we call 101  
33 orders, which come out of the Family Court, and we're also going to talk about section

1 238(1)(d) custody orders, which detain a young person in custody, which come out of the  
2 Youth Court.

3 **MR BOSHIER:** Correct.

4 **DR COOKE:** And a person who is the subject of a 238(1)(d) order may also have a 101 status.

5 **MR BOSHIER:** Yes.

6 **DR COOKE:** They're not incompatible, are they?

7 **MR BOSHIER:** Correct.

8 **DR COOKE:** Where there is a custody order or 101 or an agreement, for example, they can be  
9 made in favour of the Chief Executive of Oranga Tamariki, or the Chief Executive of an  
10 iwi and a cultural social service, or the director of a Child and Family support service.

11 **MR BOSHIER:** Correct.

12 **DR COOKE:** Under the amending legislation, that's going to cover children who are placed under  
13 section 362 of the Act, which is where those chief executives or directors are able to place  
14 children.

15 **MR BOSHIER:** Correct.

16 **DR COOKE:** You're also going to have a power to look at children who are placed in a residence  
17 under 364 of the Act and that embraces, specifically, the Chief Executive of Oranga  
18 Tamariki.

19 **MR BOSHIER:** Correct.

20 **DR COOKE:** You also have an ability to look at and inspect or investigate complaints for 396  
21 providers.

22 **MR BOSHIER:** Correct.

23 **DR COOKE:** Are there any areas relating to children who would be in the care of the State within  
24 custody orders, guardianship orders or care agreements where their protection is not  
25 covered by your office?

26 **MR BOSHIER:** The simple answer is "no". I should explain. We didn't want every single aspect  
27 of the State's oversight of children to be with us. For instance, if the State was providing  
28 tuition by a provider for a child and that was that portion of care by the State -- and there  
29 are lots of these arrangements throughout the country -- I didn't feel that we should embrace  
30 that, we just couldn't, resource wise. I really wanted those areas of jurisdiction, seeing as I  
31 was asked about this, that I felt most mattered.

32 **DR COOKE:** You've referred earlier to your office receiving six complaints directly made by  
33 children for the year ending 1 July 2022. We also know that the Independent Children's  
34 Monitor received 14 complaints for children in its most recent report, which was mid 20 to

1 mid 2021, and that was 1% of all complaints made. Those two statistics would suggest that  
2 the systems that are in place do not yet satisfactorily address issues about how children who  
3 are in the care are able to make a complaint. Would you agree with that?

4 **MR BOSHIER:** Yes, I would, but it's not only children where our office has some distance to go.  
5 We are not used proportionately by Māori, Pasifika, ethnic communities and children. We  
6 have some distance to go before we are reaching with equality Aotearoa.

7 **DR COOKE:** I was going to ask you specifically in relation to how do you ensure that you are  
8 visible to tamariki, rangatahi Māori and their family, to Pasifika children who are in care?

9 **MR BOSHIER:** Could I just indicate that when we started on the journey of being accessible to  
10 Māori and children, we commissioned research in 2020 from a company called Point and  
11 Associates and Ohomairangi Trust. We didn't want to just go on our journey without an  
12 evidential foundation. That's informed the approach we are taking. So right now, for  
13 instance, we are creating a micro website for access by children which will look totally  
14 different.

15 I see the need for the Ombudsman to be accessible in a modern way and not an old  
16 bureaucratic way and we have the budget money to do this and to bring it about.

17 **DR COOKE:** I think we've also heard evidence in relation to the grievance panels, I suspect for  
18 children who are in residence, that it may be a paper-based complaint system and if that's  
19 the case, it means that those rangatahi are going to have to get a form from someone within  
20 the system and possibly as well get assistance in writing their complaint, which clearly  
21 raises issues around the integrity of that process.

22 One of the big issues in this is going to be how do you ensure that children who  
23 want to make a complaint to you -- and let's assume the visibility is there -- are able to do  
24 so without having that complaint filtered in any way by someone who we would not want  
25 to filter it?

26 **MR BOSHIER:** In an ideal world, I like the idea of a smartphone with simple options that can be  
27 populated and sent directly to us. That seems to me to be A, smart for modern users of  
28 technology; B, not involve paper; and, C, doesn't need to pass through someone else's hands  
29 in order to get from point A to point B. Technology, I think, is there. We've got to use it.

30 **DR COOKE:** The other aspect about communication between children and your office is with  
31 those children who have a disability in any respect, because it's going to be, by definition,  
32 much harder, if not impossible, for those children to be able to access the means of making  
33 a complaint. I'm thinking of children who would have an educational disability of some

1 sort, a neuro-diverse aspect to them which makes it difficult. Has your office turned its  
2 mind to how you can address that aspect of agency for children?

3 **MR BOSHIER:** Yes, but it's not -- can I just say again, because of Mr Gibson's presence here, it's  
4 not just children with disabilities who have trouble accessing websites. For instance, in  
5 Covid-19, the disabled community was not able to access websites and information in a  
6 way which was appropriate. This is a challenge that I think we have to accept and  
7 undertake. So the brief answer to your question is, this is non-negotiable, this has to  
8 happen.

9 **DR COOKE:** I had some other questions but I don't think they're imperatives for me to ask, and  
10 this would give a few minutes to the Commissioners to ask questions of Mr Boshier.

11 **CHAIR:** Thank you for that, Dr Cooke. I would assume, judge, that if there are other matters that  
12 haven't been able to be canvassed in public, you'd be able to open to answering matters not  
13 behind the scenes but in writing later?

14 **MR BOSHIER:** Of course.

15 **CHAIR:** I'm going to ask my colleagues if they've got any questions and, if so, to keep them brief,  
16 and I appreciate that you're trying to do the same, so we'll start with Commissioner Gibson.

17 **COMMISSIONER GIBSON:** Kia ora, Judge Boshier, and thank you for acknowledgments. We  
18 did work together over the years on a number of these issues. I think, through the OPCAT  
19 mechanism, we were progressively increasing areas such as aged care facilities that hadn't  
20 been monitored, but there still seemed like more to go. Thinking in the disability space,  
21 some of the issues which we've seen here, for example, special schools where it's reported  
22 that restraint is 5,000 times more likely than in a -- I'll slow down.

23 **CHAIR:** No, we have technology issues, two lots of stops. We're going to be stymied by the  
24 technology, unfortunately. I don't know if that's a message or a signal but the livestream  
25 has gone down and it may take some time to fix. We will see if we can do it without the  
26 visual part of it going. I can't even apologise to the people who can't see us because they  
27 can't see us. So where we're going to go and, again, given time, we're going to have to be  
28 clever about this, we'll simply continue. Our stenographer will continue to type and our  
29 signers will continue to sign. So if we, I think, maybe have just one question each, I'm  
30 sorry to do that, and we may have to put that in writing. They can see us but not hear. All  
31 right.

32 **COMMISSIONER GIBSON:** It's possibly the gaps between setting space monitoring through  
33 OPCAT and strategic monitoring through the IMM, such things as residential specialist  
34 schools, also there's about 7,000 to 10,000 people living in residential care, some of whom

1 are behind locked gates and can't access to and from their own, and we're aware of people  
2 who, when staff turns up, can't get out of bed. So there's neglect issues and possibly a  
3 range of more significant abuse issues which we may or may not see. What's the solution,  
4 both in terms of the monitoring oversight and the strategic changes which is required to  
5 remove those risks of abuse and neglect?

6 **MR BOSHIER:** Can I just talk about one aspect, Mr Gibson, and that is restraint in aged care  
7 facilities, in order to keep my questions succinct. We have identified and we only have  
8 jurisdiction in aged care in dementia units. Unless someone is in detention, we do not have  
9 jurisdiction. If they are and restraint is occurring in a way that we believe is contrary to the  
10 convention, we ask, recommend, exhort, bring about pressure to have restraint reduced and  
11 that is occurring.

12 **COMMISSIONER ALOFIVAE:** Malo le soifua maua lau afioga Judge Boshier. (Welcome and  
13 greetings to Judge Boshier). So the pathway into care for State children is often through the  
14 Family Court or through the Youth Court and the sentiments that you expressed earlier,  
15 when you were practising as a judge, is the sheer frustration of plans not being adhered to,  
16 no doubt that's a sentiment that many of your judicial colleagues probably still feel today in  
17 those specialist courts.

18 When I think of the ecosystem that feeds into the Youth Court and the Family  
19 Court, do you have any reflections around structural issues that might assist in clarifying  
20 the pathway and making things easier, more efficient, for our young people?

21 **MR BOSHIER:** When you and I did our Manukau Youth Court work in about 1999, we realised  
22 that we needed to use the Pacific community instead of trying to do it all ourselves.  
23 Reaching out to the appropriate communities is, to me, the answer. Within Māoridom, the  
24 new legislation under clauses 38 and 42 says we must make arrangements with whānau,  
25 hapū and iwi. That's where, to me, the answer lies. If the State from Wellington thinks it  
26 can do it, it can't and it ought to trust others out there to do the job.

27 So my brief answer to your question is, the State can be the orchestra conductor, if  
28 you like, but the music should be played by others.

29 **COMMISSIONER ALOFIVAE:** Malie, thank you.

30 **COMMISSIONER STEENSON:** Tēnā koe, he pātai a koe. Do you think that Māori, given they  
31 are disproportionately affected by colonisation and successive governments and their  
32 agencies and the failure with Te Tiriti over time, do you think that Māori would benefit  
33 from having an Ombudsman with Māori whakapapa?

1 **MR BOSHIER:** You'd think that that would be a factor that would be very strongly before the  
2 Parliament when they look at the future shape of the Ombudsman. I'm not wishing to  
3 express a personal view because it's not up to me, but I do think that it's right to represent  
4 New Zealand in all respects when you're at the top table.

5 **COMMISSIONER STEENSON:** Tēnā koe.

6 **COMMISSIONER ERUETI:** Tēnā koe, judge. I know there is -- I think you mentioned that  
7 there is a statutory power to appoint additional ombudsmen; is that correct? I'm not sure  
8 how that's exercised, who has that authority, how does it happen.

9 **MR BOSHIER:** The statute says up to four ombudsmen may be appointed and one shall be the  
10 Chief Ombudsman. There's usually a discussion between the Speaker, who is Parliament's,  
11 if you like, conduit into the Ombudsman about the needs of the Ombudsman and how best  
12 it should operate at any given time.

13 If, therefore, it was felt that more ombudsmen were needed and the representation  
14 of the ethnicity or the culture of the Ombudsman needed to be changed, that would be a  
15 discussion between the Chief Ombudsman and the Speaker and what's called the Officers  
16 of Parliament Select Committee would then deliberate and make decisions. That's the  
17 structure.

18 **COMMISSIONER ERUETI:** Ka pai. I have to recognise the mana of your Māori Advisory  
19 Board and the work that you're doing and your vast experience. It is good to know that  
20 there is a process -- you wouldn't have to wait until 2024 to have additional ombudsmen to  
21 be whakapapa Māori but also Pasifika or disability or LGBTQI, that there is that facility.

22 **MR BOSHIER:** That's quite correct and the new Speaker, Adrian Rurawhe, would say to me, if  
23 he felt that he wanted a change brought about in the Ombudsman, "I want to sit down and  
24 kōrero with you about the presentation of your office and how it might be driven". That is  
25 a matter totally for the Speaker to raise with me, if the Speaker wished to.

26 **COMMISSIONER ERUETI:** Tēnā koe. The composition of that Māori advisory group, I'm not  
27 sure, it did seem -- your criteria might be "feisty" and "powerful" and can tick all those  
28 boxes, but I wasn't sure whether they were also survivors. I'm not -- I don't know, but what  
29 we have often heard is that it's very important to have that survivor -- as you would  
30 appreciate, to have that survivor voice front and central also.

31 **MR BOSHIER:** I've tried -- I don't want to avoid your question, but I've, in fact, tried to get  
32 Pūhara Mana Tangata to itself set its own shape and destiny without me wishing to  
33 influence its character too much. And so I'll give you an example. Neville Baker, who was  
34 te Atiawa and who died, we now need to replace Neville and it will be the advice within

1 Pūhara Mana Tangata as to who takes his place. I tend to want to step back slightly and not  
2 try and influence too much.

3 **COMMISSIONER ERUETI:** Tēnā koe.

4 **CHAIR:** A final question from me, judge. You said, quite rightly, that the office relies on its  
5 reputation, on its integrity and the extent to which it is trusted and you particularly referred  
6 to it being necessary for Māori to trust the institution. That's totally accepted.

7 With the expanded role under the new Oversight Bill, shorthand, do you accept that  
8 there's a real need now for that trust to be extended to children, to the very children over  
9 whom you have now jurisdiction in terms of complaints?

10 **MR BOSHIER:** I do, and for a child who wants to access us, two things must happen. One, they  
11 must be able to get access to us; and, secondly, they must get a result and it must be a result  
12 within their expectation of time.

13 **CHAIR:** Do you think that the precondition for that access is that children learns to trust, knows  
14 what the office is, learns to trust it, because until they get those two things in place, they're  
15 not going to approach, are they?

16 **MR BOSHIER:** I agree with that. The reason that I prefer the name we've been gifted by Māori,  
17 Kaitiaki Mana Tangata, is that it explains who we are and what we do. "Ombudsman" is a  
18 Scandinavian word which doesn't easily explain what we do. I'm stuck with that. So where  
19 it's the Children's Commissioner, it's pretty clear this is the Children's Commissioner. I  
20 have got to use what I can, and I like use of Kaitiaki Mana Tangata because Māori  
21 immediately, with respect, identify my role, including children.

22 **DR COOKE:** Will your office be doing outreach and explaining and advertising the fact that  
23 you're there and what you do? Is that something that you're anticipating doing?

24 **MR BOSHIER:** Yes, and the only reason I have a wry smile, as I returned from Otautahi  
25 yesterday, having done four speaking engagements, everything from Eldernet to the hard  
26 length of penal reform, and I won't go through all the others, but the role must be seen as  
27 getting out and projecting round the corners of Aotearoa.

28 **CHAIR:** Including to children.

29 **MR BOSHIER:** Correct. So, for instance, I'll go to the New Zealand School Trustees  
30 Association conference in October, again in Otautahi. Children won't be there but this will  
31 be a conduit for me to get access through other means and it's really important we do that.

32 **CHAIR:** Thank you. There are about a million other questions we have, but as I've indicated, if  
33 we or Dr Cooke has further, I'm sure you won't mind answering them. May I thank you, on  
34 behalf of the Commission, judge, both for your presence today, the preparation of your



1 evidence, your responses, the responses by your office to the section 20 notices, which  
2 I know are long and laborious, and also from your earlier engagement with us and, for  
3 transparency, the Commissioners had a Zoom session where we spoke to Judge Boshier  
4 about the role as well, and we thank you very much for all of that engagement which has  
5 been very helpful.

6 **MR BOSHIER:** Well, the privilege has been mine to be here, thank you very much.

7 **CHAIR:** Thank you. We are now going to take -- it was going to be a short lunch break, it might  
8 be an even shorter lunch break. We're hoping to be back for the 2.15. We were going to be  
9 at 2 o'clock. I'm just going to get a wave from the back. Would 1 o'clock be sufficient for  
10 the purposes -- we've got other things to do in the lunch hour, 1 o'clock still okay?

11 **SPEAKER:** 2 o'clock.

12 **CHAIR:** Okay, 2 o'clock, we've got time to do what we have to do in the lunch break. Good.  
13 Thank you very much. We'll take a break until 2 o'clock.

14 **Lunch adjournment from 1.21 pm to 2.07 pm**

15 **CHAIR:** Kia ora mai tātou, welcome back for the final session of this hearing. Just before we  
16 start, you will notice that there are cameras in the room and that's by the consent of the  
17 people who are being filmed and photographed, but just to let you know that is something  
18 that we have permitted for this occasion. Kia ora Ms Toohey.

