Beautiful Children

Te Uiui o te Manga Tamariki me te Rangatahi ki Lake Alice

Inquiry into the Lake Alice Child and Adolescent Unit

December 2022

The *Beautiful Children* report was presented to the Governor-General in December 2022. To avoid prejudicing the right to a fair trial, a small amount of information was withheld from the report, in line with legal advice received by Ministers, when it was tabled in the House of Representatives at that time. The trial was "stayed" in June 2023. The report has been issued in full in July 2023. The Minister of Internal Affairs authorised the report be reissued with minor editorial corrections.

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He karakia

Te whakaohooho i te ata nei,

Te ranga wairua o tāngata

Ka whakamatara, ka whakapiki

Ki te ata huru, ki te ata hahana

Ki te ata kōrero, ki te ata wānanga

He whakatau ki runga, ā, ki raro

Ka tū ko Rongo ki te whai ao, ki te ao mārama

Whiti, whano, haramai te toki,

Haumi e, hui e, taiki e!

This opening is inspired by a very old Ngāti Apa karakia. It emphasises the significance of the morning as a time of great energy and inspiration. This is a time for ambition and a time to talk, to teach and to learn. By releasing the potential of everyone and everything, this invokes the positive energy of Rongo, the Māori god of peace, to uplift all for the day ahead.

Sensitive to a smile

There comes a time in everyone's life
No room for mistrust, no room for hate
Open up your heart, don't look away
Quality in life that's hard to find
Like a child with an open mind
Tenderness, sensitive to a smile

Beautiful children have come into my life
Beautiful people, oh young and bright
Beautiful children, longing for life
Worldly people, take away the night

These are the feelings from our hearts
There's no trade for love and affection
Love for me and love for you
So make a stand and hold your ground
And maybe the world will turn around
Peace and love and harmony

Beautiful children have come into my life
Beautiful people, oh young and bright
Beautiful children, longing for life
Worldly people, take away, take away

Moving out in love together
We will never shed no tears
Love for them is love for all

SENSITIVE TO A SMILE

Words and Music by TODD CASELLS, DILWORTH KARAKA and CHARLES TUMAHAI

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He mihi

E ngā purapura ora, e ngā mana, e ngā reo, e ngā hau e whā, tēnā koutou, tēnā koutou, tēnā koutou katoa. Ki Ngā Wairiki me Ngāti Apa, tēnā kōrua – ngā mihi mahana ki a koutou. Kei ngā purapura ora, ngā purapura tuawhiti, ērā e pura mai ana i te poho o Ranginui, ērā hoki e takahi tonu nei i te mata o te whenua, nō hea rā koutou e tawhiti i ō mātou whakaaro. Kei ngā mana whenua, ngā iwi kāinga o te rohe, Ngā Wairiki me Ngāti Apa, tēnei te mihi ake.

Ko te taitara o tēnei pūrongo mō te Manga Tamariki me te Rangatahi ki Lake Alice, ko [Tamariki Ātaahua]. Koinei ngā kupu nō te waiata "Sensitive to a Smile", i waiatahia ai e te rōpū waiata nō Aotearoa, e Herbs. He mea whakauru tētahi mema o mua o Herbs, a Carl Perkins, ki Lake Alice nōna e tamariki ana. E ai ki a Carl, nā te pūoro ia i ora ai i tōna taitamarikitanga. I hinga a Carl i te tau 2018, e 59 ōna tau. Ka whakamahia e mātou ngā kupu nō "Sensitive to a Smile" i ngā whārangi o tēnei pūrongo hei whakamihi i a Carl me ngā tamariki, rangatahi katoa i whakaurua ki Lake Alice. Ka nui ā mātou mihi ki a Herbs mō rātou i whakaae mai kia whakamahia ēnei kupu ki tēnei pūrongo.

E mihi ana mātou ki a Ngā Wairiki me Ngāti Apa, ngā mana whenua o te rohe e karapoti nei i a Lake Alice. Kāore anō tētahi i toro i ō rātou whakaaro. Nō mātou te hōnore ki te tuitui i ēnei whakaaro ki te pūrongo. Kei te mihi mātou ki a Ngā Wairiki me Ngāti Apa mō rātou i takoha mai i te karakia hei anga ki tēnei pūrongo. Ka noho haumaru te kaupapa o te pūrongo i te karakia nei.

Ko te mihi a te ngākau ki te huhua purapura ora, i runga hoki i te tautoko a ngā whānau me ngā kaitautoko, i kōrero mai ki a mātou e pā ana ki ō rātou wheako tūkino, pāmamae, kohuki anō hoki i pā i Lake Alice, me ngā pānga mauroa o ērā tūāhuatanga. Kei te mārama mātou i te taumaha nui i taka iho ki te oranga nā te hahū ake i ō koutou wheako, ā, i pērā ai koutou hei hāpai i te huringa o te tai. Ka noho tūāpapa ō koutou wheako, ō koutou whakaaro me tō koutou māramatanga ki tēnei pūrongo. Mei kore ake tō koutou māia, manawa piharau anō hoki, i taea ai tēnei pūrongo te tuhi mai. Ki a koutou ngā purapura ora kāore nei i taea te kōrero mai – tēnei te mihi ki a koutou ko ō koutou whānau e takahia nei i tā te purapura ora ara.

He nui te hunga i pāngia ki Lake Alice i hinga tōmua. Ahakoa kāore rātou i konei ki te tuari i ā rātou kōrero, kei te mihi mātou ki a rātou ko ō rātou whānau. Moe mai rā koutou.

Kua kore nei tēnei whakatewhatewhatanga, waihoki tēnei pūrongo i taea, i te korenga o ngā kaiwawao me ngā kaitūhura i whakapau kaha i ngā rautau nei ki te whai i te tika mō ngā purapura ora. Nā rātou i whakaū kia kaua e wareware ngā whakamatakutanga o te Manga Tamariki me te Rangatahi ki Lake Alice. Kei te hia mihi mātou ki ngā mema o Auckland Committee on Racism and Discrimination me Citizens Commission on Human Rights.

Kei te mihi mātou i ngā mahi a ngā mema o te Survivor advisory group of experts, Te Taumata, Pou Tikanga, me Te Ara Takatū mō ā rātou takohatanga mai ki tēnei pūrongo.

Ka nui te mihi ki te rōpū report reference o Lake Alice, ki a Frank Bristol, rātou ko Dr. Brigit Mirfin-Veitch, ko Dr. Lynne Russell, nō ō rātou wheako me ō rātou mātangatanga ki te kaupapa i nui ai tō mātou māramatanga.

E rere ana ā mātou mihi ki te Kōmihana o mua, ki a Julia Steenson, mō āna takotahatanga mai ki tēnei pūrongo.

Otirā, e whakamānawa ana, e mihi ana hoki mātou ki te hunga i te Secretariat, te Counsel Assisting me te Counsel i wawao nei mō ngā purapura ora. I whakaheke werawera rātou katoa ki te tautoko i ngā purapura ora, waihoki ki te pīkau i te whakatewhatewhatanga me te whakarite, te tuku hoki i tēnei pūrongo.

Coral Shaw
Heamana
Chair

Sandra Alofivae
Kaikōmihana
Commissioner

Paul Gibson
Kaikōmihana
Commissioner

Andrew Erueti
Kaikōmihana
Commissioner

Acknowledgments

E ngā purapura ora, e ngā mana, e ngā reo, e ngā hau e whā, tēnā koutou, tēnā koutou, tēnā koutou katoa. Ki Ngā Wairiki me Ngāti Apa, tēnā kōrua – ngā mihi mahana ki a koutou.

All survivors, all authorities, all voices, to all from the four winds, we acknowledge you. Greetings to one and all. To Ngā Wairiki and Ngāti Apa – greetings to you both. Warm regards to everyone.

The title of this report into the Lake Alice Child and Adolescent Unit is, Beautiful Children. These words are lyrics from the song "Sensitive to a Smile", performed by Aotearoa New Zealand band Herbs. A former member of Herbs, Carl Perkins, was placed in Lake Alice as a child. Carl credits music for saving his life when he was young. Carl passed away in 2018 aged 59. We use the lyrics from "Sensitive to a Smile" in the pages of this report to honour Carl and all tamariki and rangatahi placed at Lake Alice. We thank Herbs for allowing us to use the lyrics in this report.

We acknowledge Ngā Wairiki and Ngāti Apa, mana whenua of the rohe around Lake Alice. No one has sought their views and insights before. We are honoured to weave these throughout the report. We thank Ngā Wairiki and Ngāti Apa for gifting the karakia that frame this report. The karakia hold the kaupapa of the report safely.

We are grateful to the many survivors, supported by whānau and support networks, who spoke to us about their experiences of the tūkino, the abuse, harm and trauma suffered at Lake Alice, and the enduring impacts of those. We acknowledge that reliving your experiences took a significant toll on your personal wellbeing, and that you did this to make a difference. Your experiences, whakaaro and insights underpin this report. Without your courage and determination, we could not have written this report. To those survivors who have not been able to come forward – we acknowledge you and your whānau and your survivor journey.

Many who suffered at Lake Alice died too young. Although they are no longer able to share their kōrero, we acknowledge them and their whānau. Moe mai rā ki a koutou.

This investigation and report would not have been possible without the persistence of the advocates and investigators who worked tirelessly over decades to seek justice for survivors. They made sure that the horrors of the Lake Alice Child and Adolescent Unit were not forgotten. In particular, we acknowledge members of the Auckland Committee on Racism and Discrimination and the Citizens Commission on Human Rights.

We acknowledge the mahi, or work, of the members of the Survivor advisory group of experts, Te Taumata, Pou Tikanga, and Te Ara Takatū for their contributions to this report.