19 **MS TOOHEY:** Kia ora. Tēnā koutou katoa. Ko Ms Toohey tōku ingoa, my name is Anne  
20 Toohey and I'm one of the Counsel Assisting the Commission. You'll see, Commissioners,  
21 that we have Mr Hughes, the Public Service Commissioner, and other representatives of the  
22 Public Service Commission with us and I'll let my friend, Ms Schmidt-McCleave, introduce  
23 those witnesses to you.

24 **MS SCHMIDT-McCLEAVE:** Kia ora anō. Tēnā koutou katoa. Commissioners, we have with  
25 us this afternoon Mr Peter Hughes, the Public Service Commissioner. To his right, Ms  
26 Heather Baggott, Deputy Public Service Commissioner and Deputy Commissioner  
27 leadership diversity and inclusion, and to Ms Baggott's right, Ms Hannah Cameron, Deputy  
28 Commissioner strategy and policy. I'll hand them over to you, Madam Chair, to administer  
29 the oath. Thank you.

30 **PUBLIC SERVICE COMMISSION**

31 **PETER HUGHES, HEATHER BAGGOTT, HANNAH CAMERON (Affirmed)**

32 **MS SCHMIDT-McCLEAVE:** Mr Hughes has prepared a written brief of evidence which the  
33 Commissioners have. He does wish to make a brief opening statement and I am going to  
34 ask him to clarify one paragraph of his written brief. But before we do that, I will just hand

1 over to Mr Hughes and Ms Baggott and Ms Cameron to introduce themselves visually,  
2 thank you.

3 **MR HUGHES:** Kia ora koutou katoa, my name is Peter Hughes. For those listening, I am an  
4 older Pākehā man with grey hair, wearing a blue suit today.

5 **MS BAGGOTT:** Tēnā koutou katoa. He uri ahau o Maniapoto me Te Āti Awa nō Te Rohe Pōtae  
6 ahau ki Pou Turuki mō Te Kawa Mataaho, ko Heather Baggott tōku ingoa. Kia  
7 everybody, I'm Heather, Heather Baggott. I am mid-40s, female, green eyes, fair of Pākehā  
8 and Māori descent and I'm wearing a brown jacket today. Kia ora.

9 **MS CAMERON:** Tēnā koutou, ko Hannah Cameron tōku ingoa, my name is Hannah Cameron. I  
10 am a European woman, slightly younger than Heather -- she said I could say that -- in my  
11 mid 40s, brown hair, brown eyes and with a light pink jacket.

12 **MS SCHMIDT-McCLEAVE:** (Te reo Māori) Mr Hughes, just before I ask you to give your  
13 opening statement, can I ask you to refer to paragraph 2.3 of your full written brief of  
14 evidence.

15 **MR HUGHES:** Yes.

16 **MS SCHMIDT-McCLEAVE:** You'll note there that paragraph talks about the inter-agency  
17 group set up by the Crown response and lists the ministries which that inter-agency group  
18 includes. We had a question this morning about the Ministry For Pacific People, and the  
19 fact they weren't specifically mentioned in that paragraph. Can you confirm that is an  
20 oversight and that they are a member of that inter-agency group?

21 **MR HUGHES:** Yes, I can, they are a full member. We have also omitted the Education Review  
22 Office. I apologise to both agencies.

23 **COMMISSIONER ALOFIVAE:** Fa'afetai lava.

24 **MS SCHMIDT-McCLEAVE:** Thank you, Mr Hughes. I will hand over to you to read your  
25 opening statement that you have prepared for the Commissioners and I'll just remind you  
26 that we have signers and Katherine, our stenographer, so if you could speak slowly, that  
27 would be appreciated. Tēnā koe.

28 **MR HUGHES:** Thank you. I want to start by acknowledging all of the survivors who have  
29 shared their stories of terrible pain and suffering and of courage in the face of adversity that  
30 we've heard through the course of this Royal Commission of Inquiry. And I also want to  
31 acknowledge them for having relived those stories so that we might learn from them.  
32 I think that is incredibly generous and incredibly courageous.

33 In hearing those stories, I echo and completely support the Crown's  
34 acknowledgments and those of individual agencies over the last two weeks, all of them.

1 The State did not always ensure children, disabled people, deaf people and those with  
2 mental health conditions were safe when in State care. Children, disabled people, deaf  
3 people and those with mental health conditions experienced abuse in a range of settings  
4 controlled by the State. The State did not always stop abuse in State care when it was  
5 disclosed and reported. Māori, Pacific, disabled people and deaf people were particularly  
6 negatively impacted, either by being over-represented in services, or through the services  
7 not meeting their distinct needs. And record-keeping issues, such as gaps in recording and  
8 the loss of some records, have meant that the number of children, particularly the number  
9 of Māori and Pacific children in State care during the period in question, is unlikely ever to  
10 be known.

11 I've been called today as a witness as Public Service Commissioner in that role, but  
12 Commissioners will know that from 2001 to 2011, I was the Chief Executive of the  
13 Ministry of Social Development. So before I speak to my current role, I want to speak to  
14 that previous experience and in particular I want to acknowledge that the Ministry in my  
15 time did not always get things right.

16 I want specifically to acknowledge the evidence of survivors from the State Care  
17 and Protection system about their experiences of redress. As Chief Executive responsible  
18 for that organisation, through those claims I saw the harm and the trauma that those  
19 survivors had experienced earlier as a result of their time in State care. I want to  
20 acknowledge that harm here today and I want to recognise the courage of those survivors,  
21 some of whom will be here today in pursuing their claims.

22 You've already heard from a number of witnesses, including survivors, about those  
23 stories and made findings in relation to them. I want to say that I accept those findings in  
24 full and I am not here today to contest them in any way whatsoever. What happened to  
25 those who were abused in care should not have happened and I deeply regret that it did.

26 I also acknowledge that in attempting to assess and settle those claims, we did not  
27 get everything right. In particular, the Royal Commission has highlighted the experiences  
28 of Mr Keith Wiffin, Mr Paul White and Mr Earl White in attempting to seek redress for  
29 their claims.

30 The Commission has found that Crown Law and the Ministry of Social  
31 Development, which I led, through their actions and inactions lost sight of the human  
32 beings at the centre of the claims and caused them further harm and distress. I accept  
33 the Commission's findings in relation to those cases in full. What happened to Mr Wiffin,  
34 Mr Paul White and Mr Earl White should not have happened and I deeply regret that it did.

1 I apologised to each of them at the time for the failure of the State to protect them from  
2 abuse while in care and also for the further harm the Ministry of Social Development  
3 caused them in managing their claims.

4 I repeat those apologies here today. In addition, I sincerely and unreservedly  
5 apologise for the other failings identified subsequently by the Commission in its redress  
6 report.

7 I'd like now to make some comments relating to my current role as Public Service  
8 Commissioner. The purpose of the Public Service Act is set out in the new Public Service  
9 Act that we now have, passed in 2020. That purpose is to support constitutional and  
10 democratic government in New Zealand, to enable both the current and successive  
11 governments to develop and implement their policies, deliver high quality and efficient  
12 Public Services, support the Government to pursue the long-term public interests, facilitate  
13 active citizenship and act in accordance with the law.

14 Now, in order to operate effectively in our communities and make a difference, the  
15 Public Service, in my view, needs to have the trust and confidence of New Zealanders.  
16 Trust is the foundation upon which the legitimacy of public institutions and a properly  
17 functioning democracy rest. Trust is built by having services that are reliable and  
18 responsive. It is also built in particular by the way we behave and the integrity and the  
19 motivation of public servants.

20 In this role as Public Service Commissioner, I have a critical role to play in ensuring  
21 that the system has integrity, accountability and transparency and all of that is needed to  
22 maintain the trust and confidence of New Zealanders.

23 I'd like to make some specific acknowledgment of shortcomings of the Public  
24 Service in three areas which have had a direct impact on survivors that the Commission has  
25 heard from.

26 Firstly, the arrangements put in place in the reforms, the Public Service reforms, of  
27 the late 1980s brought into the Public Service private sector models and a corporate  
28 philosophy. The focus was placed on accountability at individual Chief Executive level  
29 and the system, in my view, lost cohesion. As a result, the Public Service has not always  
30 worked together in the way that it should and has not been joined up as it should be around  
31 children, young people and their families and communities.

32 Secondly, it is critical that the Public Service reflects and understands the  
33 communities it serves. A diverse workforce has the experience and expertise to contribute

1 to the design and delivery of policies and services and other initiatives meant to improve  
2 the lives of all New Zealanders.

3 The Public Service workforce has not reflected the make-up of our society and it  
4 has not fostered workplaces that are inclusive of all groups. In my view, if you are looking  
5 for an antidote to bias and prejudice in organisations or in institutions, it is diverse and  
6 inclusive workforces.

7 Thirdly, one of the Public Service's most important roles is to support the Crown in  
8 its relationships with Māori under Te Tiriti o Waitangi, the Treaty of Waitangi. The Public  
9 Service has not always maintained the focus that we should have had on developing and  
10 maintaining capability to engage with Māori and to understand Māori perspectives.

11 Time and again, throughout my career, I have seen how good people can lose their  
12 way in big systems and in organisations and in institutions. I strongly believe, I strongly  
13 believe that most people work in the Public Service because they care and they want to  
14 make a difference. That is why they are here.

15 As Public Service leaders, we need to preserve, protect and nurture the spirit of  
16 service to the community that our staff bring to their work and that spirit of service, for me,  
17 is about three things: it's about putting the needs of others first and about being totally  
18 focused on the needs of others. It's about bringing the right attitude to that and approaching  
19 our work in everything that we do with humility. We must always remember that, as public  
20 servants, we stand with the might of the State at our back. And it's about having a higher  
21 purpose, something bigger than ourselves. It's about using our skills, knowledge and  
22 experience to make things better for New Zealanders, their families and their communities.

23 As leaders, we need to support our staff to give full expression to their spirit of  
24 service with the right policies, systems and processes and with strong leadership and with  
25 good culture. And all of that is what our new Public Service Act now requires of us. As  
26 head of the Public Service, I am totally committed to leading this change. Thank you very  
27 much.

28 **MS SCHMIDT-McCLEAVE:** Tēnā koe, Mr Hughes. I will now pass you to Counsel Assisting  
29 Ms Toohey, who will have some questions for you.

30 **QUESTIONING BY MS TOOHEY:** Thank you, Mr Hughes, and thank you for your attendance  
31 today before the Commission. I just want to reflect, firstly, on the overall picture that  
32 you've provided about your own role and the Public Service in general. You've outlined in  
33 your brief, which the Commissioners have, that you are the employer directly, as I  
34 understand it, of the chief executives and that is, for the main part, of the agencies who

1           have given evidence before the Commission over the last couple of weeks, except for, of  
2           course, the Commissioner of Police and the Ombudsman.

3   **MR HUGHES:** Yeah.

4   **MS TOOHEY:** And I think earlier on, in an earlier period, your predecessors would have also  
5           directly employed public servants.

6   **MR HUGHES:** Yes.

7   **MS TOOHEY:** Within I think the scope period of the Commission which began in 1950, and I  
8           think, have I got this right, up until 1988 --

9   **MR HUGHES:** Yes.

10   **MS TOOHEY:** -- the State Services Commissioner actually directly employed staff, including the  
11           staff who would have worked in care settings that we've been discussing in evidence in the  
12           hearing.

13   **MR HUGHES:** That's correct.

14   **MS TOOHEY:** I think also you are the Chair of the Social Wellbeing Board that the Commission  
15           has heard something about, which involves, again, many of the agencies who have  
16           appeared in this hearing, the Ministry of Social Development, Oranga Tamariki, health,  
17           education and Police. Have I got that generally right?

18   **MR HUGHES:** That's correct. I'm also the Chair of the Family Violence and Sexual Violence  
19           Executive Board.

20   **MS TOOHEY:** Yes, and just while we're discussing that, that is, as I understand it, a joint  
21           venture.

22   **MR HUGHES:** Yes.

23   **MS TOOHEY:** Have I got that right, which is something slightly different to the Oranga  
24           Tamariki action plan that we heard about.

25   **MR HUGHES:** It's an Executive Board under the new Public Service Act, which I'm happy to  
26           explain further at a later time, if you want.

27   **MS TOOHEY:** Yes, we can come to that a bit later, but, generally, that body has its own  
28           funding --

29   **CHAIR:** I'm sorry, Ms Toohey, I'm getting signals that I'm not quite sure what they are. I think it  
30           might be if you could bring your microphone closer to your mouth, please, Mr Hughes.

31   **MS TOOHEY:** Just to finish that subject, Mr Hughes, I think that joint venture, we heard from  
32           Mr Te Kani, has separate funding, is that right, to try and end sexual violence and family  
33           violence at an overall level?

1 **MR HUGHES:** Yes. Well, funding is appropriated to the joint venture agencies, but the joint  
2 venture also does hold some funding. So executive boards under the Public Service Act  
3 can be appropriated funding, can employ their own staff and have all the reporting  
4 requirements of a government department, including parliamentary reporting, which is  
5 pretty important. So it's a new form of entity in our Public Service.

6 **MS TOOHEY:** And my understanding is that the genesis of that was that a calculation was done  
7 of the overall economic and social cost of family violence and sexual violence and that that  
8 is what resulted in the generation of the allocation of funding to the agencies for their part  
9 in it? Have I got that, broadly, right?

10 **MR HUGHES:** No. It probably goes back to the family violence task force, which I also chaired  
11 for quite a long period, so successive governments have been concerned about family  
12 violence, sexual violence and so it's a concern to bring all of the agencies together so that  
13 there can be a concerted effort in relation to those issues.

14 **MS TOOHEY:** Yes, and my understanding from Mr Te Kani is that the Social Wellbeing Board  
15 and the Oranga Tamariki action plan is not a joint venture under the Public Service Act.

16 **MR HUGHES:** No.

17 **MS TOOHEY:** We can come back to that a little later.

18 **MR HUGHES:** Sure.

19 **MS TOOHEY:** Just again in terms of your overall role, I think you have noted in your brief that  
20 under the Public Service Act, you provide leadership of the Public Service, including its  
21 agencies and workforce and by oversight of the overall performance and integrity of the  
22 system.

23 **MR HUGHES:** It might be -- I actually have three roles under the Public Service Act. It might be  
24 helpful to distinguish between the three of them. So under the Public Service Act, I am the  
25 Chief Executive of the Public Service Commission, which is a department of State, I am its  
26 Chief Executive. I am the Public Service Commissioner, which is a statutory role. I am a  
27 statutory officer appointed by the Governor-General on the recommendation of the Prime  
28 Minister, so it's a statutory role and I have certain powers and duties and responsibilities in  
29 that role.

30 Under the Public Service Act, I am also head of service. The Public Service  
31 Commissioner role dates right back to 1912 and it relates to the fact that in New Zealand,  
32 we have a politically neutral independent Public Service and so the Public Service  
33 Commissioner sits for some functions between ministers and chief executives, particularly  
34 staffing matters, performance management and review matters.

1           The head of service role dates back to the Better Public Services working group,  
2           which I was on and I now can't remember the date but I think it was around 2010, where  
3           there was an identified need for somebody to provide leadership across the Public Service  
4           agencies. Under the Public Service Act, responsibility sits with chief executives. They are  
5           responsible for the functions that they lead and manage, but following on from the reforms  
6           of the 90s, it became increasingly clear that there was a need for the Public Service to work  
7           together, particularly to solve big issues, big problems in our country and that's where that  
8           role comes from. So it's a whole of system leadership role.

9   **MS TOOHEY:** Thank you. And in your brief, you also noted one of your functions, statutory  
10           functions, as the Public Service Commissioner is to review the design and operation of the  
11           system of government agencies in order to advise the appropriate minister, for example, on  
12           possible improvements to the delivery of services, so something of an overall advisory role  
13           as to the system of government.

14   **MR HUGHES:** Yes, that's part of the Commission's policy advice role.

15   **MS TOOHEY:** You would understand, Mr Hughes, that the work of the Royal Commission over  
16           the past several years has been effectively lifting the lid on how the Public Service has  
17           failed children in State care, which has culminated in this hearing over the last two weeks.  
18           And I think you will agree with me that in addition to the failings that you have  
19           acknowledged within your brief, some of the current issues that have been discussed are  
20           quite concerning.

21   **MR HUGHES:** Yes.

22   **MS TOOHEY:** There are two matters I want to discuss with you, first, very briefly, the failings  
23           that have been acknowledged by you and by other chief executives during the hearing as to  
24           the scope period, which is 1950 to 1999, and you've apologised this morning for some of  
25           that with respect to survivors.

26           In your role as the head of the Public Service, are you able to respond and comment  
27           on the failings by public servants, rather than the system, that have occurred over the  
28           decades of the scope period, both in terms of perpetrating abuse, as we've heard, and failing  
29           to safeguard children in care?

30   **MR HUGHES:** So I am the person that currently holds the role of head of the Public Service and  
31           I acknowledge your statements about the changes in that role over time, so I am the person  
32           that needs to own the leadership of the Public Service going back to 1950 and I'm very  
33           happy to do that.



1           Public Service chief executives have attended the Commission hearing over the last  
2 two weeks and have identified, through their acknowledgments, a range of failings across  
3 the Public Service and I endorse all of those, and I support those chief executives in  
4 acknowledging those failings. As Public Service Commissioner, my expectation of chief  
5 executives, when mistakes are made or failures occur, is that they will own them, fix them  
6 and learn from them, and I'm proud of the fact that they have fronted the Commission and  
7 acknowledged failings that occurred and mistakes that were made because that is the start  
8 of that process.

9           Owning, fixing, learning has to start with me, it starts and ends with me, so I am  
10 happy to own, as Public Service Commissioner, all of the failings that have been identified  
11 over the course of the Commission. That's my moral duty.

12           I reiterate my profound regret at the hurt and harm caused to survivors over the  
13 whole of that period and the impact of those failings on their lives and life courses and on  
14 their families and on their communities.

15 **MS TOOHEY:** Mr Hughes, just turning to your other role as, I think of it as architect or  
16 potential -- the potential to have a role as architect of the overall Public Service.

17 **MR HUGHES:** I wish it was that broad.

18 **MS TOOHEY:** I think the Commissioners will be helped by your observations, as the overall  
19 head of the Public Service, as to what changes they might wish to recommend to try and  
20 address the current failings that we heard about in the hearing. What I propose to do is to  
21 take you through some, not all of them, but some of the key issues that have been discussed  
22 by the chief executives over the last two weeks, and then perhaps discuss with you what  
23 levers and tools you might have at your disposal, as Public Service Commissioner, too, in  
24 the overall strategy and design roles that we talked about before.

25 **MR HUGHES:** Sure.

26 **MS TOOHEY:** Just starting with the current picture of abuse in care, Mr Te Kani accepted that  
27 abuse in care is current, it hasn't stopped with the end of the scope period in 1999, it's still  
28 going on. He also accepted, and this is at page 781 -- perhaps if my friend agrees, I can  
29 give her the evidential references at the end, if that's suitable to the Commissioners. So the  
30 failure to safeguard children by the State has also continued.

31           The current position is that, as of the end of June 2021, nearly 500 children were  
32 harmed in State care and we had evidence this week that a further 273 children have been  
33 harmed over the past six months. So that's the position in terms of the overall numbers of  
34 children being harmed.

1 We also heard from the Children's Commissioner that seclusion and solitary  
2 confinement is ongoing in Youth Justice and Care and Protection residences. I just want to  
3 note to you there was some debate from Oranga Tamariki as to whether that is still going  
4 on and that's something the Commission will need to resolve, but certainly the Children's  
5 Commissioner yesterday gave evidence that is still happening.

6 And further, that in Youth Justice facilities from January 2015 to March 2021,  
7 young people were restrained 3,572 times and placed in seclusion or secure care just over  
8 6,500 times, and in Care and Protection residences for the same period, children were  
9 restrained 1,840 times, and placed in seclusion or secure care just over 2,000 times.

10 We heard from Commissioner Coster that police cells are not appropriate places to  
11 keep children and young people but because of resourcing and infrastructure constraints,  
12 they sometimes have no choice. So children are still being contained in police cells.

13 We heard that there is structural racism against Pacific people in care and we heard  
14 from Mr Te Kani that structural racism has resulted in disproportionate numbers of Māori  
15 and Pacific children in care, and I think, Mr Hughes, you'd be well aware of the figures as  
16 to those disproportionate numbers.

17 We had evidence from The Secretary For Education, Ms Holsted, acknowledging  
18 that the education system has not sufficiently valued Māori cultural understanding and has  
19 had consistently low expectations of tamariki and rangatahi Māori and has failed to respond  
20 to the identity and language and culture of Māori and that this has harmed Māori and  
21 contributed to poor education outcomes over the generations. We also heard that the  
22 education system continues to underserve Pacific learners.

23 From the Ministry of Health, there was an acknowledgment that institutional and  
24 societal ableism and legislation, policy and systems has contributed to the abuse of disabled  
25 people and people with mental health conditions in Health and Disability care settings.  
26 And there was a lot of evidence, Mr Hughes, about the fact that there is so much work to be  
27 done to properly acknowledge the numbers of disabled and deaf people in care and that that  
28 was a consistent theme during the hearing. I think you'll be aware of that, from following  
29 it.

30 Of concern, it emerged during the hearing this week that the system of complaints  
31 in State care in New Zealand is lacking and it was conceded that there is much work to be  
32 done, including that the way in which complaints are recorded and the lack of a central  
33 register is problematic and may result in less safeguarding than could otherwise be  
34 achieved.

1           Additionally, it has been conceded that on the basis of a report of the Office of the  
2 Children's Commissioner -- sorry, the children's monitor, that a no narking culture persists  
3 in State residential care facilities, meaning there's a dissuasion from reporting complaints,  
4 which is a barrier to complaints, and that has been throughout the scope period. So for 71  
5 years, there has been a culture within State care that means that children are reluctant to  
6 complain.

7           There has also been evidence that -- you would have seen, I'm sure, Mr Hughes, this  
8 week, from the Commission's research that indicates up to a third of children in State care  
9 went to prison and that children in State care were five to nine times more likely to go to  
10 prison. Mr Te Kani accepted that these findings reflect a trajectory from the State  
11 residential care system in the scope period to prison, and the Chief Social Worker,  
12 commenting on this report, the Care to Custody Report, said that Oranga Tamariki  
13 sometimes refers to the residential care facility model as a "fully funded failure model".

14           In relation to that standard of care that children can expect to receive, the children's  
15 monitor noted in evidence last week that the care standards were introduced because the  
16 care system was not meeting the needs of its clients. And it was also acknowledged by the  
17 Ministry of Social Development that care of vulnerable adults in MSD-funded services has  
18 not met the standards today or in the past.

19           I want to move on to a slightly different topic, which is monitoring, and this is still  
20 within the concession aspect for your comment shortly, Mr Hughes. The care standards  
21 that I've just referred to, Oranga Tamariki conceded in the hearing that it is largely  
22 incapable of self-monitoring its own performance against those care standards. It could  
23 only provide data for 5% of all of its measures of performance, and it agreed that that was a  
24 problem and, further, that that problem is extended because it means that the Independent  
25 Children's Monitor cannot, therefore, effectively conduct its external monitoring of Oranga  
26 Tamariki's performance.

27           There is another problem, which is that Oranga Tamariki is responsible for  
28 overseeing third-party providers which are providers of State care who contract to the State  
29 pursuant to section 396, the Oranga Tamariki Act. Oranga Tamariki said that it was not in  
30 a position where it could add quite Leah sure that third parties are meeting the care  
31 standards due to these monitoring issues.

32           I just want to give you an example, and bear with me, Mr Hughes, for this long  
33 introduction for your comment, but I will mention just one example of a third-party

1 provider which persisted until 2004 on Great Barrier Island. Of course, there are  
2 faith-based providers who also provide care facilities to the State pursuant to section 396.

3 We've heard in evidence over the past two weeks survivor accounts have been  
4 raised of children being forced to dig their own graves by staff who are holding guns, and  
5 staff raping children in care with guns by the bed. Children and rangatahi were also taken  
6 to a separate small island, that the children called Alcatraz, as a punishment and left there  
7 sometimes for days. And just as an aside, Oranga Tamariki accepted in this hearing that the  
8 Department of Social Welfare acknowledged that Alcatraz was being used in 1989 but did  
9 not take steps to stop funding the programme until 2004, which, I think you'll agree with  
10 me, Mr Hughes, underscores the importance of oversight of all provision of care, whether  
11 it's directly by the State or by third parties.

12 I just want to come now to some comments I want to seek from you. First on that  
13 last point, we heard some evidence from Oranga Tamariki that on some occasions, in  
14 addition to contracting with a provider under section 396, they delegate some of their  
15 overall statutory responsibilities to those third parties, and I understand that that might  
16 actually be under the schedule 6 of the Public Service Act. Without getting into a legal  
17 debate, I'd be grateful for any comment from you as to what oversight you might have, as  
18 Public Service Commissioner, if a delegation has been provided by Oranga Tamariki of  
19 some of its functions.

20 **MR HUGHES:** I'm not aware of that specific provision. I'm quite happy to report separately on  
21 that.

22 **MS TOOHEY:** All right. Thank you, that would be good. In terms of those current issues that  
23 I've just related to you, Mr Hughes, do you agree with me that, generally, there are lots of  
24 things that need to change to safeguard children in care?

25 **MR HUGHES:** Yes, I do.

26 **MS TOOHEY:** And do you also agree that the monitoring and oversight of State care is a key  
27 factor in ensuring that children are safe?

28 **MR HUGHES:** I agree that oversight -- I agree that oversight is critical. I'm not sure that I would  
29 characterise that as just monitoring.

30 **MS TOOHEY:** What else would you conclude?

31 **MR HUGHES:** Would you like me to respond to all of that now or...

32 **MS TOOHEY:** Certainly.

1 **MR HUGHES:** You've outlined a range of situations, a range of behaviours, a range of  
2 performances that are unsatisfactory and unacceptable in 2022 and I do not want to take  
3 anything away from that.

4 A range across the full sweep of the list that you've covered, if we are looking at  
5 changing those things, we're looking at a range of levers, some of which sit inside the  
6 Public Service Department, some of which sit beyond them. We're looking at policy  
7 settings, we're looking at regulatory settings and how regulation happens, we're looking at  
8 performance management, we're looking at funding, we're looking at staffing and  
9 workforce and diversity, we're looking at how other agencies or how agencies work  
10 together, or around in behind one agency, we're looking at oversight.

11 So this is a complicated system. Public Service chief executives in our system of  
12 Public Service are responsible for their agencies' role in all of that. They're responsible to  
13 their ministers for that. As Public Service Commissioner, I have a role in managing their  
14 performance; the Act says I manage their performance on behalf of ministers.

15 Having said that, my expectation of Public Service chief executives is that they will  
16 reach for every lever, not just those that they have direct control over, and so where they  
17 see policy gaps or regulatory gaps or where they don't have the resources to do the job to a  
18 basic standard of acceptability, they will identify that. So we're not passive travellers in  
19 this complex system. We're active leaders and we're focused on why it is we're here and  
20 the difference we're trying to make and the harm that we're trying to avoid.

21 **MS TOOHEY:** Can I ask you a specific question before you continue on with your answer on  
22 that. What would you, as head of the Public Service, expect to see your chief executives  
23 fostering by way of institutional culture in their own organisations to prevent abuse in care?  
24 What do you think they should be doing?

25 **MR HUGHES:** Number one, to do what the new Act says, which is to ensure -- people work in  
26 the Public Service largely because they care and want to make a difference. I really do  
27 believe that. These are human service organisations, they're not widget factories, so people  
28 join the Public Service because they care and they want to make a difference.

29 Our new Public Service Act says the primary responsibility that we have as Public  
30 Service leaders is to allow our staff to give full expression to that. Over the course of my  
31 career, I have worked in a rules-bound bureaucracy, a corporatised Public Service and now  
32 one that we're trying to make much more client-centred, principles-based and  
33 values-driven. And I really do believe that if we can constantly and continually, as leaders,

1 focus our people on why it is they are here, we will have a much better Public Service and a  
2 much better opportunity to address some of the issues that you outlined.

3 **MS TOOHEY:** Do you think at the heart of that, rather than just supporting staff and supporting  
4 people within the Public Service, do you agree that at the heart of any system that's going to  
5 end child abuse, that institutions and different government departments need to put children  
6 at the forefront and centre of their work rather than just their staff?

7 **MR HUGHES:** Absolutely. That's what I was very unarticulately trying to say, I was talking  
8 about the Public Service as a whole, but absolutely agree with that.

9 **MS TOOHEY:** I just want to go back to the action plan that we were talking about before with  
10 Oranga Tamariki. My understanding is that the predecessor or prior to the action plan  
11 coming into play, there was a report by the Ministerial Advisory Board in relation to  
12 Oranga Tamariki. Do you recall this in September last year?

13 **MR HUGHES:** The Māori Advisory Board? Yes, yes.

14 **MS TOOHEY:** And the board said in its report in September 2021 --

15 **MR HUGHES:** Yeah.

16 **MS TOOHEY:** -- that, they concluded that Oranga Tamariki was not visionary, it lacked strategic  
17 direction. It said that Oranga Tamariki needed to be relentlessly focused on improving  
18 outcomes for tamariki and their whānau, but it also made this comment, which I'm  
19 interested in your overall comment on -- they noted that they were concerned, this is at 55,  
20 about the well-being of care and protection staff, but then they reiterated the need to move  
21 from judgment to action with all energy focused on urgent improvement. They then said:

22 "Oranga Tamariki has been comprehensively judged already, and far more so than  
23 many of its fellow agencies, who, from what we have observed from our experiences in our  
24 broader roles, are not all delivering on their obligations to ensure better outcomes for  
25 tamariki, particularly for whānau Māori facing multiple stresses. These government  
26 agencies are not always particularly visible in providing solutions when they also have  
27 obligations to do so. The focus must be on a collective approach to achieving improved  
28 long-term outcomes for tamariki and their whānau."

29 **MR HUGHES:** I agree with that. We will not get where we need to be simply by focusing on the  
30 performance of Oranga Tamariki as an organisation and its staff. That needs to improve.  
31 Leadership in that organisation needs to improve. I have played a role in driving that  
32 performance improvement, as Public Service Commissioner, but the system also needs to  
33 improve. Two of the most hopeful things that I've seen in relation to the Care and  
34 Protection system in my Public Service career are what the action plan now sets out to do

1 and that is to prioritise Oranga Tamariki children and young people for the provision of  
2 services across the system. That has not happened before. So that plan says those children  
3 and young people will be given priority. That has not happened before and I find that very  
4 hopeful.

5 The work that Mr Te Kani is also leading, to build relationships and partnerships  
6 with Māori and share decision-making with them, I also find very hopeful. The prospect  
7 that we can ever succeed in this system by exercising decision rights over Māori, whānau,  
8 hapū and iwi by force of law is destined to fail and so the changes, the system changes that  
9 he is leading are some of the most hopeful I've seen in my career.