We particularly thank the Lake Alice report reference group, Frank Bristol, Dr. Brigit Mirfin-Veitch and Dr. Lynne Russell, whose lived experience and subject matter expertise enriched our understanding.

We express our thanks to former Commissioner Julia Steenson for her contributions to this report.

Finally we acknowledge and thank all of those in the Secretariat, Counsel Assisting and Counsel who acted for survivors. They all worked hard and long to support survivors, to undertake the investigation and to prepare and deliver this report.

Coral Shaw

Heamana
Chair

Sandra Alofivae

Kaikōmihana
Commissioner

Paul Gibson

Kaikōmihana
Commissioner

Andrew Erueti

Kaikōmihana
Commissioner

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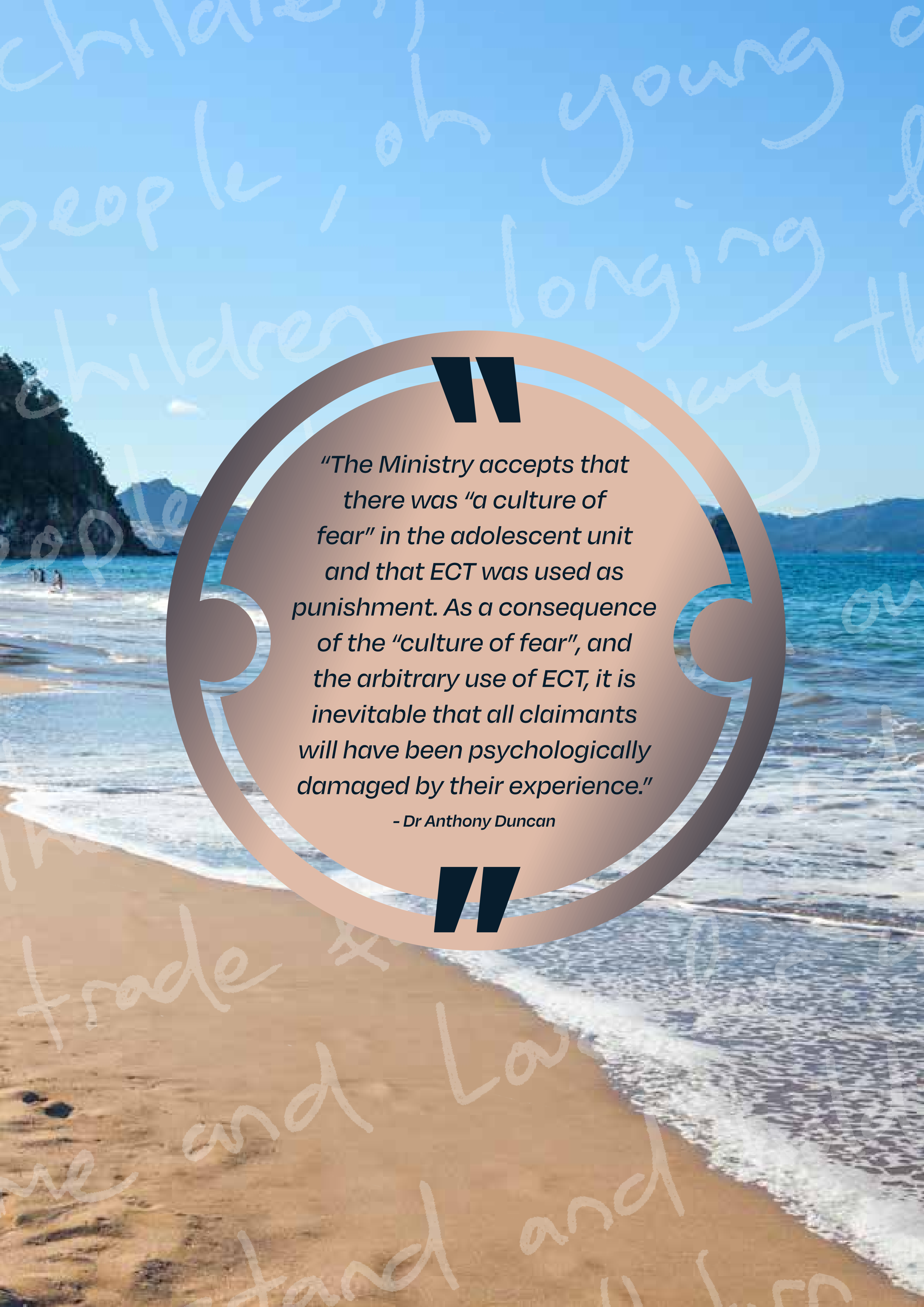
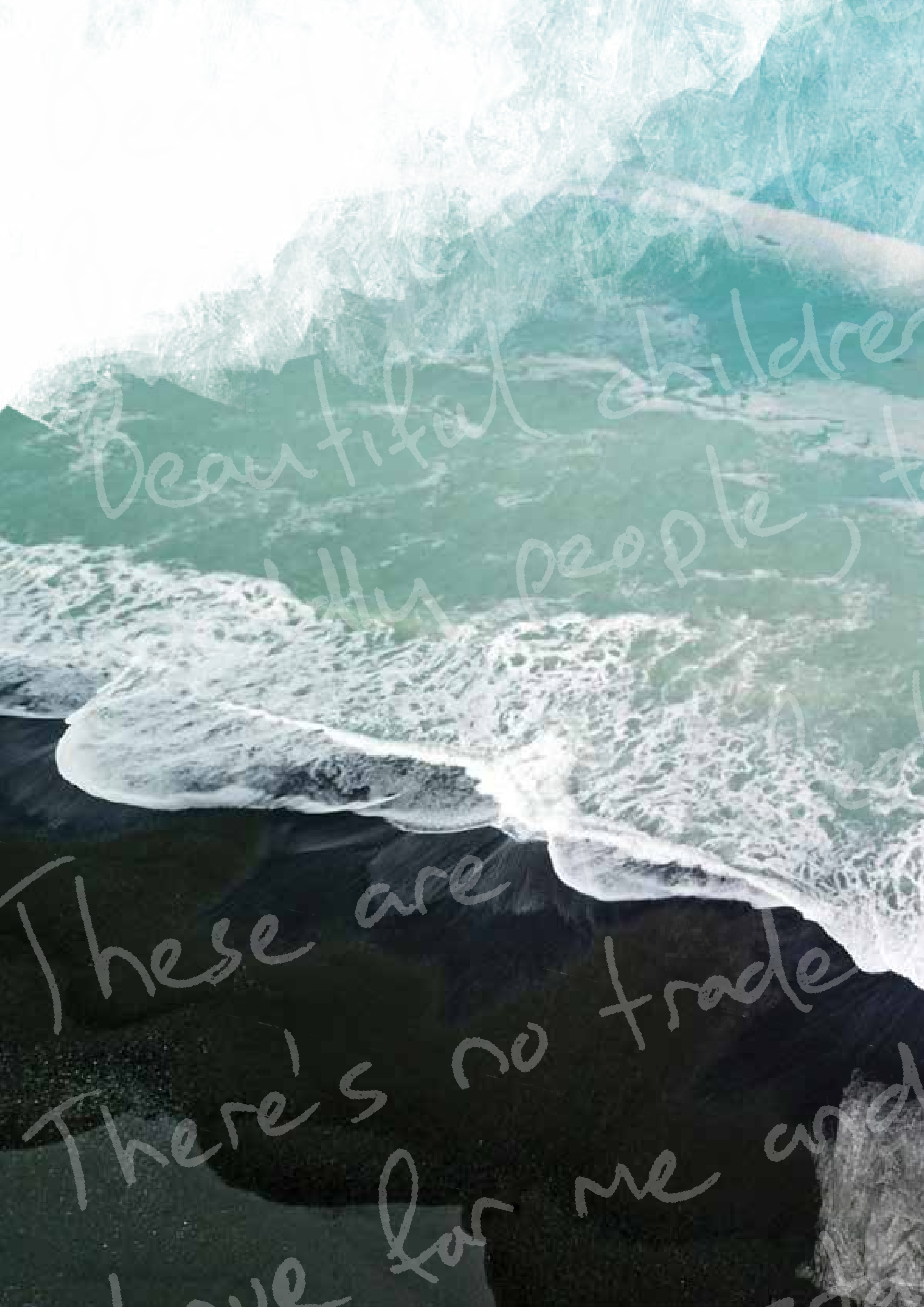

"The Ministry accepts that there was "a culture of fear" in the adolescent unit and that ECT was used as punishment. As a consequence of the "culture of fear", and the arbitrary use of ECT, it is inevitable that all claimants will have been psychologically damaged by their experience."
- Dr Anthony Duncan


Beautiful
people
These are
There's no trade
for me and

WHAKARĀPOPOTOTANGA RĪPOATA

EXECUTIVE SUMMARY

Pānui whakatūpato

Ka nui tā mātou tiaki me te hāpai ake i te mana o ngā purapura ora i māia rawa atua nei ki te whāriki i ā rātou kōrero ki konei. Kei te mōhio mātopu ka oho pea te mauri i ētahi wāhanga o ngā kōrero nei e pā ana ki te tūkino, te whakatūroro me te pāmamae, ā, tērā pea ka tākirihia ngā tauwharewarenga o te ngākau tangata i te kaha o te tumeke. Ahakoa kāore pea tēnei urupare e tau pai ki te wairua o te tangata, e pai ana te rongo i te pouri. Heoi, mehemea ka whakataumaha tēnei i ētahi o tō whānau, me whakapā atu ki tō tākuta, ki tō ratongo Hauora rānei.Whakatetia ngā kōrero a ētahi, kia tau te mauri, tiakina te wairua, ā, kia māmā te ngākau.

Distressing content warning

We honour and uphold the dignity of survivors who have so bravely shared their stories here. We acknowledge that some content contains explicit descriptions of tūkino – abuse, harm and trauma – and may evoke strong negative, emotional responses for readers. Although this response may be unpleasant and difficult to tolerate, it is also appropriate to feel upset. However, if you or someone in your close circle needs support, please contact your GP or healthcare provider. Respect others' truths, breathe deeply, take care of your spirit and be gentle with your heart.

Whakarāpopototanga rīpoata-Executive Summary

More than 40 years on, the recollections of survivors, ngā purapura ora, remain as vivid and raw as ever of their experiences of the Lake Alice Psychiatric Hospital.[1] This case study examines the torture, tūkino (abuse, harm and trauma) and neglect suffered by children and young people admitted, often for no good reason, to Lake Alice Psychiatric Hospital's child and adolescent unit from 1972 to 1980.[2]

The unit was established in the Lake Alice hospital in Manawatū, which is in the rohe of Ngāti Apa and Ngā Wairiki. It was an institution, somewhat typical of its time, set up to treat children and young people with mental distress or mental illness. Instead, it became a place of abuse, particularly at the hands of its consultant psychiatrist, Dr Selwyn Leeks. Leeks' conduct was abusive and unjustified by any standards, even those of the day. For many, Lake Alice was a place of misery, neglect, terror and torment.

The Departments of Health and Social Welfare supported the establishment of a unit, and the Department of Education supported the setting up of a school at Lake Alice. During this time, parents, whānau, communities, the public and even senior mental health professionals were conditioned to believe the assurances of Dr Leeks that those sent to the unit would receive beneficial psychiatric treatment.

Many of the children and young people at the unit came from disadvantaged or marginalised communities in Aotearoa New Zealand. Māori made up more than a third of those admitted to the unit. Most children and young people admitted to the unit came from social welfare care.

Incomplete records, misdiagnoses, racism, homophobia, transphobia and a failure to recognise what we now know to be neurodiversity mean we will never have a complete understanding of the demographics of those children and young people placed at the unit.

Many of the children and young people at Lake Alice grew up in disadvantaged households with limited access to health care, food, housing security and education. Many were referred to the unit from their own homes, schools, foster care, State-run family homes and residences, or were transferred from other hospitals, child health clinics or hostels.

Some had speech or behavioural problems and exhibited trauma-induced coping methods including behaving disruptively or aggressively.[3] Very few had a valid diagnosis of an acute mental illness that required hospitalisation.[4]

Significantly, many, or even most, of the children and young people at the unit didn't have a mental illness at all and never should have been placed at Lake Alice in the first place.

There was very little attempt to understand the real cause of the behaviours of those at the unit and staff got little support. Our inquiries show that it was likely that many admissions to the unit were unlawful. The Department of Social Welfare did not have the power to admit those in its care to the unit without the consent of the children and young people themselves. Certainly, admission as punishment or to relieve overcrowding in social welfare residences, would not have been lawful. The Department failed to obtain the consent of those detained or keep their whānau fully informed.

In the almost eight years the unit operated, Dr Leeks and the staff at Lake Alice inflicted, or oversaw, serious abuse – some amounting to torture – in what quickly became a culture of mistreatment, physical violence, sexual and emotional abuse, neglect, threats, degradation and other forms of humiliation.

The torture survivors experienced included electric shocks, often without anaesthetic, applied not just to the temples but to the limbs, torso and genitals. They were given excruciatingly painful and immobilising injections of paraldehyde, administered by staff as punishment or as an improper form of aversion therapy, not for legitimate medical reasons. Children and young people were held in solitary confinement and deprived of their liberty, sometimes for days or weeks on end.

The atmosphere in the unit was one of intense fear.

Dr Leeks said that he wanted to establish a therapeutic community at Lake Alice. Instead of addressing the unique needs and any underlying psychiatric difficulties of children and young people, Leeks set out to fix their 'delinquent' behaviour and treat what he perceived as their underlying psychiatric problems with aversion 'therapy', abusive acts and torture.

Lake Alice was not the therapeutic environment Dr Leeks said he wanted to create.[5]

Dr Leeks believed he could do what he wanted with those at the unit because many were too disruptive for Department of Social Welfare-run institutions and too destructive for the Department of Education.[6] Dr Leeks described them as "bottom-of-the-barrel kids".

Dr Leeks wielded almost unbridled power over the nurses and staff at Lake Alice some of whom, in turn, misused their power against the children and young people in their care. There was a culture of impunity that enabled and normalised acts of abuse and torture. Sexual, physical, cultural and emotional abuse was widespread and unchecked in the unit.

Children and young people were psychologically and spiritually damaged by separation from their whānau, communities and friends. Māori and Pacific children and young people were not only deprived of their culture but endured racist taunts and harsher treatment because of their race. The lack of knowledge and inclusion of taha Māori or pacific concepts/taha Pasifika in mental health treatment led to survivors being over-medicated, labelled evil and sick, and further punished.

Although the Department of Education established a school at the unit, few received adequate education during the weeks or months they were there. Some were so affected by the electric shocks and other forms of abuse they were being subjected to that their ability to concentrate, learn and remember was severely compromised.

Far from being 'fixed', those sent to the unit suffered from stress, anxiety, shame, guilt, fear, sorrow and anger. Māori survivors talked about the impact on their mana and mauri, and the whakamā, shame, of being at the unit. Most were deeply traumatised. They and their whānau still suffer from the effects of the trauma to this day.[7]

The impact of abuse, whether experienced or witnessed, has had severe consequences for survivors' mental health. Some who had no mental distress before being sent to the unit have since been diagnosed with a mental health condition. Long-term symptoms include uncontrollable outbursts of anger, memory loss, hypervigilance and a persistent fear of being sent back to Lake Alice, even though they know the hospital has long since closed.

Many survivors reported becoming dependent on drugs and alcohol, sometimes from a young age, to numb the emotional pain and block out traumatic memories. As a result many have been convicted for drink-driving and cannabis use.[8] Some found the pain so unbearable they saw no option but to commit acts of self-harm or take their own lives.[9] Some survivors still carry physical scars and symptoms, including migraines and headaches from the electric shocks, back pain, and permanent bowel injuries from the sexual abuse.

Less visible, but just as painful, effects on survivors include the weakening of whānau and traditional cultural bonds. Many Māori and Pacific survivors had trouble reconnecting with their whānau, communities and culture on release from the unit. Most survivors have said they don't trust others. They tend to be deeply suspicious

of those in authority and have difficulty forming healthy, long-term, intimate relationships. This suspicion of authority figures, together with a poor education, has resulted in many survivors struggling to get or hold on to jobs. One survivor had to leave his job because the sound of workplace machinery triggered memories of the ECT machine Dr Leeks used to abuse him.[10]

The Department of Social Welfare did not routinely check that the unit was an appropriate place for those it sent there. Tamariki, rangatahi, their whānau and support networks had little or no ability to complain about the treatment at the unit. The Departments of Social Welfare and Education failed to act on complaints. Nothing was done to prevent the abuse suffered by those in their care.

None of the agencies that received complaints about the unit took effective steps to investigate and bring to account the perpetrators of the abuse. In the following decades, survivors tried repeatedly to hold Dr Leeks, staff and the responsible government departments to account. They sought compensation and redress for the torture, abuse and neglect they suffered through legal action, negotiation, public calls for inquiries and complaints to NZ Police.

The institutions and entities called upon to act included the Ombudsman, a commission of inquiry, NZ Police, the Medical Association, the Medical Council, the New Zealand branch of the Royal Australian and New Zealand College of Psychiatrists, the Department of Health, the Department of Education, the Department of Social Welfare, Cabinet, Crown Law, the Health and Disability Commissioner and ACC. Despite all these attempts, the perpetrators were not held to account and survivors did not receive adequate holistic redress, or puretumu torowhānui.

Investigations had limited scope and resources. Court cases were defended even though, as Solicitor-General Una Jagose acknowledged, "the proof was right there in the file".[11]

Settlements that were reached, beginning with 95 survivors in 2001 after years of gruelling negotiation with the Crown, were late and limited. They came with qualified apologies and confined redress to financial payments. They did not consider the restoration of the oranga, wellbeing of the survivors including the cultural needs of Māori survivors or Pacific survivors.

The most recent NZ Police investigation attempted to fix the failures of the three previous investigations. Charges were laid against one former staff member. However, the passage of time meant it was too late to lay charges against Dr Leeks and other suspects because they were either dead or too elderly and infirm to face charges.

In 2020 (on a complaint by Paul Zentveld) and 2022 (on a complaint by Malcolm Richards) the United Nations Committee Against Torture found that Aotearoa New Zealand had not undertaken a prompt, impartial and independent investigation of allegations of torture at the unit or provided appropriate redress.

The children and young people at the unit were out of sight and out of mind. They were tortured and abused. Survivors, their whānau and communities suffered incalculable, lifelong harm at the hands of so-called professionals.

Like all inquiries, this Royal Commission does not have the power to make findings of criminal or civil liability—only the courts can do that. But from the earliest days there was evidence to justify criminal charges against Lake Alice staff, and our investigation has highlighted failings in the police investigations in the 1970s and 2000s.

It is wrong that no one has ever been held accountable and that survivors are still waiting for justice. The story of the Lake Alice child and adolescent unit is a shameful chapter in the history of Aotearoa New Zealand. It must be faced head-on, without excuses or explanations, and with a determination to make proper amends and ensure such tragedies never happen again.

Recommendations for change will be made in the final report.

"It is my personal opinion that if the present enquiry had been dealing with ECT and had been a public enquiry in which every false allegation was headlined, both you and I by now might have been seeking employment in South America where our heinous imaginary crimes were unknown."