10 **MS TOOHEY:** Yes. He told the Commission, though, in evidence that there's no additional  
11 funding to any of the agencies in order to -- and no actual priority. So, for example, if a  
12 child is -- if something isn't done, they might be about to go into care so they might need  
13 housing, their parents might need support, they might be living in poverty. There might be  
14 various circumstances -- there might be some violence in the home, there could be various  
15 circumstances where a child is going to be at risk of going into care.

16 But really the impression from his evidence overall was that while the action plan  
17 will assist agencies to try and work together for the benefit of that child, there is no  
18 additional funding to each of the agencies to do that, and also there's no priority given to  
19 children who might be about to go into care under this action plan. So the understanding I  
20 had from his evidence is that it's really a statement of intent to try and work together rather  
21 than an allocation of resource or priority to children in this cohort.

22 **MR HUGHES:** I can't comment specifically on that, neither can I comment specifically on  
23 funding. That's a matter between Mr Te Kani and his Minister and, ultimately, the  
24 Government. But often in these approaches, like the approach we are taking with family  
25 and sexual violence, you will start out on a pathway with funding to take you one step at  
26 a time.

27 With these approaches very much we're learning our way forward. It sounds like an  
28 obvious thing to prioritise access to services for Oranga Tamariki children and young  
29 people, but it's not been done before and that is going to be a very challenging thing to  
30 achieve. If you think about our health service, for decades our health service has prioritised  
31 access to health services based solely on clinical need. We're now saying these children  
32 come first and that is going to be a profound shift in the operation of that system, that huge  
33 big system of hundreds of thousands of people.

1 **MS TOOHEY:** Do you agree that the problems that Oranga Tamariki is trying to solve here with  
2 children are bigger than just one agency?

3 **MR HUGHES:** Yes, absolutely.

4 **MS TOOHEY:** It's poverty, it's --

5 **MR HUGHES:** Yes.

6 **MS TOOHEY:** -- proper treatment of mental health conditions --

7 **MR HUGHES:** Yes.

8 **MS TOOHEY:** -- for children. It's a range of social factors that's bigger than one agency.

9 **MR HUGHES:** Yes.

10 **MS TOOHEY:** Do you see yourself as having any levers or tools available to you, as Public  
11 Service Commissioner, to provide any advice to ministers as to the overall system of the  
12 Public Service and how it's responding to all of those needs and how it might be improved,  
13 because we can see right now that it's failing.

14 **MR HUGHES:** So under the new -- I'm sorry, this is going to sound technical and I do apologise,  
15 but it's very important. Under the new Public Service -- the Public Service coming out of  
16 the 90s reforms was a collection -- not even a collection, a range of individual agencies all  
17 reporting into ministers with very little connection across the system. Over time, as we've  
18 tried to improve outcomes, things like family and sexual violence, we've realised that no  
19 one agency can do that on their own and that we have to work together. And yet we have  
20 not been organised, coming out of the 90s reforms, in a way to do that. In fact, we've been  
21 unorganised in a way that has made that almost impossible to achieve.

22 So there are a range of approaches coming out of the new Public Service Act and  
23 the Public Service reform process that I am leading, some of them are software, some of  
24 them are hardware.

25 On the hardware side, we can now create executive boards of chief executives  
26 across agencies where those chief executives will continue to be accountable for the  
27 performance of their own agencies, but collectively accountable for the performance of a  
28 system like the care system, if we chose to do that.

29 **CHAIR:** How do you do that, Mr Hughes? How do you make them collectively responsible?

30 **MR HUGHES:** So they will operate as a board. There will be a chair of the board. This is a  
31 model that has existed, Madam Chair, in the private sector for 100 years and that board  
32 chair will be responsible to a designated minister, one minister. Often, that one minister  
33 will convene the ministers of the agencies represented on the board, and then we have the  
34 system joined up on the political leadership side and on the Public Service side.



1 Under the new Act, money can be appropriated to that board. That's never been  
2 able to happen before. So instead of family violence money being littered across a range of  
3 agencies -- you know, several years ago, we couldn't even get a view of it. Money can now  
4 be appropriated to the board. The board can hire staff. The staff of the family violence  
5 joint venture are the staff of the joint venture, not Ministry of Justice staff.

6 The Executive Board has to report to Parliament. They have an annual report. It's  
7 transparent. Their performance is transparent. As Public Service Commissioner, when it  
8 comes to the work of the board, I hold them collectively responsible for that, not for their  
9 individual contributions. So if the board is doing good work, they are all doing good work.  
10 If the board has challenges, they all have challenges. So this is quite a profound shift in the  
11 system.

12 On the software side --

13 **COMMISSIONER ERUETI:** Is the Social Wellbeing Board an example of --

14 **MR HUGHES:** No, the Social Wellbeing Board is more of a vehicle for achieving alignment and  
15 coordination across the social sector at the top level.

16 On the software side, the Public Service Act -- well, prior to the Public Service Act,  
17 since I've been in this role, I have worked the chief executives as a team, literally as a team,  
18 as you would in any agency. So we go on retreat together, we have weekly meetings, we  
19 have team behaviour, we have ways of solving problems together as a team. We have built  
20 relationships. Through the Covid pandemic response, you all saw that team in action. The  
21 Public Service was at the centre of the Government's Covid response and that team was at  
22 the centre of the Public Service response. That's what got us through, that teamwork.

23 I don't recall experiencing that sort of teamwork before in my Public Service career.  
24 I don't recall it in the Christchurch earthquakes. That is now legislated for in the Public  
25 Service leadership team which is in the Public Service Act.

26 If we want teamwork across the Public Service, it has to start at the top and be  
27 modelled down through the system and that's what the Public Service leadership team is  
28 doing.

29 So there are a variety of things that we are doing to bring the system back together  
30 to get it focused on what it's meant to do and operating in a more agile and responsive way.

31 **CHAIR:** And this morning we heard from the Ombudsman and he described his profound  
32 disappointment that the promise of the 1989 Children and Young Person's Act was lost  
33 effectively in the bureaucracy and by not being honoured at all. Do you think that this  
34 model that you're talking about is one that's going to be able to ensure not only that things

1 get off to a good start but are maintained? Because that seems to be -- the slippage of good  
2 intentions, the slippage of action plans, etc, that seems to be a common pattern that we've  
3 heard over the years. Do you think that this new way of operating could hold those  
4 initiatives stable?

5 **MR HUGHES:** Sure, and I'm sorry to interrupt, I get a little enthusiastic about this. It is in the  
6 law. To undo the family violence sexual joint venture would be a heck of a thing. And  
7 even if it was undone, I think those chief executives would still keep working together in  
8 that way. Because what we are doing is embedding different ways of working, which is  
9 very hard when you've had 30 years of being socialised in working in silos vertically up  
10 through chief executives to individual ministers.

11 **COMMISSIONER ALOFIVAE:** Thank you, Mr Hughes, just a comment really just coming out  
12 of the Covid example that you gave. I think there are some really powerful lessons to be  
13 learned there, because you spoke about the Public Service being at the centre, but at the  
14 community coal face, what they saw were services being delivered by Māori, by Pacific.

15 **MR HUGHES:** Yes.

16 **COMMISSIONER ALOFIVAE:** So there's something quite profound that can happen.

17 **MR HUGHES:** Yes.

18 **COMMISSIONER ALOFIVAE:** Where there might have been big arguments going on in the  
19 background, but the public didn't see that, what they saw was a true Public Service interface  
20 with their communities.

21 **MR HUGHES:** Yes.

22 **COMMISSIONER ALOFIVAE:** So it would be interesting later on to hear if there may be some  
23 lessons from that for our care to children space.

24 **MR HUGHES:** Sure. I think we need to be clear about what it is we can do as a Public Service  
25 and what we can't do and what others can do better and where we need to get out of the  
26 way.

27 **COMMISSIONER ALOFIVAE:** Thank you.

28 **CHAIR:** We'll give it back to Ms Toohey.

29 **MS TOOHEY:** Just to cover off that topic, there are levers and tools that are new under the  
30 Public Service Act.

31 **MR HUGHES:** Yes.

32 **MS TOOHEY:** They're not being used yet here but that is a possibility.

33 **MR HUGHES:** Absolutely.

1 **MS TOOHEY:** Is there a reason to wait for the final report of the Royal Commission or is that  
2 something that you, as the head of the State service, would be prepared to start on  
3 immediately?

4 **MR HUGHES:** I've already discussed with The Secretary For Education, who is the leader of the  
5 response chief executives team, about debriefing what we've heard and what we've learned  
6 in these last two weeks and thinking about where we can take action now.

7 **MS TOOHEY:** And in relation to that, Mr Hughes, we've talked about the Care and Protection  
8 system and we've heard that social workers at the moment can do not much more than keep  
9 children safe. Mr Te Kani agreed with me that a better goal for the State would be to  
10 ensure that children are nurtured and that they are cared for in such a way that parents  
11 would, so that they have the best life outcomes possible, as we all do for our children. Do  
12 you agree with me that in looking at what levers are available to you, that that's the best  
13 goal to have in mind for tamariki and rangatahi children in New Zealand?

14 **MR HUGHES:** Absolutely, and that will take a whole range of actors coming together around  
15 those children and young people.

16 **MS TOOHEY:** Yes. I just want to go back to one more topic before we move on to the last topic  
17 and that is the general design of funding and general independence of the monitors,  
18 including under the new Act. In my understanding of the Office of the Children's  
19 Commissioner -- appreciating, of course, that we have a new law that's about to come  
20 in -- is that that is an independent Crown entity and that that is funded effectively within the  
21 MSD funding envelope. Am I right about that?

22 **MR HUGHES:** I can't assist you with that.

23 **MS TOOHEY:** We heard evidence from Judge Eivers, who is the Children's Commissioner, that  
24 while the Office of the Children's Commissioner has operational independence from  
25 decision-makers within government -- and I think that includes you, doesn't it?

26 **MR HUGHES:** Yes.

27 **MS TOOHEY:** Resourcing is problematic and that the funding structure has impacted on the  
28 Office of the Children's Commissioner's independence. The judge went on to describe that  
29 the Office of the Children's Commissioner was unable to secure funding from the Ministry  
30 of Social Development to give full effect to its monitoring functions. If it had larger  
31 funding, it would have had a direct relationship with Treasury, but because its funding is  
32 smaller, it must go through the Ministry of Social Development to have a vote and to get  
33 the appropriation from Government for its funding?

34 **MR HUGHES:** I'm not sure I agree with that.

1 **MS TOOHEY:** Do you want to comment?

2 **MR HUGHES:** What you're describing will be financial administrative arrangements, but funding  
3 comes from the government through an appropriation process and the Children's  
4 Commissioner will have a relationship with the relevant minister and that's where I would  
5 expect those funding discussions to happen. There is then a budget process and various  
6 subordinate budgets will be clustered up in various administrative ways, but the place for  
7 that discussion to happen is between the Children's Commissioner and the appropriate  
8 minister.

9 **MS TOOHEY:** So if that is not happening in practice, then that might be an issue, do you  
10 accept --

11 **MR HUGHES:** I'm happy to assist to sort that out. The Children's Commissioner is independent.  
12 I'm not sure I understand how funding would affect that. Funding would affect the scope  
13 and range of activities undertaken; I'm not sure I understand how it would affect the  
14 independence of the office.

15 **MS TOOHEY:** The overall issue that the Commission might need to deal with, in terms of its  
16 final recommendations, is how Oranga Tamariki is monitored and how children in State  
17 care are advocated for, because an issue that we have heard over the last two weeks and  
18 especially this week, is that you often get a different story when you speak directly to  
19 children and the Office of the Children's Commissioner, of course, will have a role and  
20 continue to have a role with respect to advocacy. What I'm really asking you about, Mr  
21 Hughes, for your comment is a system of government where the body here, the independent  
22 Crown entity that is tasked with potentially criticising the Government in terms of  
23 advocating for children, must go to the, -- on the evidence we've heard, and I accept that  
24 you have a different view as to how it should work - on the evidence we've heard is that the  
25 Children's Commissioner must go to the Ministry of Social Development, in other words,  
26 the Chief Executive of MSD, in order to secure funding and you can see the problem, that if  
27 that is the structure of it, that you have to go to funding-- for funding when that --

28 **MR HUGHES:** I would not see the Chief Executive of MSD having any role whatsoever in  
29 controlling or limiting the funding available to the Children's Commissioner. She may well  
30 have a role for the purposes of the administrative process, which is the putting the together  
31 the budget and collating budgets across a sphere of activity. And the simple reason for that  
32 is, otherwise, the Treasury and the various ministers would have hundreds of agencies that  
33 they would have to deal with.

1 **CHAIR:** Mr Hughes, we don't have time to go into the details, but on the basis of the evidence we  
2 heard from the Office of the Children's Commissioner, I think there's an issue for you to  
3 look at.

4 **MR HUGHES:** I will sort it out.

5 **CHAIR:** You will sort it out. My goodness, wouldn't it be nice if we could all say that. Thank  
6 you, I suggest you look at the evidence of Judge Eivers in particular and have a look at it  
7 and see what can be done. We'd be very grateful for that.

8 **MR HUGHES:** Sure. Sure.

9 **MS TOOHEY:** I now want to move to a different topic. I'm conscious of time. I think this will  
10 take 15 minutes.

11 **CHAIR:** That's fine. To let everybody know, we're going longer than the programme says. It's  
12 important we cover this evidence so we're going to go to 3.30.

13 **MS TOOHEY:** I want to talk to you now about the time that you've spoken about in your opening  
14 statement today as Chief Executive of the Ministry of Social Development, which I think  
15 was from 2001 to 2011, and acknowledging, of course, the apology and acknowledgment  
16 you've given this morning. The first topic relates to evidence the Commission heard at  
17 an earlier hearing as to how the historic claims process came about. I just want to bring up  
18 the He Purapura Ora redress report, which is MSC0008454. This will come up on the  
19 screen in a moment, Mr Hughes, and it's the redress report of the Commission in volume 2.

20 **MR HUGHES:** Yeah.

21 **MS TOOHEY:** And it refers at page 26, paragraph 2, we'll just call up the whole paragraph. It's  
22 just recording here the information that MSD had about, if you like, the magnitude of  
23 claims, and we'll come to it in a moment but it's page 26. When you were Chief Executive  
24 of the Ministry of Social Development, I think that you would have been aware that a  
25 lawyer for a number of claimants, Sonja Cooper, provided a document, in the early stages  
26 of the historic claims process, detailing a large number of staff. I think you're nodding, you  
27 recall it.

28 **MR HUGHES:** [Nods].

29 **MS TOOHEY:** And it detailed what Cooper Legal had learned about the allegations in various  
30 children's homes. I think at that time as well, you've described in your evidence -- and  
31 certainly we've had other evidence -- that the Historic Claims Unit and there were  
32 statements of claim filed, civil claims filed and you would have started to get a picture of  
33 the magnitude of the claims and allegations of abuse. Did you do anything, in your role

1 Chief Executive of MSD at that time, to try and establish the true extent of abuse in State  
2 care? Was that something you considered doing, rather than just responding to claims?

3 **MR HUGHES:** I'm not sure how we would have done that. I do recall being made aware by  
4 Ms Cooper of the numbers -- her view of the numbers coming through the system and I do  
5 recall discussing that with ministers at the time.

6 **MS TOOHEY:** You do? Okay. Generally speaking, what was your advice to Government as the  
7 scale of advice started -- scale of the abuse that was being alleged started to become  
8 apparent?