- Letter from Dr Sydney Pugmire to Dr Selwyn Leeks

NGĀ TŪTOHITANGA

SUMMARY OF FINDINGS

Ngā tūtohitanga – Summary of findings

The Inquiry finds:

Ngā āhuatanga i whakaurua ai te tangata ki te manga – Circumstances that led to individuals being placed in the unit

1. Most children and young people at the Lake Alice Hospital child and adolescent unit were admitted for behavioural reasons, often arising from tūkino – abuse, harm or trauma, rather than mental distress.
2. Social welfare involvement was a common pathway of admission to the unit, disproportionately affecting Māori. About 41 percent of those admitted from social welfare residences were Māori, and about 29 percent of those admitted from home with social welfare files were Māori. Poor quality records make precise figures impossible.
3. The Department of Health, Department of Social Welfare and staff at the unit did not have proper processes in place to ensure the lawful admission, treatment and detention of children and young people in the unit.

Ngā āhua me te rangiwhāwhātanga o te mahi tūkino ki te manga – Nature and extent of abuse at the unit

4. Extensive tūkino – abuse, harm and trauma – at the unit included:
   - electric shocks as punishment, administered to various parts of the body, including the head, torso, legs and genitals
   - the injection of paraldehyde as punishment
   - physical and sexual abuse by staff and other patients
   - the misuse of solitary confinement
   - emotional and psychological abuse
   - exposing patients to unreasonable medical risks.

5. Survivors experienced systemic racism, ableism and homophobia in the unit.
6. The use of electric shocks and paraldehyde to punish met the definition of torture as outlined by the Solicitor-General.

Ngā pānga o te mahi tūkino – Impacts of abuse

7. The abuse in the unit harmed survivors' physical and mental health, their psychological, emotional, cultural and spiritual wellbeing, and their educational and economic prospects.
8. Many survivors turned to crime and were imprisoned.
9. The harm to survivors has been transferred over generations.

Ngā āhuatanga i hua ake ai, i whāngai rānei ki te mahi tūkino i te manga – Factors that caused or contributed to abuse in the unit

10. Staff at the unit held largely unchecked power over vulnerable patients.
11. The unit's isolated physical environment separated patients from their families, culture and support networks.
12. Staff training and resourcing were inadequate.
13. Staff's prejudiced attitudes devalued patients.
14. The institutional culture at the unit normalised abusive practices and contributed to a culture of impunity.
15. The Department of Social Welfare routinely failed to evaluate whether the unit was an appropriate environment for the children and young people in its care.
16. Internal oversight and monitoring at the unit was inadequate, including ineffective complaint and whistleblowing mechanisms.
17. Complaints to the Department of Education and Department of Social Welfare were not adequately investigated or responded to.
18. External monitoring and oversight mechanisms were limited: district inspectors and official visitors held part-time roles with institutional limitations that reduced their effectiveness.

Te whai akoranga i te mahi tūkino: te haepapatanga me te puretumu – Attempts to learn lessons from abuse: accountability and redress

19. Inquiries by the Ombudsman and a commission of inquiry in the late 1970s had limited scope and duration, and inadequate access to information.

20. The first New Zealand Police investigation, in 1977, was flawed.

    - The investigating officer reached a conclusion before obtaining key evidence.
    - The scope of the investigation was narrow and important witnesses were not interviewed, including most of the patients at the unit.
    - NZ Police did not recognise the deficiencies in the expert opinion they obtained.

21. The investigations and actions by medical professional bodies in 1977 were flawed.

    - The Medical Association prioritised fairness to Dr Leeks over the safety and wellbeing of patients.
    - The Medical Association and the Medical Council accepted much of Dr Leeks' response to allegations without question.
    - The New Zealand branch of the Australian and New Zealand College of Psychiatrists learned of Dr Leeks' conduct in the late 1970s but did not confront Dr Leeks or forcefully advocate for change.

22. The Crown's response to civil claims by survivors in the 1990s and 2000s was flawed.

    - The information available to the Ministry of Health and Crown Law from the early stages showed the claims were meritorious, but officials were more focused on defending liability than acknowledging the merits of the claims.
    - In the late 1990s, Ministers decided to defend the claims in court, despite the merits, to establish the parameters of Crown liability.
    - A newly elected Government directed officials to settle the Lake Alice claims in 2000, but officials continued to place obstacles in the way of settlement, requiring a further direction to settle from the Prime Minister.
    - Even after proceeding with settlement, the Crown treated survivors unfairly and wrongly deducted amounts from the payments to survivors.
    - The legal process had many other flaws.

- The legal process was slow, made worse by inexcusable delays on the part of the Crown.
- The legal system placed many legal and practical barriers in the way of survivors, which put them at a disadvantage.
- Crown lawyers exploited every legal advantage to try to defeat the claimants, with an adversarial mindset, despite the merits of the claims.
- Many officials and others in power had a resistant attitude to the claims and the claimants and their legal representatives.
- The settlements did not acknowledge physical and sexual abuse.
- The settlements were 'without prejudice'; that is, with no admission of wrongdoing.
- The process did not lead to criminal or professional disciplinary accountability.
- Human rights breaches were not recognised nor was the State's obligation to carry out a prompt and impartial investigation into the allegations of torture.
- No effort was made to engage with Māori survivors in a way that recognised their culture, language and tikanga.
- No effort was made to recognise Pacific peoples' cultures and languages.
- No effort was made to recognise the needs of disabled people.

23. The Medical Council declined to carry out a fresh investigation into Dr Leeks' conduct in 2000, wrongly believing earlier investigations had adequately addressed the issues.

24. The Royal Australian and New Zealand College of Psychiatrists had the power to censure, suspend and expel members, but it had no powers to investigate or require the production of information or evidence in relation to misconduct of psychiatrists.

25. The Accident Compensation Corporation failed to refer evidence of medical misadventure by Dr Leeks to the Medical Council for investigation as it was required to do – a serious oversight.

26. Despite a request to do so, the Crown did not provide the Children's Commissioner with material it held about former Lake Alice staff in 2002 and the Commissioner took no further action.

27. In 2005, the Health and Disability Commissioner took no further action on a Lake Alice complaint, believing little would be gained by another investigation. The office of the Health and Disability Commissioner should have disclosed a potential perceived conflict of interest to the complainant, even though the outcome complied with internal processes.

28. The second NZ Police investigation, from 2003 to 2006, was flawed.

- The officer in charge did not think an investigation was warranted and was not aware of the previous investigation file.
- NZ Police did not give the investigation priority or adequate resources and did not actively progress the investigation for four years (2003 to 2006).
- NZ Police obtained advice from Crown Law based on just one complainant's evidence, despite having 33 other statements.
- NZ Police did not follow Crown Law's advice to carry out further investigation into the use of electric shocks and paraldehyde as punishment.
- NZ Police did not properly manage the file, losing key evidence.
- NZ Police did not carry out basic investigative steps such as interviewing complainants or staff, seeking records or interviewing potential defendants.
- The officer in charge formed an adverse view about the credibility of complainants without interviewing them or investigating their complaints.

29. The third NZ Police investigation, in 2006 to 2010, was flawed.

- NZ Police did not afford adequate priority or resources to the investigation.
- NZ Police did not designate it a 'specialist investigation', which would have ensured specialist staff and greater resources were allocated to it.
- NZ Police reduced the investigation's scope to the misuse of the machine used to deliver electric shocks, overlooking physical and sexual abuse and the punitive use of paraldehyde.
- NZ Police did not interview relevant complainants or investigate serious sexual allegations.
- NZ Police focused on Dr Leeks, overlooking other staff.
- NZ Police obtained legal opinions based on an incomplete and inaccurate summary of the file.
- NZ Police adopted a biased attitude against those who had been admitted to the unit, treating them as unreliable and troublesome. NZ Police assumed staff were well-meaning and dedicated professionals.

30. The Crown Law Office did not consider Aotearoa New Zealand's obligations under the Convention against Torture when dealing with the Lake Alice claims in the 1990s and 2000s. The United Nations Committee against Torture found New Zealand in breach of the convention for failing to ensure a prompt and impartial investigation into the unit.

"Unselected referrals to psychiatric hospitals give rise to a phenomenon which is repeatedly seen in each welfare area of having children return to welfare care from the psychiatric hospital with unresolved aggressive behaviour patterns and anger at being labelled sick and helpless."
Dr Alan Frazer

Rārangi wā – Timeline

1972 Lake Alice Hospital child and adolescent unit opened.[12]

January 1973 First recorded complaint of abuse at the unit to the Department of Social Welfare by a boy who had been sent there from Holdsworth School.

Mid 1974 Dr Leeks oversaw four children applying electric shocks to a fifth child at the unit.

November 1974 Acting chief educational psychologist Don Brown raised serious concerns with Dr Sydney Pugmire about improper use of ECT at the unit.

January 1976 The Citizens Commission on Human Rights (CCHR) toured Lake Alice hospital, and raised concerns in several media articles about the placement and treatment of children at the hospital.

July 1976 Parents of CD, a boy sent to the unit by the Department of Social Welfare complained to the Ombudsman.

August 1976 Educational psychologist, Ms Lyn Fry contacted Dr Oliver Sutherland, from the Auckland Committee on Racism and Discrimination (ACORD) regarding Hake Halo.

January 1977 Commission of inquiry into Mr Halo's case established.

March 1977 Commission of inquiry into Mr Halo's case submitted its report.

April 1977 Ombudsman Sir Guy Powles released his report.

June 1977 Dr Stanley Mirams referred complaints of abuse to district inspector, NZ Police and the New Zealand Medical Association.

September 1977 New Zealand Medical Association ethics committee referred a complaint against Dr Selwyn Leeks to the New Zealand Medical Council.

November 1977 New Zealand Medical Council investigation into Dr Leeks ended, apparently not upholding the complaint.

January 1978 NZ Police investigation ended with decision not to prosecute.

Early 1978 Dr Leeks left New Zealand for Australia with a certificate of good standing from the New Zealand Medical Council.

1980 We understand the unit was closed by this year. (Note: children were still at the unit in 1979 and there was no clear date of closure.)

1987 United Nations Convention against Torture ratified and the Crimes of Torture Act is passed.

August 1994 Ms Leoni McInroe filed civil case against the Crown.

July 1997 Grant Cameron Associates began negotiations with the Crown on behalf of substantial cohort of survivors, which grew over next four years.

October 2001 First round of survivor settlements with the Crown.

2002 Second round of survivor settlements with the Crown.

2002 Ms McInroe settled civil case with the Crown.

2003–2006 Second NZ Police investigation.

2006 Dr Leeks surrendered his practising certificate in Australia, avoiding a scheduled hearing of the Medical Practitioners Board of Victoria into complaints of abuse by several Lake Alice survivors.

2006–2010 Third police investigation.

July 2017 Mr Paul Zentveld complained to the United Nations Committee against Torture.

March 2018 Malcolm Richards complained to the United Nations Committee against Torture.

2018–2021 Fourth NZ Police investigation.

January 2020 United Nations Committee against Torture found that the Government failed to properly investigate Mr Zentveld's complaints.

December 2021 NZ Police announced charges to be laid against former nurse at Lake Alice; announced that age, infirmity and geographical barrier prevented charges being laid against Dr Leeks and one other former nurse.

6 January 2022 Dr Leeks died.

June 2022 United Nations Committee Against Torture found that the Government failed to properly investigate Malcolm Richards' complaint and denied him an appropriate remedy.

Worldly people
These are the
There's no trade

1.1
HE HOROPAKI
CONTEXT

1.1 He horopaki – Context

1.1.1 Ngā Wairiki me Ngāti Apa

1. Our starting point in seeking to understand the story of Lake Alice Psychiatric Hospital is with the whānau, hapū and iwi of Ngā Wairiki and Ngāti Apa. These iwi are mana whenua and are inextricably linked to each other and to the whenua on which the hospital formerly stood. A team of iwi researchers provided the history of the Lake Alice whenua to us.[13] The full report is available from our website. What follows is a summary of that important history.

2. The Lake Alice area was known as Rotowhero and formed part of an extensive area named Otakapou that contained several dune lakes and associated wetlands. These lakes and wetlands provided the iwi with mahinga kai, including freshwater mussels, tuna, eel and waterfowl. Ducks were taken in large numbers during the moulting season. It became a heavily populated, resource-rich area, containing kāinga, a palisaded pā known as a pā kai riri, wāhi tapu and extensive cultivations. Ngā Wairiki and Ngāti Apa tūpuna treasured these dune lakes and surrounding whenua for the valuable resource it was, sustaining the iwi with its bounty.

3. In May 1849, Ngā Wairiki and Ngāti Apa entered into a transaction with the Crown that resulted in most of their land between the Turakina and Rangitīkei Rivers transferring to the Crown. In 1919, Mr Horace Wilson purchased an extensive area, including most of Rotowhero Lake Alice, from the Crown, after returning from the first World War. He named his farm 'Rotowhero', taking the iwi name for the lake.[14]

4. The area to the north of 'Rotowhero' farm formed a part of the extensive Heaton Park Estate, which included several dune lakes associated with Otakapou. In 1938, the government acquired 541 acres of this land to be used as the site for a psychiatric hospital. The hospital site abutted Rotowhero Lake Alice and included Lake Hickson and part of Lake William. It was anticipated that Rotowhero Lake Alice would be the main water supply for the hospital.[15]

5. At the time of the transfer to the Crown, a 100-acre block called Otakapou was reserved for iwi. This reserve is about two kilometres west of Rotowhero Lake Alice and a little to the south of Lake Heaton. It took in the western part of Lake Bernard and contained urupā, cultivations, pā tuna and an important fishing camp on the western shore of the lake.

6. The Crown's representative debated with Ngā Wairiki and Ngāti Apa leaders about how much land should be reserved from the transfer. The parties eventually agreed to a reserve of 50 acres (which was later found to contain 100 acres).[16]

'Otakapo' [sic], shown on a map from T Downes.[17]

7. Today, 39.9397 hectares of the Otakapou reserve is administered by an Ahu Whenua Trust, representing 140 Ngā Wairiki and Ngāti Apa individuals. A smaller area of 4.4214 hectares, taking in part of Lake Bernard, is a Māori reservation established in 1978 "for the purpose of a fishing ground and recreation ground for the common use and benefit of the owners and their kinsfolk".[18] The two areas are shown on the map below, sourced from Māori Land Online. The second map shows the proximity of Otakapou reserve to Rotowhero Lake Alice.

Map 1.

Map 2.

8. From the time of its construction in 1950 to its closure in 1999, Lake Alice Hospital became a prominent feature on the landscape, visible from State Highway 3. For Ngā Wairiki and Ngāti Apa, it became a blot on the landscape in more ways than one. Not only was the hospital built on land the iwi want returned, but it also came to represent another component of colonisation. It was a place that classified their people as 'mentally unwell' when they sought or needed support, understanding and healing. Their 'treatment' took no account of Māori perspectives on health, spiritual beliefs or taha wairua and, in many cases, made them worse.[19]

9. Whānau members who had been residents at Lake Alice, even for a short time, reported knowing that things were not safe there for everyone. They were aware of the tūkino (abuse, harm and trauma) occurring, reflecting the inhumane environment they were in, and how it increased the risk of further harm and distress to them. Whānau members who worked in the hospital and witnessed the tūkino occurring reported feeling powerless and hoping someone in authority would do something to stop the tūkino.[20]

10. Lake Alice was yet another example of the historical tūkino the people of Ngā Wairiki and Ngāti Apa suffered from the State and its institutions.[21]

1.1.2 Hauora hinengaro me te hauātanga i Te Ao Māori – Mental health and disability in Te Ao Māori

11. Conditions or symptoms of illness or impairment that the Western view may see as deformities requiring hospitalisation and treatment are not necessarily viewed the same in Te Ao Māori. In fact, in Te Ao Māori an indifference towards such 'deformities' may exist.[22] As Mr Hector Kaiwai and Dr Tanya Allport said, "the concept of 'disability', as it has been understood in the modern Western medical paradigm, had no equivalent within Te Ao Māori."[23]

12. Within Te Ao Māori, hauora is understood holistically. Healers or tohunga are concerned not just with the physical health (taha tinana) but also spiritual wellbeing (taha wairua), cognitive and mental health (taha hinengaro) and the wellbeing of the wider whānau (taha whānau). Healing addressed both the physical symptoms of any ailment and its spiritual or metaphysical causes.[24] Good health was, and still is, found by achieving balance in all these areas, rather than by trying to treat and address a single underlying cause. Traditionally physical injuries, or mate tangata, have been treated through the application of rongoa. For ailments without obvious physical causes, such as mental distress or mate atua, tohunga focused on identifying and restoring a likely breach of tapu manifested by symptoms.[25]

13. European colonisation, as well as the devastating impact of introduced diseases, significantly affected Māori systems of health and healing.[26] Although the Government's attempt to outlaw tohunga ultimately did not succeed, legislation such as the Tohunga Suppression Act 1907 played a significant part in suppressing Māori healing practices, by driving them underground and making mātauranga Māori illegal.[27]

1.1.3 Ngā waiaro Pākehā ki te hauora hinengaro me te hauātanga – Western attitudes toward mental health and disability

I noho mātāmuri ngā whakaaro o te hunga hauā i te pūnaha hauora Pākehā – Western healthcare system was dominated by ableist views

14. The Western health care system, within which Lake Alice operated, was based on the biomedical model of illness rather than te ao Māori perspectives of health or other holistic understandings. The Western model is based on ableist and disablist views of mental health and disability. Ableism is "a value system that considers certain typical characteristics of body and mind as essential for living a life of value".[28] Disablism is a by-product of ableism and involves discrimination and oppression against disabled people based on the prejudice that considers disabled people's bodies and minds as 'deviant' from the norm.[29]

15. The Western health care system, with its focus on deficits, did little to incorporate the collective views and experiences of disabled people, including people experiencing mental distress. The views of non-disabled people and health professionals ruled over the views of disabled people on issues directly affecting their own lives. This is an example of ableism. From the beginning, the mental health survivor movement has prioritised healing by focusing on people's strengths and on transforming the mental health system. Most people experiencing mental distress want to live in their communities with their whānau and friends, with support to make their own decisions. People with mental distress know better than anyone what they need for their own wellbeing. They need a minimum of safeguards and the opportunity to learn from their own mistakes. Real distress and emotional pain can be associated with mental health conditions, and there can also be growth. Most survivors believe they can recover their wellbeing.

16. While institutionalisation became the common practice of the day, it was never a practice supported by disabled people and people experiencing mental distress. The term 'asylum' was a misleading term that was used to refer to large institutions. In fact, what some survivors want is occasional time out from life's pressure, temporary asylum – in its original sense.

17. Today, it is widely acknowledged that mental health and wellbeing must be seen within the broader social determinants of health – the political, economic, cultural and social environment in which people live.[30] However, ableist and disablist views consider that people experiencing mental distress

are disadvantaged, leading to stigma, discrimination and often exclusion. In particular, ableism and disablism see mental distress as something to be 'fixed' or 'erased'.[31] This is contrary to more recent views that see disability and mental health as an expression of diversity, dignity and strength[32] and place the responsibility on society to remove disabling barriers.[33]

Nā ngā ture whai āhuatanga pai me te hauora hinengaro i hua ake ai te whakarautanga kaitā – Eugenics and mental health legislation led to large-scale institutionalisation

18. Lake Alice was established within a wider international and domestic context of large-scale institutionalisation of disabled people and people experiencing mental distress. As early as 1844, the Crown began building institutions for people experiencing mental distress.[34] Over time, these were known as 'lunatic asylums', 'mental hospitals' or 'psychiatric hospitals'.[35] These mental health settings were managed separately from the rest of the health system and were the main form of mental health support until the mid-20th century.[36]

19. Institutionalisation further increased in the 20th century, largely due to the popularity of eugenics. Eugenics is an ableist and racist movement that views people with a disability, or non-European features and certain behaviours as genetically inferior and therefore seen as 'socially inferior' and undesirable. This led some eugenics advocates to argue disabled people should be separated from the rest of society in 'mental deficiency colonies' to prevent the breeding of a 'subnormal' race.[37] Over the early decades of the 20th century, governments introduced measures to identify, classify and segregate disabled people and people experiencing mental distress from the rest of society. Post-World War II it also led to medical genetics a medical specialty including a wide range of health concerns from genetic screening and counselling to fetal gene manipulation and the treatment of children and adults with hereditary disorders.