9 **MR HUGHES:** When Child, Youth and Family was merged into the Ministry of Social  
10 Development, my recollection is that was in the middle of 2006. Child, Youth and Family  
11 was merged into MSD because there were very serious issues, not the least of which several  
12 hundred, 800 unallocated notifications of child abuse and neglect and, in human terms,  
13 that's children sitting in a queue waiting for help. Children in that queue were harmed. It  
14 took us, from memory, the best part of two years to turn that situation around and, from  
15 memory, we reallocated in the first year \$30 million from the MSD baseline into that effort.

16 At the time, there was a Historic Claims Unit in Department of Child, Youth and  
17 Family and then in the service line and early on I formed the view that it was not  
18 appropriate for it to stay there and that it should be -- because of conflict of interest issues,  
19 and also because I felt we were reflexing to defending claims, rather than properly  
20 investigating them. So I had the unit moved to a different, separate part of the Ministry of  
21 Social Development and we resourced the unit up, and I placed on that senior manager an  
22 expectation that we would try and settle claims and not simply defend them through into  
23 the litigation process.

24 So I recall discussing that approach with ministers and ministers being positive  
25 about it. Subsequently, in 2008, led by MSD, the Crown litigation strategy was changed  
26 and the listening service extended. That was, again, part of that approach. With the benefit  
27 of hindsight, those were small gains in relation to a very big unfolding problem.

28 **MS TOOHEY:** Yes. Now, I know that you have apologised to the White brothers, but I just want  
29 to finish this subject by just bringing up the page in He Purapura Ora the redress report,  
30 volume 2, that deals with this, and that's at page 29, I think, of Relativity and page 27 of the  
31 report. In terms of that last answer that you gave, Mr Hughes, generally in the redress  
32 report of the Commission, there is criticism of the Crown Law litigation strategy. Is that  
33 coming up on your screen, Mr Hughes?

34 **MR HUGHES:** Yes.

1 **MS TOOHEY:** I think we're having a bit of a technical issue, here we go. This is it here. For  
2 those people who cannot see it, this is the Commission's redress report and findings and  
3 you have responded to those this morning. Here in relation to the White brothers' litigation,  
4 as you have acknowledged this morning, these findings, it is that the Ministry of Social  
5 Development and Crown Law did not comply with the Crown litigation strategy that  
6 required them to settle meritorious cases; did not behave as a model litigant and approached  
7 and conducted the case in a win-at-all-costs manner, which was unnecessarily adversarial,  
8 legalistic and aggressive; instructed private investigators to seek personal information about  
9 the White brothers and other survivor witnesses in an overly broad way which did not rule  
10 out surveillance.

11 I just want to mention that point particularly, Mr Hughes, because in 2018 or earlier,  
12 certainly by 2018, you had commissioned an inquiry in your current role to address public  
13 concern generally --

14 **MR HUGHES:** Yes.

15 **MS TOOHEY:** -- about the use by the Crown of external security consultants and that final  
16 inquiry referenced this White case --

17 **MR HUGHES:** Yes.

18 **MS TOOHEY:** -- and found that MSD was in breach of the code of conduct issued by the  
19 predecessor State Services Commissioner under the State Sector Act at a lower level in  
20 Crown Law, and also noted that the inquiry did not see anything to indicate that senior  
21 managers with MSD knew about that or directed the potential use of surveillance. Did you  
22 know about that, Mr Hughes, the use of surveillance when you were at MSD?

23 **MR HUGHES:** I cannot recall that at all. I can recall once in MSD authorising the use of  
24 surveillance and that was in relation to a multimilliondollar benefit fraud where we needed  
25 to find the perpetrator. And the fact that I had to authorise that indicates to me that decision  
26 rights had, - - I- shifted decision rights because I did not like the practice. So, no, I have no  
27 recollection of that whatsoever. That case would have been well in litigation at that point.

28 **MS TOOHEY:** Yes.

29 **MR HUGHES:** But I have to accept the fact that it has been found that MSD staff did, and did not  
30 push back on the proposal to use those investigators. I was the Chief Executive; I'd have to  
31 accept that.

32 **MS TOOHEY:** The next case study I want to briefly go to in the same way is Mr Keith Wiffin.  
33 This is the next case study in the report and at page 47 of Relativity, which is page 45 of the  
34 report, there's a similar table summarising the findings of the Commission and you have

1 responded to these this morning, but just so that the public is aware of what the findings  
2 were, the findings of the Commission were that Crown Law and the Ministry of Social  
3 Development should have promptly concluded that Mr Wiffin's claim was meritorious;  
4 were overwhelmingly focused on minimising the Crown's legal liability and lost sight of  
5 the human being at the claim; were frequently adversarial and legalistic and aggressive in  
6 defending the claim; did not follow the Crown litigation strategy again by failing to settle  
7 the meritorious claim; made a completely inadequate settlement offer; failed to disclose  
8 Moncrief-Wright's criminal convictions to Mr Wiffin; it should have investigated the  
9 circumstances of Mr Moncrief-Wright's transfer between residential homes and potential  
10 involvement in offending at a local Catholic Church institution; went through the motions  
11 of trying to resolve the claim through an alternative dispute resolution process; had  
12 outdated ideas about sexual abuse, especially about the reporting of sexual abuse; should  
13 have helped Mr Wiffin make a Police complaint and sought a restorative justice  
14 conference; did not behave as model litigants and caused Keith additional trauma through  
15 the handling of his claim.

16 I appreciate that you have acknowledged these findings this morning and apologised  
17 for them. Can I get your comment, though, on the overall picture of these events and the  
18 way in which the State responded to these claims at the time? It suggests that at the time  
19 the Crown was litigating, it was responding to protect the State against litigation, rather  
20 than looking to actually respond to its failings in safeguarding children against abuse in  
21 care. Is that a fair comment, Mr Hughes?

22 **MR HUGHES:** When I first became Chief Executive of MSD, I did not like the way our lawyers  
23 were going about their job. The Ministry of Social Development is the agency that deals  
24 with vulnerable people facing all sorts of challenges in their lives. At the time, I called a  
25 corporate lawyer in and I said I wanted a client-centred and principles-based approach.  
26 I didn't like, for example, that we were using limitation approaches. There's a huge power  
27 imbalance between a big government department and the clients that we were working  
28 with. I did not like the limitation approaches. We were -- for example, with appeals to the  
29 social security appeal authority which were not binding in precedent, we would apply the  
30 decision in the case but not the collection of cases and I insisted that we apply the decision  
31 across cases or appeal it.

32 When Child, Youth and Family came to MSD, I found a similar approach on the  
33 legal side of it. For a period, we maintained two legal teams -- we're talking hundreds of  
34 lawyers -- while we went through the merger process. We were also bound up by the



1 Crown litigation strategy by the fact that there were multi-agencies in this litigation  
2 process.

3 In retrospect, I think I was naive about my ability to effect change rapidly to all of  
4 that and I have to accept that MSD staff contributed to all of these things, as you have  
5 found.

6 **MS TOOHEY:** Just a final question or opportunity, really, for you to comment, Mr Hughes, not  
7 just about MSD but now reverting back to your role as the overall steward, the overall  
8 architect or overall head of the Public Service, can you comment on what confidence the  
9 public can have that the State will act to safeguard children in State care and also to nurture  
10 them going forward?

11 **MR HUGHES:** Public Service chief executives have listened very carefully to the evidence of  
12 survivors presented to the Royal Commission. 14 of them have fronted up at the Royal  
13 Commission and have made various acknowledgments. I'm proud of them for doing that.  
14 That is not an easy thing to do and they did that. That is the start of change. We are a  
15 team; we will work as a team to steward the system to a better place. There are more tools  
16 available with the new Public Service Act that I believe will make a difference and I  
17 believe that the focus that we're trying to build, which is on the individuals and families and  
18 communities we serve, will also make a difference as well. I'm very proud to lead the  
19 Public Service and the people in it and I'm very proud of their commitment but I don't  
20 underestimate the challenge.

21 **MS TOOHEY:** Kia ora. Thank you, Mr Hughes. I've got no further questions.

22 **CHAIR:** Thank you, Ms Toohey. I'll just see if there are any questions at all for Mr Hughes.

23 **COMMISSIONER GIBSON:** Kia ora. Thank you, Mr Hughes. Looking back over the time,  
24 we'd expect chief executives to be in touch with their communities, to be knowing the  
25 issues, to be aware of what's going on, especially when it's something as critical as abuse  
26 and neglect. Apart from those who have been convicted of abuse directly, who's been held  
27 to account?

28 **MR HUGHES:** Accountability, the accountability I expect from chief executives is that when  
29 failures occur, we will own them, fix them and learn from them, and that is my  
30 commitment that we will do that. What has happened here is a result of a range of things,  
31 not simply what has happened in the Public Service. I absolutely own the Public Service  
32 contribution to it, but there are a range of factors here and we need to address all of them  
33 and the Public Service will play its part in doing that.

1 **COMMISSIONER GIBSON:** You've acknowledged there were failures, including in your own  
2 agency when you were Chief Executive. Now, as Public Services Commissioner, what  
3 would be your response, what levers would you use to chief executives who were in charge  
4 of agencies who are making failures of that scale today?

5 **MR HUGHES:** My responsibility as Public Service Commissioner is to back those people to do a  
6 good job and when they don't, to help them do a better job and where very significant  
7 failures happen, to hold them to account. And I believe I have a track record of having  
8 done that in my time as Commissioner.

9 **COMMISSIONER GIBSON:** Would you say what we now look back on, there were significant  
10 failures in the day?

11 **MR HUGHES:** There's no doubt that there's significant failures in New Zealand and the Public  
12 Service has been part of that, but not all of it.

13 **COMMISSIONER GIBSON:** Another line of questioning; I think you made a statement that  
14 diversity and inclusion in the Public Service is an antidote to racism, ableism,  
15 discrimination.

16 **MR HUGHES:** Yes.

17 **COMMISSIONER GIBSON:** How many disabled chief executives do you employ at the  
18 moment?

19 **MR HUGHES:** At this point in time, we don't employ any that identify as disabled.

20 **COMMISSIONER GIBSON:** That's the answer, I think, and --

21 **MR HUGHES:** We will be appointing a disabled person to head the new Ministry.

22 **COMMISSIONER GIBSON:** And do you have a Chief Adviser Disability, or a senior person  
23 within your agency within the Public Services Commission at the moment on disability  
24 issues?

25 **MR HUGHES:** No. We are a very small organisation, we don't have chief advisers in those sorts  
26 of roles. Over the last five years, the Public Service has made huge progress on diversity  
27 and inclusion. We now --

28 **COMMISSIONER GIBSON:** But is there somebody specifically in your agency with a lead role  
29 around disability issues, a disabled person?

30 **MR HUGHES:** There are staff that have that advice role but there's not a chief adviser. We don't  
31 have those sorts of roles in the Commission.

32 **COMMISSIONER GIBSON:** Okay, thanks.

33 **COMMISSIONER ALOFIVAE:** Talofa, Mr Hughes, ladies. We've heard a lot of evidence from  
34 a range of survivors, and I won't go over them because I think you're very familiar with the

1 impacts, but one of the things that comes through so profoundly clearly from Māori, Pacific  
2 and disabled is that if you're not visible, you're not counted. If it's not recorded in data, it  
3 can't be measured. And we heard from our population ministries this morning, TPK and  
4 Ministry for Pacific Peoples, about the great work that they're doing, them and their teams,  
5 under your leadership, and one of the things that was really clear was their extensive reach  
6 into their communities and how they're able to galvanise them in a way that is familiar to  
7 them, around their values, around how they operate, Māori can be Māori, Pacific can be  
8 Pacific, and my question is really around the value, so the public value of your population  
9 ministries and the significant value add that they have to the system overall.

10 And what we understand from our survivors, some who are here and many who are  
11 listening, is just how difficult it is for them, for Māori and Pacific, but I'll just talk about  
12 Pacific, to actually come forward to be able to have a voice. And if they don't have  
13 representatives, at all of your decision-making tables, in the hierarchy of your all of system  
14 approach, it means that their voices can't be heard in a corporate way that can actually  
15 really have some influence. The voice of our survivors here really influence the way how  
16 we operate. I was just wondering if you might have a comment around that reflection and  
17 something that we're hearing very clearly from our communities.

18 **MR HUGHES:** The chief executives of all of the population agencies are on the Public Service  
19 leadership team, including the Ministry for Ethnic Communities. I appointed that Chief  
20 Executive to the Public Service leadership team under the Act. I will be appointing the  
21 Chief Executive of the Ministry for Disabled People to the Public Service leadership team  
22 under the Act. I absolutely agree with what you are saying.

23 Independently of that, as the ultimate system leader, I meet with the heads of the  
24 population agencies on a regular basis. Every second month, I meet with the Chief  
25 Executive of Te Arawhiti and the Chief Executive of Te Puni Kōkiri in our leadership roles  
26 across the system to back them in their leadership.

27 **COMMISSIONER ALOFIVAE:** But actually coming down into -- so your joint venture, there's  
28 a whole lot of different models and fully appreciate that they are at those tables, but  
29 actually being able to have a mandate -- we're just talking about our State care space  
30 children in care, and there's a whole ecosystem around that. So the pathway into care has  
31 been through Youth Justice, care and protection, health concerns, the whole gamut.

32 Knowing what you now know today as a result of what's been uncovered, is there a  
33 sharper focus that could perhaps be afford today those population ministries to kind of

1 really lift the visibility and bring those voices of the community, of those particular sector  
2 groups to the table in a way that you haven't heard before?

3 **MR HUGHES:** The population agencies have a primary role in bringing those voices to the table.  
4 In a way, they're like central agencies in the system and that is how I have tried to work  
5 with them and that is why they're on the Public Service leadership team and that is why, in  
6 all the various forums that we have operating across the system, they're present, including  
7 the executive boards we set up under the Act. I think we have to power them up. If that's  
8 what you're saying, I totally agree with that. I think they're little organisations but  
9 they have system-wide roles and we need to see them as system-wide leaders.

10 **COMMISSIONER ALOFIVAE:** Yeah, and I think to see the magic, really, of what they can do  
11 and the power of voices, of how survivor voices have been so influential for us, it's about  
12 having the mandate and making them accelerate that in a way that really brings a value, a  
13 huge value to actually re-shaping the system, which is aspirational, which is what we've  
14 heard a lot of. So thank you for that.

15 The second point really relates to the Oranga Tamariki action plan. We're very  
16 excited, we've heard a lot of things about it, but we've also heard that still not quite ready,  
17 lots of things in the pipeline, hasn't come together. When we asked Oranga Tamariki how  
18 many kids in care, I think they said about maybe 4,500 -- I stand to be corrected on that  
19 number but it's around that figure -- but a greater population of children perhaps at risk of  
20 need and support is about 117,000.

21 My question is, given that those numbers are not big necessarily, compared to the  
22 population of 1.7 million children, I think it is in Aotearoa, do you think the public who are  
23 listening, do you think they have a right to expect that we would see some significant  
24 change sooner rather than later around bringing those action plans -- I mean, I agree with  
25 you, that's a complete step change if children are now going to get the priority. But what  
26 we've heard is that they don't operate in a vacuum. If you are not empowering and gearing  
27 up the whānau, it's still going to be marginal in terms of how successful it can be.

28 **MR HUGHES:** Those action plans are agreed and are owned by the relevant chief executives. To  
29 my mind, that's 50% of the distance already travelled. What we've got to do is resource  
30 them and drive them really hard. There is an element of us learning our way forward, so it  
31 is going to take time, but, no, those numbers are not huge in the scheme of things and we  
32 ought to be able to make a difference.

33 **COMMISSIONER ALOFIVAE:** Thank you, Mr Hughes, malie lava.