20. Several institutions were opened to prevent 'deviant' behaviour and, ultimately, to prevent residents from having children. In 1953, a Department of Education report (the Aitken report)[38] promoted large-scale residential institutions as providing the best model of care for children with a learning disability. Following the release of this report, many families were pressured to place their disabled children in institutions and the number of residents rose rapidly.[39]

21. Rates of admission to psychiatric hospitals peaked in Aotearoa New Zealand during the 1940s and 1950s, a time when rates of institutionalisation for mental illness were among the highest in the world.[40] Voluntary admissions to mental hospitals were increasingly common from the 1950s. However, there is increasing evidence that many of these admissions were effectively compulsory.[41] In the 1970s, the shift was

towards community and outpatient mental health support, but it was not until the early 2000s that most hospitals with a sole psychiatric focus were closed. Today, support for wellbeing and community solutions for people experiencing mental distress continues to be inadequate.[42]

22. Throughout the period of institutionalisation, there was a lot of public trust in the medical profession, which continues today. Many families wished to keep their family members at home but placed disabled whānau members or those experiencing mental distress in institutions on medical advice that this would be best for them.[43] However, ableist and disablist views dominant in the medical profession throughout this time likely underpinned much of this advice. These views and other prejudices also meant many people were placed in mental health settings for perceived behavioural or other reasons not related to their mental health.

23. Successive pieces of mental health legislation, including the Mental Defectives Act 1911 and the Mental Health Act 1969, also reflected ableist and disablist attitudes. Both statutes had significant gaps in terms of rights and protections, including limited oversight and a lack of transparency and accountability for what went on in hospitals, particularly in relation to treatment. The Acts contained no specific provisions or protections for children and young people, who were essentially treated the same as adults. The 1969 Mental Health Act did not distinguish between mental disorder and intellectual disability, leading to the risk that disability and mental distress would be treated the same.

24. Extreme experimental procedures have been practised on people in psychiatric and psychopaedic institutions other than Lake Alice. Lobotomies and other experiments involving brain surgery to influence mood and behaviour, electroconvulsive therapy (ECT) to affect memory, conversion practices of Rainbow community members, deep sleep therapy, experimentation with anti-psychotic drugs on children, long periods of solitary confinement, and the manufacture and use of instruments to give electric shocks to children for punishment. Articles on some experiments appeared in medical journals. Ethical oversight was minimal and little regard was had for truly informed consent.

25. The Royal Commission's final report will share the experiences of survivors in other mental health settings across Aotearoa New Zealand.

Ngā wheako Māori i te taurimatanga mate hinengaro – Māori experiences of psychiatric care

26. Initially, Māori contact with government mental health care was low. However, the numbers of Māori entering psychiatric institutions began to increase rapidly from the 1960s, until the rate was greater than that of non-Māori by the 1980s. That disparity has continued to rise.[44]

27. Because of unemployment, institutional racism, lower incomes and a lack of connection to culture and traditional support networks because of urbanisation and colonisation, Māori were more likely to be placed in psychiatric care.[45] During our scope period, tamariki Māori and rangatahi Māori were more likely to be brought to the attention of the State and criminalised than their Pākehā counterparts. Therefore, Māori were more likely to be committed to psychiatric care through the criminal justice system, rather than through medical referrals.

Ngā waiaro ki ngā hapori Āniwaniwa – Attitudes toward Rainbow communities

28. In the mid-20th century, many medical professionals believed homosexuality was a form of mental illness that should be treated. From the late 1950s, mental health practitioners commonly used behaviour therapy to 'treat' homosexuality. The medicalisation of same-sex relations reached a peak among medical professionals, including psychiatrists, in the 1950s and 1960s in the United States and United Kingdom.[46]

29. By the 1970s, in response to gay rights movements in several countries, the psychiatric profession's position on homosexuality as a mental illness began to shift. Psychiatric bodies in several countries removed homosexuality from their catalogues of 'mental disorders'. Criticism among medical professionals and researchers towards 'treatments' for homosexuality grew, and the use of these practices declined over the 1970s and 1980s. It was not until 1986 that the Homosexual Law Reform Act decriminalised sex between males in Aotearoa New Zealand. Until then, men could face prosecution and imprisonment for crimes of sodomy and 'indecent assault', even if sex was consensual.

1.1.4 Te takenga o te whakawhanaketanga o ngā taurimatanga mate hinengaro mō te tamariki I Aotearoa – Background to the development of psychiatric care in Aotearoa New Zealand

30. In the 1950s, anxieties heightened about a perceived increase in 'juvenile delinquency'.[47] In 1954, the Special Committee on Moral Delinquency in Children and Adolescents recommended broadening the Child Welfare Act 1925 so authorities could undertake 'preventive work'.[48] The extension of the definition of delinquency in the subsequent Child Welfare Amendment Act 1954 was to have far-reaching consequences. In combination with a tougher approach to welfare and policing, it markedly pushed up the number of children and young people appearing before the courts. Tamariki Māori and rangatahi Māori, in particular, appeared in large numbers. From the courts, it was a short step to State residential care institutions and then on to psychiatric care institutions.[49]

31. Child psychiatry emerged as a distinct sub-branch of psychiatry after the second World War. In 1959, senior lecturer in psychiatry, Dr Wallace Ironside, wrote that child psychiatry was "an almost unknown specialty" in New Zealand.[50] The uptake of this new specialty by local psychiatrists was slow. No training in child psychiatry was available in Aotearoa New Zealand until 1969 when the University of Otago introduced a Diploma in Child Psychiatry for medical graduates.[51] Dr Selwyn Leeks was the first doctor to graduate with the diploma from the University of Otago in 1972.[52]

32. In the 1960s, there was a high demand for mental health services for adolescents but very few child psychiatrists. In 1972, it was estimated, based on population, that Aotearoa New Zealand needed at least 60 child psychiatrists to meet local need. Just six were available.[53]

33. When the Lake Alice child and adolescent unit was set up, only two specialist inpatient psychiatric services catered for children or young people in the country. Cherry Farm Hospital in Dunedin from 1969 until the mid-1970s,[54] and Sunnyside Hospital in Christchurch opened an adolescent unit in the early 1970s.[55] By 1975, two more child and adolescent units were in operation at Porirua Psychiatric Hospital in Wellington and Kingseat Hospital in Auckland.[56]

34. In the absence of a national plan, child and adolescent psychiatric services developed haphazardly. Department of Social Welfare child psychiatrist, Dr Alan Frazer, wrote a report for the Department of Health in 1975, in which he said hospital boards, in many areas, did not provide adequate child psychiatric facilities and did not understand the concept of a child psychiatric service.[57]

With specialist facilities few and far between, children and young people who had suspected or confirmed psychiatric conditions and could not live at home with their families, often ended up in the adult wards of psychiatric hospitals.

35. Mental health data from the time suggests admissions of children and young people accounted for a small but steady minority of admissions to State psychiatric and psychopaedic hospitals from the 1950s to the 1970s. During that period, many of the children and young people entering psychiatric inpatient care did so through one of a series of specialist outpatient clinics operated, or run by, the Department of Health. These child health clinics were set up in 1951 to offer a broad variety of paediatric medical services to primary school–aged children. By the end of their first decade, however, their focus had narrowed to children with behavioural or emotional difficulties.[58] The Department's annual report for 1960 said the clinics were primarily for "emotionally disturbed and psychologically maladjusted children". It went on to note the clinics' child medical officers were dealing less with physical defects and more with "defects in the social attitudes

and behaviour … such as petty thieving, [bedwetting], [truancy] and other anti-social conduct, as well as allergy and suspected mental defects".[59]

1.1.5 Te wāhi te pūnaha tokoora – Role of the social welfare system

36. The child welfare system was another common route into psychiatric care. The Department of Education's child welfare division managed the child welfare system until 1972, after which the newly established Department of Social Welfare assumed responsibility for it. From the late 1940s to 1972, the number of children and young people placed in State care (meaning the custody of Social Welfare) rose by half, reaching 5,515.[60] The number of children and young people in State care (meaning in the custody of Social Welfare) peaked in 1977 when 7,214 children and young people were made wards of the State.[61]

37. As the number of children and young people entering the State's care grew, government officials struggled to find places to accommodate them, whether in some form of institution, typically a boys' or girls' home, or in a foster home. Between 1948 and 1972, on average between 40 percent and 50 percent of children and young people in State care lived in foster homes.[62] Demand for foster homes grew, stretching available capacity. Even at the peak of institutionalisation in the late 1970s and early 1980s, more than two-thirds of State wards were in foster homes and similar places.[63]

38. To cope with the demand, new residential homes were opened and the number of beds in existing homes were increased. The boys' homes Hokio Beach School and Kohitere Boys' Training Centre, both near Levin and not far from Lake Alice, expanded their accommodation in the 1960s.[64] Holdsworth School near Whanganui opened in June 1971.[65] However, these measures had only limited success in accommodating the influx of children and young people. By 1971, the year before Lake Alice's child and adolescent unit opened, Department of Education Child Welfare Division staff reported State residences were "strained to capacity" and staff "were at their wits' end" to know where to place new arrivals.[66]

39. Throughout this period, an increasing proportion of State wards were Māori. By 1967, 46 percent were Māori, a vast over-representation given Māori tamariki made up 12 percent of the population aged 0 to 16.[67] This over-representation continued into the 1970s.[68] In the 2021 Waitangi Tribunal Inquiry into Oranga Tamariki, the Crown acknowledged that structural racism existed and continues to exist in the care and protection system and contributes to the disproportionate rates of Māori entering care.[69] The inquiry found the rates were not only due to institutional racism, but were "in part due to the effects of alienation and dispossession" and because the Crown had

failed to "honour the guarantee to Māori of the right to cultural continuity embodied in the guarantee of tino rangatiratanga over their kāinga".[70]

40. Once in State care, children and young people were commonly and repeatedly moved from place to place. Author, Dr Elizabeth Stanley, found children and young people in care "often progressed along a continuum of care placements from foster parents to family homes, church homes, other community placements as well as institutions".[71] Often, such transfers were used to alleviate overcrowding in a particular home, rather than to meet the genuine needs of the individual being moved.

41. State residences had to accommodate children and young people with diverse, and sometimes conflicting, needs. Many had experienced trauma in previous placements or their family home. Some had mental health conditions or learning disabilities, and this included psychological or emotional difficulties arising from past trauma. Some had suspected or diagnosed psychiatric conditions. Others were simply labelled "disturbed" because staff found their behaviour too challenging to manage.

42. Dr Frazer wrote in 1973, the lack of alternative psychiatric facilities for children in the Wellington region meant its two short-stay residences, Epuni Boys' Home and Miramar Girls' Home, became, in effect, "holding area[s] for children who should be dealt with by psychiatric services".[72] Dr Frazer's report continued:

> *"The welfare institutions in the area drain populations much larger than the Wellington province and therefore are liable to collect children from other areas who are basically psychiatric problems for which no facilities exist … Therefore, the welfare institutions in a number of cases are used for children who clearly need to be in a psychiatric unit in this area."*[73]

43. Two years later, Dr Frazer qualified his opinion somewhat when tasked with preparing a report on the necessary developments in child psychiatric practices, particularly in respect of young people in social welfare care.[74] Commenting on the issue of labelling or misdiagnosis of delinquent social welfare children and young people, Dr Frazer said the problem was that there was "no real screening of welfare children to hospital, and, therefore at times cases do not get to hospital that should or cases get admitted that should not".[75] He said:

> *"Unselected referrals to psychiatric hospitals give rise to a phenomenon which is repeatedly seen in each welfare area of having children return to welfare care from the psychiatric hospital with*

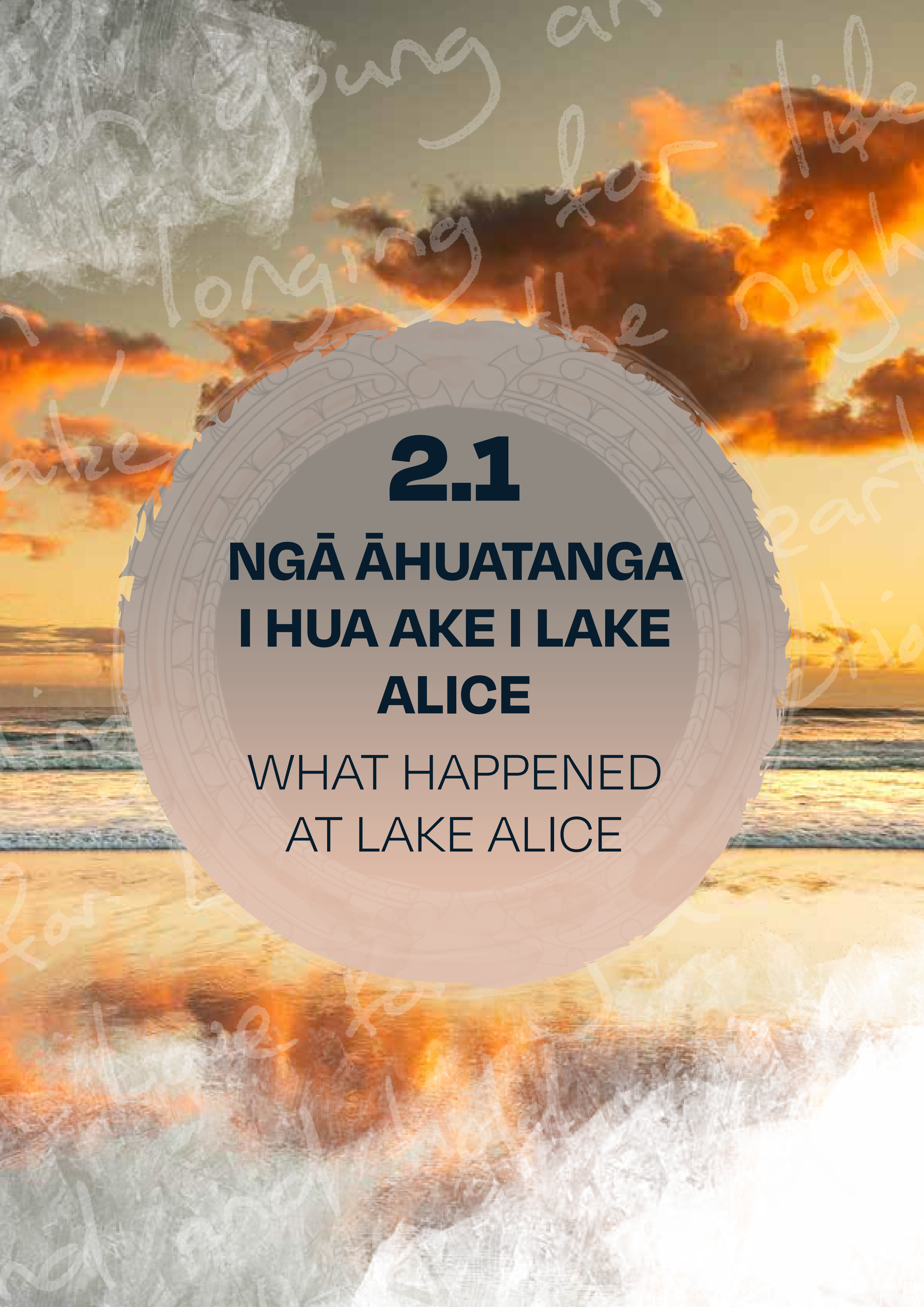
unresolved aggressive behaviour patterns and anger at being labelled sick and helpless."[76]

44. Noting the disagreements about where, by whom and in what form psychiatric services should be provided to children in social welfare care, Dr Frazer observed, "the effectiveness of psychiatric consultative programmes and psychiatric treatment is by no means clear"[77] and "disturbed welfare children should not be treated in psychiatric hospitals except in exceptional circumstances".[78]

45. Social workers charged with finding placements for these children and young people were faced with few options. A 1977 report by the Council of Social Service found the choice available to Department of Social Welfare field workers consisted simply of whether a place was available, "irrespective of where that place might be".[79]

"Leeks kept telling me when
I was in Manawaroa [health
clinic] that I would end up at
Lake Alice if I didn't behave.
He used Lake Alice as a tool to
threaten me. I felt trapped and
I did not have any protection at
home either. Leeks, my GP, my
mother and others were all a
part of sending me to
Lake Alice."
- Sharyn Collis

people
Beautiful children
Worldly people
These are the
There's no trade
for me and


2.1
NGĀ ĀHUATANGA I HUA AKE I LAKE ALICE
WHAT HAPPENED AT LAKE ALICE

2.1 Ngā āhuatanga i hua ake i Lake Alice – What happened at Lake Alice

WARNING: DISTRESSING CONTENT

2.1.1 Te whakatūnga o te manga tamariki me te rangatahi ki Lake Alice – Establishment of the Lake Alice child and adolescent unit

46. Lake Alice Hospital was built in 1950 as a regional psychiatric centre. As with other psychiatric hospitals built in Aotearoa New Zealand in this era, the design of the hospital reflected changing ideas about mental illness and its treatment. The design rejected the older asylum model of imposing single buildings, by housing patients in a series of 'villas'. As well as aiming to create a more 'home-like' environment for patients, the villa system allowed for the greater separation of patients by age, gender, behaviour or perceived likelihood of recovery.[80]

47. The hospital was designed to be, as far as possible, a self-sufficient township. Services such as a laundry, butchery, bakery, library and garage were all on site, and staff lived in accommodation on hospital grounds.[81] The farm and large vegetable gardens on the land were intended to provide meat, dairy and fresh produce for the hospital, making it largely self-supporting, as well as providing 'useful' labour for hospital patients.[82]

48. Lake Alice had a multidisciplinary workforce consisting of psychologists, psychiatrists, medical officers, nursing staff, occupational therapists, pharmacists, physiotherapists, recreation officers, dentists and, later, teachers.[83] These were supported by a range of staff who ran the hospital, including cooks and grounds people, many of whom were locals from around Marton. Some were mana whenua from Ngā Wairiki and Ngāti Apa.

49. Most of the hospital's medical and nursing staff lived with their families in housing on the hospital grounds or in houses bought by the hospital in nearby Marton. By 1972, there were at least 40 houses on the grounds and 16 more in Marton.[84]

50. In July 1970, the hospital's medical superintendent, Dr Sydney Pugmire, acknowledged the hospital had "no special facilities for children" and avoided admitting them "as far as possible". However, 11 children had been admitted and treated that year.[85] Lake Alice's annual reports show in 1970[86] and 1971,[87] over the two years before the opening of the Lake Alice child and adolescent unit, 34 children and 59 youths spent some time at the hospital.