1 **COMMISSIONER STEENSON:** Tēnā koe, tēnā koutou. So I think my first question is a  
2 follow-up question from my colleagues around the diversity, because you've talked about  
3 the leadership and the diversity. I'm just wondering around the cultural competency, do  
4 you think the Public Service sector currently has the right settings with regard to cultural  
5 competency? We've heard a range of views on this.

6 **MR HUGHES:** Frankly, no, but we are making progress. I'm going to ask Heather to talk to this  
7 because this is her leadership responsibility.

8 **MS BAGGOTT:** This is an area,- kia ora- koutou. This is an area where the Chief Executive  
9 team, the Public Service leaders have put some dedicated focus on for the last few years  
10 and so they've agreed a number of priorities that they're focused on, on diversity inclusion,  
11 but also on Māori-Crown relations. For the first time in our history, every Chief Executive  
12 and agency has a dedicated diversity inclusion plan and a plan for building their  
13 Māori-Crown capability, and they report progress against that plan in their an annual report.  
14 So that's a form of transparency and accountability. So, on one hand, the Māori-Crown  
15 plans, they have been developed closely with Te Arawhiti, who've developed a framework  
16 around particular priorities that they should focus on. That's a bit of a start but it enables  
17 everyone to be focusing on the same things and learning as we go.

18 On our diversity inclusion plans, there are five priority areas every agency, every  
19 Chief Executive has committed to and one of those things is cultural competency. So we've  
20 made a very strong start and the fact that all agencies are working together, we're able to  
21 share resources, learn as we go, as we can build our base going forward.

22 **MR HUGHES:** On the diversity and inclusion side, for example, another area of focus is  
23 unconscious bias and all public servants are receiving training in unconscious bias. We're  
24 most of the way through that.

25 **COMMISSIONER STEENSON:** Thank you. Then my second question is a follow-up as well,  
26 because it does speak to accountability that we've heard from survivors. We've heard  
27 survivors talk to us about the fact that they've had people who have been in charge of places  
28 and people tasked with their care and they've been abused in those places by those people.  
29 Then they've seen the leaders of those people be promoted and so they struggle to have  
30 trust in integrity in the system and we see that unfolding and manifesting in many ways.  
31 Do you have any comment on how that can be addressed?

32 **MR HUGHES:** Well, my role is to appoint chief executives of agencies and in the appointment  
33 of -- I take that role very seriously and I want people in those roles who can provide strong  
34 leadership, including moral leadership, and I want people in those roles who will be trusted

1 and respected. That's the contribution that I can make and have been making while I'm in  
2 this role.

3 We've also, as a Commission, issued guidance and standards around speaking up in  
4 agencies, to make it easier for people to bring wrongdoing to the fore and to support people  
5 to do that. We also have issued guidance in standards that enable wrongdoing that is  
6 known across the system to be made known to other parts of the system so we don't have  
7 people who have done bad things migrate their way across the system and get promoted up  
8 through it. I have to say that has been a real battle, the way our system is configured, to get  
9 that in place and hold it in place.

10 **COMMISSIONER STEENSON:** Kia ora, you can imagine all the survivors listening will want  
11 to know that that's being addressed. Kia ora.

12 **COMMISSIONER ERUETI:** Tēnā koe, Mr Hughes, koutou ma. My question is about the  
13 redress scheme that we've recommended in our report. That's going to require to  
14 implement a real joined-up approach clearly, not only with agencies but also with  
15 faith-based institutions. It doesn't seem to be proceeding at the pace that we would have  
16 expected, so I just wanted to know from you about your confidence and the outcome.

17 **MR HUGHES:** I'm not sure where that is at at the moment. I would imagine it's still subject to  
18 some Government decision-making. Once Government's completed that, we will  
19 implement it and we will back it with joined-up teamwork across the agencies at the Chief  
20 Executive level. That's my commitment.

21 **COMMISSIONER ERUETI:** Ka pai. My other question is about your view, as leader of the  
22 Public Service, about by Māori for Māori in this domain and you talked about shared  
23 decision-making.

24 **MR HUGHES:** Yeah.

25 **COMMISSIONER ERUETI:** But I wonder also whether that includes to you giving Māori space  
26 to make decisions independently, including the exercise of delegated functions under  
27 legislation.

28 **MR HUGHES:** That really is a matter for ministers, in terms of where decision rights sit in the  
29 system, but I go back to our experience through Covid. I think it's really important we are  
30 not romantic about what it is we can and cannot do in the Public Service and that we are  
31 prepared to step back and let others take responsibility and make a difference where they  
32 can do a better job.

33 **COMMISSIONER ERUETI:** You did say that you were prepared to get out of the way, I think it  
34 was.

1 **MR HUGHES:** Yes.

2 **COMMISSIONER ERUETI:** Lastly is Te Tiriti. We've seen over the past few weeks the many  
3 and varied ways in which it's applied in different agencies --

4 **MR HUGHES:** Yes.

5 **COMMISSIONER ERUETI:** -- and that can make sense, it varies according to context.

6 I wondered if you had a view for the need for some sort of supra code of standard, if you  
7 like, for Te Tiriti and international human rights standards that could sit above the Public  
8 Service to guide it.

9 **MR HUGHES:** The Treaty, for the very first time in our history, is directly referenced in the new  
10 Public Service Act. So that has not occurred in any of the other previous legislation going  
11 right back to 1912. The Public Service Act says that it is the responsibility of the Public  
12 Service to support the Government as the Treaty partner. So that gives us a reference point  
13 and a clarity that we've not had before.

14 We're working with Te Puni Kōkiri and Te Arawhiti as a Public Service leadership  
15 team on how we give effect to that, because you're right, we want one approach to that  
16 across the Public Service.

17 **COMMISSIONER ERUETI:** Do would you also envisage some higher law, for example, a  
18 constitutional reform that would give recognition to Te Tiriti --

19 **MR HUGHES:** Commissioner, I think you are well above my pay grade.

20 **COMMISSIONER ERUETI:** We'll leave it there.

21 **MR HUGHES:** I do have a view but it would not be appropriate for me to --

22 **COMMISSIONER ERUETI:** Okay. Kei te pai. Kei te pai. Thank you.

23 **CHAIR:** Above all, in all the hearings that we've had so far and through these two weeks as well,  
24 the word "cost" has kept coming to mind,-- human cost, whānau, hapū, iwi, community  
25 cost, - and I'm talking here about emotional, poverty, all of- those indicators, but also the  
26 cost, what do we spend abusing these children? What was it that we were spending in  
27 incarcerating them, effectively, in residences and the rest? You can't answer that. I don't  
28 think anybody can answer it.

29 And then what have we spent as a nation in dealing with the social problems that we  
30 now know were caused very much -- not fully but very much by reason of that treatment.  
31 What did we spend in imprisonment rates, drug and alcohol, mental health, the rest?

32 Do you accept, Mr Hughes - and maybe this is for your political masters, I'm just  
33 putting it out there so that maybe they can hear this,- that it's time to stop spending at, that  
34 old cliché, the bottom of the cliff and that if all those dollars had been poured into the

1 support at the beginning, the nurturing, as Ms Toohey says, of children and their families,  
 2 that we could have avoided all that cost. Are you able to accept that as a matter of  
 3 principle, without going too far outside your pay rate? -- that it's time to stop spending at,  
 4 that old cliché, the bottom of the cliff and that if all those dollars had been poured into the  
 5 support at the beginning, the nurturing, as Ms Toohey says, of children and their families,  
 6 that we could have avoided all that cost. Are you able to accept that as a matter of  
 7 principle, without going too far outside your pay rate?

8 **MR HUGHES:** I think that is the founding proposition for the Social Wellbeing Board. We are  
 9 spending a huge amount of money through the various government departments that  
 10 operate on the social side of the Public Service responding to problems that today we know  
 11 how to avoid.

12 **CHAIR:** And that, in large part, were caused by the state, through the abuse that we've heard of.

13 **MR HUGHES:** I think the challenge is how you shift, tilt the balance of that and I do have to say  
 14 that's easier said than done, but we do have to do it, I agree with you.

15 **CHAIR:** Yes, and it's got to be more than an aspiration doesn't it? It's got to be an action.

16 **MR HUGHES:** Yes, it does. I can sit here and say every single one of those chief executives  
 17 would own that.

18 **CHAIR:** That's a fine thing to hear. Thank you, Mr Hughes. On behalf of the Commission, may  
 19 I thank you for coming, for preparing your evidence, for responding to the section 20  
 20 notices in such detail and for being so frank. I think it must be acknowledged that I'm sure  
 21 that the apologies that you rendered in relation to your time at MSD has been well received  
 22 by those who were listening. So thank you very much indeed and I apologise that we've  
 23 gone over time but it indicates the importance which we hold your evidence, so thank you.

24 It's time we had a well overdue break. Can we just take a short break, maybe just  
 25 until 4 o'clock and then we'll come back and do our concluding parts. Thank you.

#### 26 **Adjournment from 3.54 pm to 4.07 pm**

27 **CHAIR:** So we move into the last and final and important phase of this hearing and I invite our  
 28 representatives from the Survivor Advisory Group to speak to us, starting with Ms  
 29 Chapman. Tēnā koe, Ms Chapman.

#### 30 **CLOSING STATEMENT BY SAGE**

31 **MS CHAPMAN:** E ngā mana, e ngā reo, raurangatira mā, tēnā koutou katoa. Kua hoki mai anō  
 32 tātou ki te mura o te ahi, tātou e kawē i tēnei kaupapa. Kāore e mutu i ngā mihi ki te hunga i  
 33 tae ā-tinana mai ki waengau i tēnei huihuinga tūmatanui. Koutou ngā māngai o ngā tari  
 34 kāwanatanga, o ngā tari e kaha hāpai i te kaupapa o te tūkinotanga o te tamaiti, koutou



1 katoa e pupuri nei i te mana o te tamaiti. Nei rā, ngā mihi ki a koutou. (To the many  
2 authorities, the speakers and esteemed leaders amongst you, I greet you. We have returned  
3 again to the heat of the battle, to continue this task. Words cannot express my gratitude for  
4 those physically present with us at this public forum. Those of you from the government  
5 departments, tasked with the prevention of abuse to children, who hold the authority on  
6 behalf of children, please accept my acknowledgements to you).

7 On behalf of SAGE members, I want to acknowledge all the survivors who have  
8 contributed to this Inquiry and who continue to lobby and advocate in their respective mahi.

9 Madam Chair, Commissioners, unfortunately, not all our SAGE members could be  
10 in attendance today. However, once again, and for those who may not know, the Survivor  
11 Advisory Group of Experts to the Royal Commission of Inquiry are Keith Wiffin,  
12 Jim Goodwin, Frances Tagaloa, who joins us via AV link from Orlando in the US, Rupene  
13 Amato and Gary Williams, who send their apologies, and myself, Tu Chapman. Our  
14 speaking order for today is as follows: Frances will lead off, followed by Jim, then Keith  
15 and then I'll provide the closing statement, kia ora.

16 **CHAIR:** Ms Chapman, we're going to have to ask SAGE to comply with the identification for  
17 those who cannot see.

18 **MS CHAPMAN:** Right. For those who cannot see me, I am about 5'7", Māori, I identify as  
19 female and I've got short black hair with blue glasses.

20 **CHAIR:** Talofa lava, Frances. Good to see you all the way from across the world.

21 **MS TAGALOA:** Talofa lava, Madam Chair. Ou te faatalofa atu i le pa'ia ma le mamalu ua aofia  
22 i lenei aso matagofie. Malo le soifua ma le lagi e mamā. Pacific greetings, Madam Chair,  
23 and Commissioners, and everyone, I'm Moeapulu Frances Tagaloa, a survivor of  
24 faith-based abuse and an advocate for survivors. Thank you so much for this opportunity to  
25 give a few survivor comments. And for those who cannot see me, I'm a Samoan and Palagi  
26 Pākehā and of Palagi and Pākehā descent. I have black hair and brown eyes and am  
27 wearing a red jacket and frangipani flower in my ear, as is my island custom.

28 So at the opening of this hearing, I said that this hearing will reveal that the State  
29 has not put survivors first ahead of their perpetrators and has not provided an appropriate  
30 way forward for survivors to heal and have redress. And this continues to be true and  
31 although the State institutions say their processes have changed, it still is apparent to me  
32 that the processes and laws have not changed, not enough to prioritise survivors ahead of  
33 the institution and ahead of their perpetrators. And I still believe that we cannot have a just  
34 and effective redress system where the survivor is expected to go back to the very State

1 institution where the abuse occurred, for redress. The institution is always going to protect  
2 itself and struggle to put the survivor first.

3 It's been challenging to me to hear so many State institutions, like the Police or  
4 Ministry of Education, not able to acknowledge widespread systemic problems like  
5 systemic racism or ableism against Māori and Pasifika. Some agencies acknowledge the  
6 very poor data gathering for Pacific Peoples and so we'll never really know the real impact  
7 of abuse on Pacific Peoples. And I don't think the State agencies really understand the  
8 issues and obstacles that particularly Pacific Peoples face and so our people are more likely  
9 to continue to end up being victims of abuse in care.

10 It was disturbingly apparent that most institutions have not been able to properly  
11 monitor or keep their care institutions accountable. I was pleased to see the Commission  
12 ask questions of the Ministry of Education about their processes for holding private  
13 faith-based schools accountable, and they referred to the Marylands atrocities. However,  
14 the Minister of Education's current powers for holding private schools accountable is still  
15 very limited and concerning. I just think every parent who has a child in a faith-based  
16 school should be concerned. It just seems that abuse in faith-based schools, like  
17 Marylands, could happen today. There seems no way for survivors to seek redress from  
18 the Ministry of Education, and I think my statement at the beginning of this hearing still  
19 holds true, that the State has appeared to abdicate their responsibility to keep faith-based  
20 institutions accountable.

21 And, survivors, we know that the same systemic issues that have led to abuse are  
22 sadly still apparent today. I was appalled, I'm sure along with many, to hear that Oranga  
23 Tamariki admitted allegations of abuse by current employees, but only just started  
24 investigating them and really as a result of this hearing. It just is appalling to me that there  
25 are claims still today, shows that we have not done enough in changes; we have not had  
26 enough change to combat these systemic issues. You know, a redress system that holds  
27 such an institution accountable and is independent from the institutions is what is needed.

28 I had hoped that I would hear the State institutions supporting the recommendations  
29 of the Commission for a fully independent body to be developed. Instead, I heard excuses,  
30 explanations, defensive reasonings, justifications for mistakes and problems. We need  
31 State institutions to see and understand the need for healthy accountability. I mean, this  
32 hearing has just shown that a fully independent body that provides redress for survivors and  
33 monitors and prevents abuse is needed more than ever.

1 And, furthermore, survivors need to be a part of leading and giving input into that  
2 independent body, using their lived experience and expertise to inform and develop a better  
3 system. Faafetai lava mo lenei avanoa. Malo le soifua. ( Thank you for this opportunity.  
4 Welcome). Thank you, Madam Chairman, and Commissioners, for this opportunity.

5 **CHAIR:** Thank you. I'll just have Sandra thank you.

6 **COMMISSIONER ALOFIVAE:** Lau afioga Moeapulu malo le soifua maua ma le lagi e mamā.  
7 Faafetai mo le faasoa. Faafetai mo upu matagofie. Fa'amalo le finau, malo le loto toa. E lei  
8 uma lo tatou aso, ae ia tatou oo i le faaiuga o le tatou lipoti June 2023 next year. Malo lava.  
9 Faafetai mo au upu matagofie. (Greetings to you Moeapulu for good health and wellbeing.  
10 Thank you for sharing. Thank you for the wonderful sharing. Thank you for being  
11 persistent, and your bravery. Our day is not over yet and we will reach the end of the report  
12 June 2023 next year. Thank you. Thank you for the wonderful sharing.)

13 **MR GOODWIN:** Thank you. My name is Jim Goodwin. For those who can't see me, someone  
14 told me earlier I have a shiny head so I don't need to describe my hair. I am an above  
15 average height Pākehā male. I have a gold card. I'm wearing a black shirt and olive green  
16 trousers.

17 When we opened this hearing, I said that this is not the time for well rehearsed,  
18 smooth weasel words and there have been many times throughout this hearing when we  
19 haven't heard well rehearsed, smooth weasel words. There have been some real, genuine  
20 apologies, there's been some falling on swords, there's been some good stuff. But there's a  
21 bit of a theme and it goes like this: "Hi, I'm a senior person in such and such a State agency.  
22 I want to acknowledge that terrible things happened in the past, but don't you worry, we've  
23 got this. In a year or two, everything will be fine."

24 Please, guys, no more of that. This is serious. This is people's lives that are being  
25 destroyed today. No more of that talk. We have to be honest, we have to deal with this.  
26 Thank you very much for the opportunity to speak.

27 **CHAIR:** And thank you, thank you very much, Jim. Keith Wiffin.

28 **MR WIFFIN:** Kia ora. This has been quite some day for me, personally. I woke up this morning  
29 not expecting to hear some of the things I've heard today from Mr Hughes. I did get some  
30 heads up as to that a couple of hours prior and it has definitely affected my day.

31 I won't touch on it too much, because there are other things to talk about, but I did  
32 feel it was delivered with sincerity and it did mean a great deal to me. My hope is that  
33 apology will extend to all the others that suffered that fate like I did.

1           So I will leave that there and then talk to what I see over the last couple of weeks,  
2 and I've been able to sit in on this Inquiry,-- in this hearing, rather, for parts of the day  
3 every day and I thank the Commission for the opportunity to do that.

4           I see my role, standing here today, to try and represent, as best to my ability,  
5 survivor interests. It's an extremely important event we've just witnessed. It has been  
6 gruelling and, at times, as the Chair alluded to, somewhat boring; in fact, at times it was a  
7 remedy for insomnia.

8           But I have to say, on balance, what I've seen gives me great hope that something  
9 soon tangibly will happen and it absolutely needs to, because what we did see, through this,  
10 was a lot of talk of aspiration at times. But what we also saw for the first time was these  
11 agencies confronted by their own dreadful past and they've had to face up to that.  
12 Hopefully, that will be a catalyst for more momentum for change and getting things bedded  
13 in now because survivors don't deserve to wait any longer.

14           These things can be accelerated and it's very important that they are embedded, as  
15 much as possible, free of any future political interference. A couple of things of note for  
16 me. The hearing started with the Ministry of Social Development and for me personally  
17 and for others, they will always be the biggest protagonist, because they represent also all  
18 the sins of the Department of Social Welfare that have led to the scale of this.

19           I was deeply disappointed, on balance, with their presentation, which I found to be  
20 lacking in empathy and humanity. The brazen promotion by one official in particular of the  
21 now past OT bill was offensive and insulting to many of us and I felt he had a bit too much  
22 latitude for that promotion. The OT bill is seen by us as not representing progress, but, in  
23 fact, a consolidation and retention of power and control that agencies have always had.

24           What was required, and still is, is a truly independent, effective monitoring service.  
25 It would not have cost a single cent more to have achieved that. The officials have won the  
26 day and we have not been listened to.

27           On the issue of records, which is so supremely important to us, I have heard  
28 reference to records, and I heard it again today from the Public Service Commissioner, and  
29 every time I hear it, it's about records lost, it's about that making it harder to determine  
30 things, and there is no doubt that there had been records lost, but also it needs to be pointed  
31 out and made very clear that there also has been much malicious destruction of records in  
32 the name of the agencies' own agendas. My intel says that may still well be going on right  
33 now.

1           The second day was the Police Commissioner and I have to say, after the first day,  
2 everything else was going to be an improvement and that's the way it played out. I felt he  
3 had a measure of sincerity and was an all-round decent sort of a fella, but what I would ask  
4 him to understand is that we still have those that are suffering abuse being told to go away  
5 by frontline police. That is the sort of thing that happened in my day and it is still  
6 happening.

7           There have been much positives out of this hearing for me. It is fantastic to hear,  
8 even though I've been scathing of MSD, them saying, "We are now applying resources to  
9 engaging with communities" on the basis of keeping us out of care and that is the future to  
10 this. That is an approach that needs to be broadened and thoroughly resourced.

11           It is also great to hear from Oranga Tamariki that they are moving to close down  
12 those residential care centres such as Epuni, which I was in 50 years ago and is still there  
13 now experiencing very significant problems. I had a meeting with the National Manager of  
14 the residence (inaudible) from OT a couple of years ago now and she assured that they were  
15 moving to models of care with no more than three in it. Once again, I feel that is more  
16 aspirational at the moment than anything else.

17           What we need to see is tangible effect. We don't deserve to wait any longer, and  
18 there has been massive investment in Oranga Tamariki by this government, and Mr Te  
19 Kani made reference to that when he said not so very long ago \$1.4 billion was invested.  
20 Get on with it. Get it done. You have the resource.

21           I was most impressed with the CE of the Teachers' Council. If only her attitude and  
22 approach could be adopted by all the other agencies, we would see improvement quickly.  
23 And she was asked a very important question, for example, by counsel Katherine Anderson,  
24 and it was, "What are you doing today in terms of the future and including survivors in that  
25 future development?" Without hesitation, she said, "100% we are, and we can't do it  
26 without them". That is the model that we need to have across the agencies, because these  
27 things cannot be developed without us for them to be effective.

28           I've listened for over the two-week period and it has been gruelling at times, and  
29 I could stand here and talk for a fair bit longer and I'm going to write a report, so I'm going  
30 to end this just by saying I greatly appreciate the efforts of all the Commission staff and  
31 Commissioners. It has been a monumental effort where people have worked extremely  
32 hard, and I have witnessed that, into the early hours of the morning, seven days a week.  
33 Like everything, it's not been perfect, but they have done their very, very best for survivors'

1 interests, and I think the Commissioners, the way they've put questions, have always  
2 represented our interests.

3 To survivors, this is more hope for us. Keep the faith in yourselves, keep  
4 questioning. The job's not done yet. Kia kaha.

5 **CHAIR:** Kia ora, Mr Wiffin. Kia ora anō Ms Chapman.

6 **MS CHAPMAN:** Thank you. I'll try to make this quick, I'm very conscious of the time. Honesty  
7 and transparency were my key expectations that I delivered in my opening statement. The  
8 question now is how honest and transparent the institutions have been over the last two  
9 weeks. We must remember that it is the process that is in question and what the State has  
10 done, or lack thereof, to fix this problem.

11 The issue that haunts survivors is who is going to take responsibility, not what.  
12 Holding individuals to account in a court of law does not absolve the State of its  
13 responsibilities, both morally or legally. Part of a statement from Debbie Power says:

14 "The State didn't always ensure people were safe in care and that we won't know the  
15 full extent of people who were abused in care."

16 Admissions of failure is a start, but it is not a concession and nor should it be  
17 classed as one.

18 It was disheartening to hear how the Independent Children's Monitor did not feel  
19 compelled enough to make recommendations for change. Their role as an Independent  
20 Monitor is not so independent after all. Whilst this may sound harsh, ka hoki anō ki aua  
21 kupu, ko te tika me te pono. (I return to those words previously expressed regarding what  
22 is right and what is truthful).

23 The most pressing issue today is the Oranga Tamariki Oversight Bill, passing its  
24 third reading in Parliament earlier this week. The same organisation that is under huge  
25 criticism across the spectrum for its failings over the years and the one point of focus most,  
26 if not all, survivors are fighting, this Bill has done nothing for the process in question.  
27 What it has done has nailed home even more the lack of trust from survivors that this  
28 system is not fit for purpose.

29 Changing its name over the years was the plaster. That plaster continues to be  
30 replaced but now it's being reinforced by legislation that will only create more issues for  
31 those in care.

32 I want to take a moment to acknowledge the impacts for Māori. We all know what  
33 the statistics say. It is common knowledge that Māori are over-represented in everything.  
34 Colonisation caused a huge disconnect, creating the survival instinct. This was the natural

1 segue from historical trauma into intergenerational trauma. Ka aroha hoki ki āku tīpuna, ka  
2 aroha hoki ki a tātou e pae nei. (I feel the compassion for my ancestors and also for those  
3 of us present).

4 Trusting that the institutions would be honest and transparent was what I said on  
5 Monday. Alongside many survivors, we are not satisfied with the responses from the State.  
6 I am still concerned about the many failings across the board and the fact that the current  
7 monitors in place are even not adequate because of lack of resource, support and/or  
8 mandate or are over-delivering because the care and protection of our tamariki and our  
9 most vulnerable takes precedence, as opposed to what the writing says must be done.

10 The Office of the Children's Commission has been critical in the monitoring of child  
11 care and protection services and, again, alongside survivors, who provided submissions  
12 against the OT Oversight Bill that will now see the Office of the Children's Commission  
13 dismantled.

14 I had high expectations that we may come out of this hearing in a much better place  
15 than when we first walked through the doors. All I see ahead is more work, having to keep  
16 telling our stories, re-triggering ourselves and suffering over and over again. This is not  
17 safe, nor is it a survivor-centric approach.

18 My hope is that the State hold themselves to account for the huge failures that some  
19 have mentioned. Admitting those failures is not a concession as such, but it is a start.  
20 There is nothing wrong with saying, "We are sorry for the abuses that survivors have and  
21 continue to endure", a simple act of love and sympathy. Nō reira, ka whakairihia ki konei,  
22 ngā ketekete kōrero, hei korowai whakatika, ki ngā kokonga o tēnei whare, tuia ki te rangi,  
23 tuia ki te papa, tuia ki ngā muka katoa, e here nei i a tātou, tēnā hoki e te whare ka huri.  
24 (With this I end my discussion here as a cloak of righteousness upon the corners of this  
25 house, woven in the heavens, enmeshed upon the land, entwined with the fibres that unite  
26 us. Here is my address to the house, thank you).

27 **CHAIR:** Tēnā koe, Ms Chapman.

28 **MS CHAPMAN:** I think Mr Wiffin has something more.

29 **CHAIR:** Mr Wiffin always has something more.

30 **MR WIFFIN:** I will keep it very brief. I just wanted to say that for survivors, and we've seen a  
31 lot of talk aspirationally; the metric in which survivors judge progress by most of all is the  
32 current continuing, rising rates of abuse. Until that comes down, there won't be progress.  
33 So that means affecting and dealing with root cause, and I was really pleased to hear some  
34 quotes from Moana Jackson, because as he alluded to, departments and government

1 agencies over the period of time have been willing to deal with the symptoms, but not so  
2 the root causes, and that's what we need to do.

3 One of those, the single biggest root cause which has, once again, not received  
4 enough attention in the course of this hearing, is the word "poverty".

5 So with colonisation in Aotearoa, came capitalism, an English class system which is  
6 still with us today by and large, which has inherent in it high levels of poverty. That is the  
7 single biggest determining factor to why we went into State care, whatever cultural  
8 background we came from. In the institution I was in 50 years ago, it bonded us. It made  
9 us fight back collectively at times, and in the institution I was in, shortly after I left and was  
10 sent to a family home, there was a full-blown riot, and it was on the basis of we were all the  
11 same, but they bonded together and fought back because they themselves knew the root  
12 causes of why they were there.

13 We still have terrible rates of poverty in this country. It's not so many years ago  
14 I could walk the streets of Wellington and not see a homeless person on the street. Now it's  
15 littered with them. I bet you anything you like that the great majority of them have been in  
16 State care at some stage. I thought it a really important thing to note.

17 One of the things that still disappointed me over the hearing also was the still  
18 ridiculous non-acceptance of the degree of systemic failure and faults which has led to the  
19 scale of the tragedy we all deal with today. It is fundamentally ridiculous to keep denying  
20 it and it obviously has a legalistic slant to it and you need to get away from that, you need  
21 to stop doing that and take responsibility as to what we all know has happened. Thank you.

22 **CHAIR:** Thank you, Keith. Thank you to all the members of SAGE for their contribution, both to  
23 the Commission before this and during this hearing. You are excused.

24 Now it is time for closing statements and I believe they're going to come from you,  
25 Ms Schmidt-McCleave. I say "statements", is that just one statement? Thank you.

#### 26 **CLOSING STATEMENT BY THE CROWN**

27 **MS SCHMIDT-McCLEAVE:** It is, Madam Chair, as I understand it, yes. Tēnā koutou katoa. E  
28 te mana whenua o tēnei rohe, Ngāti Whātua ki Ōrākei, tēnā koutou. E ngā Kaikōmihana  
29 tēnā koutou. E ngā purapura ora katoa, tēnā koutou katoa. (Greetings all. Ngāti Whātua,  
30 Ōrākei the tribal authority of this region, my acknowledgements. And to you, the  
31 Commissioners, greetings. To the survivors, I salute you all). Thank you, Madam Chair,  
32 and Commissioners, for the opportunity to present the closing statement of the Crown for  
33 the State institutional response hearing. Thank you also to the survivors, their whānau and



1 supporters who have sat patiently through many hours of, as Mr Wiffin put it, often  
2 insomniac-inducing evidence over the past fortnight.

3 To survivors, to use the words of one of the Crown witnesses, your evidence has at  
4 times left us speechless. It has at times left us tearful. Any words we can use feel hollow.  
5 As the Crown's representative through many of these hearings, I have struggled to both  
6 comprehend what I've heard and to express the utter sadness your stories have filled me  
7 with. And I know what I'm feeling is just a tiny fraction of the pain you carry with you  
8 every day through your lives. I wouldn't try to pretend, I can imagine what that feels like,  
9 but on behalf of myself, and of the Crown agencies I represent, I do want you to know we  
10 do hear and feel your despair, your frustration, your heartache.

11 Through your bravery, new light has been shed on this shameful history of abuse in  
12 care. You have provided an opportunity and imperative on the Crown to reflect on its  
13 practice, its history and its present day practices. You have also laid down wero to the  
14 Crown, focused on ensuring that the mana and dignity of all individuals in State care is  
15 protected, respected, upheld and that, as a bare minimum, children in State care are not  
16 abused, that they are loved, that they are nurtured and that they have a voice.

17 You have heard from Crown agencies that work is being done on many important  
18 issues. In many cases, that work has quite recently started, and we have heard, through  
19 questioning of Crown witnesses and from SAGE's comments this afternoon, a desire to see  
20 more change and to see it faster. We know it is clear there is much more work to be done.  
21 That work is under way, it will proceed and it will be further guided by this Commission's  
22 final report and recommendations.

23 In the rest of this closing statement by the Crown, I want to focus on three main  
24 things: the acknowledgments the Crown has made during this hearing; a very brief  
25 overview of some of the policy and practice changes made to improve government services  
26 over the years and Government-funded services to reduce the possibility of abuse in care;  
27 and work that is still ongoing or is still needed to further improve the State care system.  
28 Things are changing, but there is definitely more work to be done.

29 I'm very aware of timing constraints, Madam Chair, and I will provide  
30 Commissioners after this with a fuller closing statement, so I will speak to a lot of what I  
31 have here, given the timing this afternoon.

32 **CHAIR:** And for the public, will that be able to be put up on our website so everybody can read  
33 it?

1 **MS SCHMIDT-McCLEAVE:** Absolutely, it will. And just to explain, you can appreciate we  
2 were working on it literally up until this afternoon as evidence came up.

3 **CHAIR:** Yes, indeed.

4 **MS SCHMIDT-McCLEAVE:** Over the course of this Inquiry, we have heard disturbing and  
5 atrocious stories of pain, loss, sadness and sorrow. We have heard about many kinds of  
6 abuse and neglect, --horrific physical and sexual abuse, over-medication, racism, ableism,  
7 disconnection from culture and whakapapa and of the terrible impact of families being  
8 separated from loved ones. We have heard about the corrosive and traumatic  
9 intergenerational impact of all these things.

10 The presence of so many chief executives and senior government officials in the last  
11 two weeks, including the Public Service Commissioner this afternoon, reflects the  
12 importance that the Crown puts on being held accountable and on engaging with the  
13 Commission to improve the care system both now and into the future.

14 Over the past fortnight, you have heard a range of acknowledgments from chief  
15 executives, as well as the Crown's joint acknowledgments about past practices that were  
16 wrong, either by design or in the way they were implemented. Crown agencies have set out  
17 the way their policies, practices, approaches and attitudes have changed since the scope  
18 period. That change, I say, has been substantive and significant, but as has been raised  
19 through the course of this Inquiry, there are still many more improvements needed.

20 Crown agencies have also outlined the work under way or planned to continue to  
21 strengthen and improve the way the State keeps safe and cares for, loves, I say, tamariki,  
22 rangatahi, deaf people, disabled people and people with mental health conditions.

23 The overarching acknowledgments made on behalf of the Crown at the outset of  
24 this hearing are that as repeated by Mr Hughes this afternoon and I won't repeat them now,  
25 except to emphasise the acknowledgment that the State did not always ensure children,  
26 disabled people, deaf people and those with mental health conditions were safe when in  
27 State care.

28 The additional acknowledgments made by chief executives during the hearing  
29 reinforced those Crown acknowledgments as specific to their relevant care settings.  
30 Further acknowledgments of specific failings were also made. There was acknowledgment  
31 that institutional or structural racism and ableism in legislation, policy and systems have  
32 contributed to the disproportionate representation and discriminatory treatment of Māori,  
33 Pacific people, disabled people, and deaf people in care.

1           The alienation of Māori and Pacific people and of deaf people from their culture,  
2 identity, language, communities, was also acknowledged, as were the ongoing impacts for  
3 individuals and their whānau and aiga.

4           While there was recognition from agencies that work continues to be needed across  
5 all three priority groups, there was particular recognition of the long way still to go for  
6 disabled people. One of the many areas where this was recognised is the need for more  
7 work to ensure agencies' workforces reflect the communities they serve and partner with.

8           In the time available, I don't have time to repeat the specific acknowledgments made  
9 by every Chief Executive here, but I would like to highlight a few of them. Oranga  
10 Tamariki Chief Executive Chappie Te Kani acknowledged the adverse impacts for  
11 tamariki, Māori, whānau, hapū and iwi of structural racism, which he said was a feature of  
12 the system that had detrimentally impacted the relationship between Māori and the Crown.  
13 He made acknowledgments as to the Care and Protection system not always keeping  
14 children safe, the improper vetting, training, supporting and monitoring of caregivers,  
15 reports of harm not always being believed or followed up, the lack of support for whānau  
16 and families to prevent children coming in to care, and the lack of sufficient emphasis on  
17 family-based alternatives to State care. He acknowledged, and I repeat, that tamariki need  
18 more than a minimum standard of safety. They deserve to not only be free from abuse, but  
19 to be loved, to be nurtured, to have their needs met.

20           Director General of Health, Dr Diana Sarfati, acknowledged the existence of  
21 evidence before the Commission of the effect of institutionalisation on disabled people.  
22 They were placed in settings where many experienced abuse and the detrimental impacts of  
23 this. She acknowledged that the 1973 Royal Commission report, which recognised that the  
24 policies of large scale institutionalisation in the 50s to 70s, was the opposite of international  
25 best practice at the time.

26           Acting Chief Executive of Whaikaha, Ministry of Disabled People, Geraldine  
27 Woods, acknowledged that in the scope period, the health and disability care setting were  
28 ableist. They did not meet the needs of disabled people and disabled people often  
29 experienced discrimination and unfair treatment as a result of their disability.

30           Secretary for Education Iona Holsted acknowledged that the education system had  
31 too low expectations of tamariki and rangatahi Maori and of Pacific children and young  
32 people, which had harmed Māori and Pacific and contributed to poor education outcomes  
33 over generations. She conceded that, historically, there was less oversight of private  
34 schools. This may have provided opportunities for predators and that, at times, the

1 response to complaints about access to support services, especially in relation to learning  
2 support, can be too slow and can feel bureaucratic to families and whānau.

3 Police Commissioner Andrew Coster acknowledged there had been gaps in how  
4 Police engaged with some deaf and disabled survivors of abuse, and that there are serious  
5 issues to address in relation to Māori and Pasifika experiences of policing in Aotearoa.

6 MSD Chief Executive Debbie Power recognised that the Ministry's redress system  
7 has not always got things right for claimants. She said that the current historic claims  
8 process did not account for a person's loss of culture or cultural disconnect while in State  
9 care, which was hugely significant for survivors. Disabled people, deaf people, people with  
10 mental health conditions faced additional barriers to access many services, including  
11 redress, and more needed to be done in this area.

12 Today, Mr Hughes, the Public Service Commissioner, has acknowledged that the  
13 Public Service has not always worked together in the way that it should, and has not been  
14 joined up, as it should be, around children, young people and their families and  
15 communities; that the Public Service has not reflected the make-up of society and has not  
16 fostered workforces inclusive of all groups; and has not always had the focus it should have  
17 had on developing and maintaining capability to engage with Māori and to understand  
18 Māori perspectives.

19 Critically, in his role today, Mr Hughes owned the failings of chief executives  
20 outlined to the Royal Commission over the last two weeks. He agreed with my friend,  
21 Ms Toohey, that in addition to the acknowledged historical issues, some of the current  
22 issues discussed at the Commission are concerning. On the failings of individual public  
23 servants in the scope period, Mr Hughes said he currently holds the role as head of the  
24 Public Service and so needs to own the leadership going back to 1950. He endorsed all the  
25 failings acknowledged by chief executives and set out his expectation that chief executives  
26 will own and fix mistakes and that acknowledgment is at the start of that process.

27 He reiterated his profound regret at the hurt and harm to survivors and their families  
28 and communities.

29 I'm very conscious of time, Madam Chair. The next part of my closing statement  
30 was to outline the changes made in the last 70 years to improve the care system and make it  
31 safer. I think, in the time available, I'm going to skip through a part of that. It sets  
32 out -- there's a good two pages which speaks about the changes that are in place and which  
33 we've all heard spoken about in the last two weeks.

1           But what I want to say and what I want to make clear to survivors is that there is  
2 more work to be done and further change is under way. Some of what needs to be done  
3 involves the Crown improving its own practices. The Crown wants to further develop  
4 whānau-centred, community-focused and devolved solutions where it can. Indeed, we have  
5 heard evidence today from both Te Puni Kōkiri and the Ministry For Pacific Peoples of the  
6 power of such initiatives, a view also echoed today by the head of the Public Service, Mr  
7 Hughes.

8           He spoke about improving the system for tamariki by needing to use a number of  
9 levers. He made the point that some sit within government, others sit outside. He spoke of  
10 increased collaboration, changes to the Public Service under the new Act, including the  
11 ability to form executive boards reporting to one minister on a particular issue- and, for  
12 Commissioners' records, that's sections 25 to 31 of the -Act and-- of the Public Service  
13 leadership team under section 59 of the Act.

14           What is clear is that teamwork at the highest level is needed to maintain the  
15 momentum of new initiatives.

16           The next part of my written submissions also provides greater detail of the steps that  
17 are being taken, but I want to say as well as those changes already under way, the Crown,  
18 of course, keenly awaits the final report and recommendations of this Royal Commission.

19           The Crown has identified several themes that have emerged from this hearing,  
20 including the importance of Crown agencies being able to work on a cross-agency basis,  
21 rather than taking a siloed approach; the importance of Crown agencies working with  
22 communities to build capability and design process that enables shifting decision-making  
23 and resourcing closer to those communities; recognising, too, that different communities  
24 may need different processes and a one-size-fits-all approach will not work; enabling strong  
25 processes for vetting, safeguarding, monitoring and oversight of people in care and  
26 ensuring ample and appropriate complaint avenues are available; gathering consistent, high  
27 quality data that is appropriately disaggregated, including in terms of ethnicity and  
28 disability, and ensuring that that data is used to monitor and improve practice; ensuring that  
29 the Crown's approach to people in its care is appropriately grounded in Te Tiriti and is  
30 appropriate for all people in care, including, in particular, priority groups; and most of all,  
31 the faster positive change can be made, the better.

32           I have included, for the benefit of Dr Erueti, a part in my brief which addresses the  
33 role of the Public Service in relation to the Treaty of Waitangi to clarify an issue that has

1 arisen during the course of the Inquiry, but I don't need to take you through it now but that  
2 is there.

3 So, in conclusion, lessons learned from the Inquiry, we have listened and we have  
4 heard and we will continue to listen. This may be the last hearing at which the Crown has  
5 substantive appearances, but be assured we leave today knowing there is a big journey  
6 ahead. In addition to what we have heard during this Inquiry, the reports and  
7 recommendations that flow from it will be invaluable to further improve the way the care  
8 system works and, critically, the way it works with communities, families, whanau, hapū  
9 and iwi to care for people in the future, seek to keep them safe from abuse and to feel love  
10 and nurtured.

11 This work has started. As I mentioned in my opening, Cabinet has instructed  
12 officials to begin looking at what a national apology, or apologies, should look like and, as  
13 confirmed this week, this will likely happen after the Commission releases its final report,  
14 so the Crown can take all the Commission's findings into account.

15 Additionally, work on the design of a new independent redress system has begun in  
16 relation to the redress report, He Purapura Ora, he Māra Tipu.

17 When people are brought into the care of the New Zealand State, as a society, we  
18 expect them to be protected from abuse. That is an absolute minimum. Indeed, we all  
19 expect much more -- that those people will be loved, they will be nurtured and they will be  
20 supported to face challenges and to lead happy and fulfilled lives. It is abundantly clear  
21 that in far too many cases, that did not happen in this country. That is a difficult and  
22 shameful history for the Crown to bear.

23 The Crown is grateful to the Commission and to survivors for the difficult work in  
24 bringing that history to light and is committed to ensuring the mistakes of the past are not  
25 repeated.

26 My final acknowledgment is to the survivors. Ko tōku mihi whakamutunga ki a  
27 koutou ngā purapura ora. (My final acknowledgement is to you, the survivors). I humbly  
28 thank you for your courage and your strength to express and share your experiences. Nā te  
29 nāku i te tēnei mihi mō tō koutou maia, ki te kaha, ki te whakapuake i ō koutou kōrero, hei  
30 whakakapi i tēnei kōrero, ma te whakarongo me te ako, ka huri tātou te tai. Nō reira, tēnā  
31 koutou, tēnā koutou, tēnā tātou katoa. \*\*(I want to acknowledge you for your courage and  
32 your strength to share your story. To conclude, by listening and learning we will turn the  
33 tide. So I thank you, thank you, thank you very much).

1 **CHAIR:** Tēnā koe, Ms Schmidt-McCleave, and I take this opportunity to thank you,  
2 Mr Clarke-Parker, and your legal team behind the scenes, and Ms White, for your  
3 appearances over these long two weeks. We're very grateful to you for your approach and  
4 your acknowledgments and thank you for the final submissions.

5 **MS SCHMIDT-McCLEAVE:** Tēnā koe, Madam Chair, ngā Kaikōmihana \*\* (thank you Madam  
6 Chair and the Commissioners).

7 **CHAIR:** Kia ora. Tēnā koutou katoa. E mihi ana te mana whenua, Ngāti Whātua Ōrākei, tēnā  
8 koutou e tautoko ana i tēnei kaupapa nui, nāu e āwhina mātou mai i te tīmatanga ki tēnei  
9 wā. E mihi ana ki a koutou o ngā purapura ora, koutou i rongohia te mamae, kia kaha, kia  
10 manawanui. (Hi and Greetings to you all. I acknowledge Ngāti Whātua, Ōrākei tribal  
11 authority for the support you have accorded this momentous inquiry. You who have given  
12 support since the beginning through to today. I salute you the survivors and the pain you  
13 have experienced, be strong and steadfast).

14 We've heard a lot of words over the last two weeks and I'm not going to add too  
15 many to them, but I just need to say, for the record, that this afternoon, this moment marks  
16 the end of this historic ten-day State agencies public hearing.

17 We have heard from the legal guardians of the thousands of children, young people  
18 and vulnerable adults who were abused in State care from the 1950s. Later this year, we'll  
19 be hearing from leaders of the faith institutions who had the care of children, young people  
20 and vulnerable adults, and that will be at our second Institutional Response Abuse in Care  
21 hearing.

22 Just a few brief observations. Without exception, all State agencies were  
23 represented by their current Chief Executive and other Executive Officers who responded  
24 to the Commission's call for them to attend and we are grateful for that. While their  
25 testimony, we know, was frustrating for many survivors, and we have heard our SAGE  
26 members express some of those frustrations, there were repeated admissions that the State  
27 had failed survivors and that it did not always ensure that people were safe in its care.

28 Those leaders and their agencies can no longer have any doubt about their  
29 obligations under Te Tiriti o Waitangi, about their responsibilities to the disproportionate  
30 number of Māori, Pacific and disabled people in their care. They can have no doubt about  
31 the need for rigorous and proper monitoring for neglect and abuse, and no doubt that a  
32 proper complaints system is necessary.

1 I believe that this Royal Commission and this hearing have significantly raised  
2 awareness of abuse in care in the wider population and it is essential that this happens, that  
3 it is known wider in order to ensure that the abuse does not continue.

4 On a final note, Commissioners have a few thank yous. We want to thank the Royal  
5 Commission staff who have made this landmark hearing possible and you've heard  
6 reference to that from other people. We know how hard those staff have worked to keep  
7 this large machine, this complicated machine, this unwieldy machine running and we are  
8 very grateful to them. So to the investigation and evidence management teams, to Counsel  
9 Assisting, to our media team and comms, to the events and logistics teams, and particularly  
10 to our well-being teams, a big thank you to you all.

11 And we know that this was an organisation-wide effort, with many others behind  
12 the scenes ensuring the hearing ran smoothly. Thank you for caring for our survivors, and  
13 thank you for showing manaaki to all those people who have attended our hearings.

14 Ehara tāku toa i te toa takitahi, engari he toa taka tini. (My valour is not that of the  
15 individual, but of the many). Success is not the work of an individual, but the work of  
16 many. Nō reira, tēnā koutou, tēnā koutou, rau rangatira ma, tēnei rā tātou katoa. We will  
17 now have waiata karakia.

18 **KAUMATUA KINGI:** Tautoko i ngā kōrero, kōrerohia ake nei e mihi ana ki a koutou o  
19 te taumata, ko ngā tari kāwanatanga i haere mai nei i tēnei wiki, te whakahoki kōrero ki a  
20 koutou ngā purapura ora. To tātou nei waiata ko Te Aroha. (I want to acknowledge what  
21 has been shared, to the bench, to the government organisations who came this week to  
22 share and to the survivors, thank you. our song, Te Aroha.) (Waiata Te Aroha - love, faith  
23 and peace be amongst us all). Ka tau te manaakitanga te wāhi ngaro ki runga ki tēnā ki  
24 tēnā ki tēnā o tatou, e mahia te hua makiki te piki te kaha, piki te ora, piki te māramatanga e  
25 rongu e whakairihia, tūturu whakamaui ki a tina, hui e, tāiki e. (May the protection of the  
26 beyond be on us all. That everything be cleared and that we are well. Let it be, let it be.  
27 Thank you).

28 **Hearing concluded at 5.06 pm**