51. Dr Selwyn Leeks started seeing young patients at Lake Alice from as early as June 1971.[88] At this time, there was no designated child and adolescent unit so young patients were housed in general villas. From 9 November 1971, Dr Leeks accepted responsibility as psychiatric consultant for all patients at Lake Alice under the age of 17.[89] He also worked at two other child health clinics, one in Whanganui and another at Palmerston North Hospital.[90]

Unit villa 11 1972-1975.

Unit villa 10 1972-1975.

52. In August 1972, the hospital set up a dedicated unit in an existing building for children and adolescents. This was initially a 12-bed villa for boys,[91] which was known as villa 10.[92] The unit's capacity grew quickly. A second 12-bed villa for boys was added later in 1972,[93] which was known as villa 11.[94]

53. In October 1972, Dr Pugmire told the Department of Health's Director of Mental Health, Dr Stanley Mirams, the hospital had set up a wing for adolescents, separating them from the adult wards, because "we have admitted a hundred extremely difficult children during the past year, some of whom have engaged in calculated and well-planned attacks on both patients and staff".[95] He mentioned one incident that left a nurse with injuries, including a broken nose.[96] He went on, "To keep this violent group separate from our well-behaved, respectable mentally ill new admissions, we have opened a separate teenage training villa and we are trying to develop an incentive training programme".[97]

54. Although the unit's dedicated villas housed only boys, Dr Leeks also treated girls at Lake Alice. Girls were initially housed in the adult admission villa, which accommodated both men and women, but spent their days in the unit.[98] Later, eight to 10 girls were accommodated in one wing of the women's villa.[99] Eventually, the two boys' villas proved insufficient, and the boys were transferred to a larger, 36-bed villa on 27 June 1975 (villa 7). It was filled throughout 1975.[100]

55. Charge nurse, Dempsey Corkran, told us he had concerns about adult patients having sex with children and young people at the unit. He said

Unit villa 7 1975-1977.

this was the reason he wanted the boys moved to villa 7, so they would be accommodated separately from the admissions ward, which housed adult patients.[101] Villa 7 was self-contained, so children and young people at the unit did not need to share facilities with patients from other villas.

56. Nursing staff organised some school classes when the unit opened,[102] but as more children and young people were admitted for extended periods of treatment, the Department of Education acknowledged the "possible" need for a teacher to ensure continuity of education.[103] A school was established at the hospital in February 1973.[104] The government recognised continued education for most young patients at Lake Alice school was an "important part of the whole treatment programme..."[105] The Department of Education summarised the aims of the school:

> *"[I]n ascending order, the aims are to have the child return to his school – educationally no worse off for his period in the Hospital; having had the benefit of more individualised teaching; performing at a considerably better level than previously."[106]*

57. The number of staff associated with the Lake Alice school expanded over time as the school roll grew. By 1974, the school had a full-time play therapist on staff, in addition to two full-time teachers.[107] The school was administered by the Whanganui Education Board, which was responsible for the provision of teaching staff, furniture and equipment. The Department of Health was

responsible for the provision and maintenance of suitable accommodation. A former principal of the school noted the difficulties in the school being managed by different institutions:

> *"All this oversight made it a complicated system and every time we wanted to do something or improve something, everybody would just disappear, especially if they thought there was any blame involved. Furthermore, if anything worthwhile happened, everybody would jump up and down and say 'yes, that was our idea'* [108]*... getting anything from the Educational Board in the way of money for teacher aid or anything of that nature was like drawing hens' teeth".*[109]

58. The rapid growth in students was understood by the Department of Education as an administrative issue.[110] Throughout the years, the roll shifted from 19 students in 1973 (with 60 students attending throughout various periods) to 43 students in 1976 and then dropped to 32 students in 1977.[111]

59. An assessment of the school's performance in 1977 found the school to be on the lowest level, the "maintenance level", which meant the school was preventing students' further educational decline during their period of hospitalisation.[112] The 1977 report said, due to staffing issues, it was unlikely students would be able to make "normal progress in their studies".[113] At that time, the staff were made up of four primary teachers, who couldn't always provide the support needed by secondary school students in the unit.[114] The report continued:

> *"This is indeed unfortunate for, as a result of the conditions which bring [the students] to Lake Alice, they are usually already under achievers upon arrival. If, while patients, their educational retardation is increased their chances of being rehabilitated in the schools from which they come are markedly reduced."*[115]

60. This report foretold what many survivors said happened to them: their education was badly affected by their admission to Lake Alice. We discuss this further in chapter 2.2.

Dr Leeks

Selwyn Robert Leeks was born in 1929.[116] Between 1953 and 1960, he completed bachelors degrees in science, medicine and surgery at the University of New Zealand.[117] From 1959, he worked at various medical, psychiatric and educational jobs in New Zealand and England.[118] In 1969, he received a diploma of psychological medicine from the Royal College of Physicians and Surgeons in London, and in 1971, he received a diploma in child psychiatry from the University of Otago.[119]

In February 1971, the Palmerston North Hospital Board hired Dr Leeks as a consultant child psychiatrist, and he held this position until he left New Zealand in 1977.[120] At the time, Dr Leeks was one of the few qualified child psychiatrists in New Zealand. He was the head psychiatrist in charge of the child and adolescent unit at Lake Alice Hospital from when it opened. Between 1973 and 1975, Ms Priscilla Leeks, Dr Leeks' first wife, also worked at the unit as a child therapist.[121]

Although Dr Leeks lived in a house on hospital grounds, he only ever worked at the hospital part time.[122] He had a wide variety of duties in addition to psychiatry, including developing child health clinics, regularly visiting Kimberley Hospital and State residences Kohitere Boys' Training Centre and Hokio Beach School, writing psychiatric reports on remand prisoners for courts, assessing armed forces personnel at bases in Waiouru, Linton and Ohakea, and lecturing and supervising psychology students at Massey University.[123]

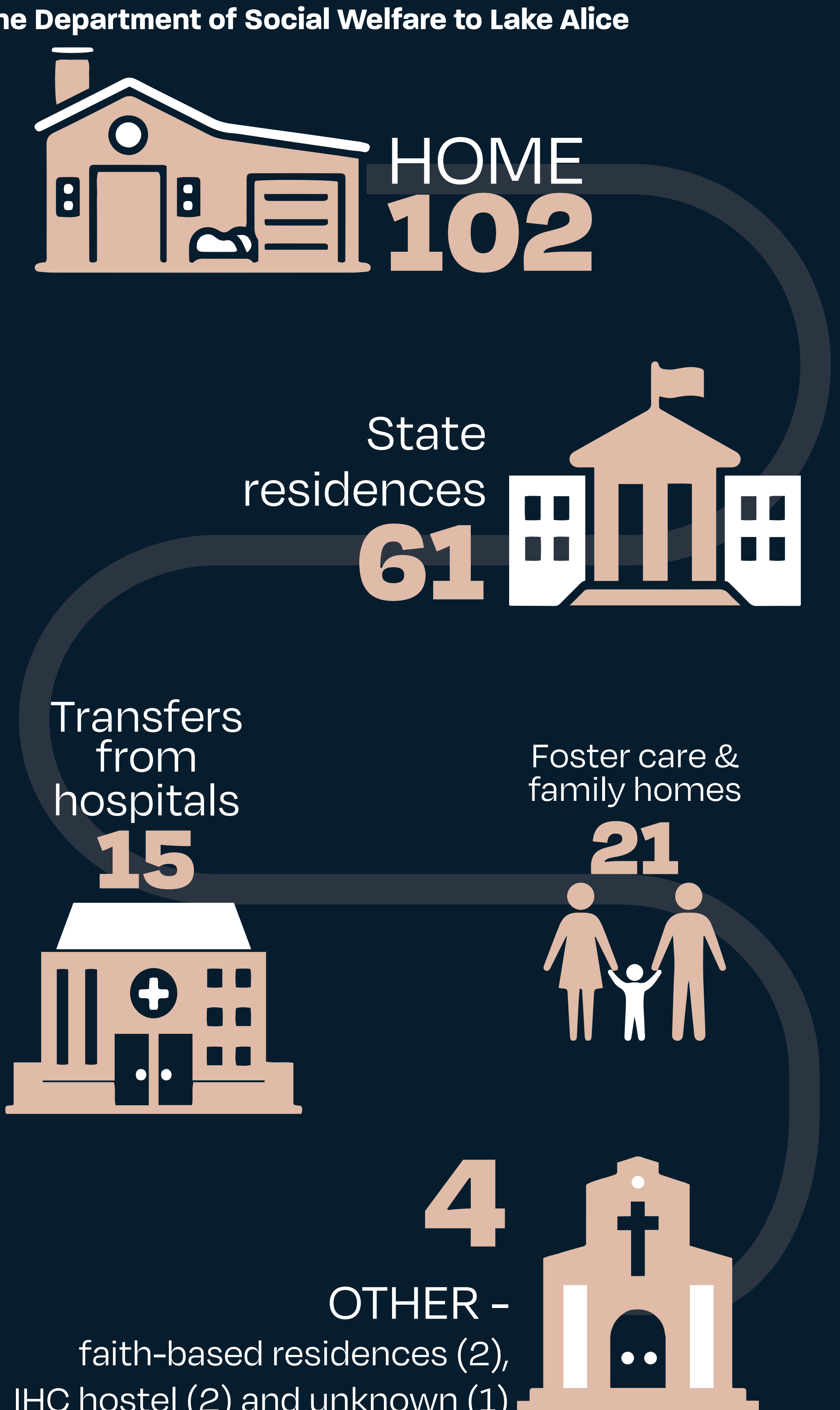
Dr Leeks usually visited the unit only once a week, although sometimes he visited more frequently.[124]

2.1.2 Tamariki me ngā te rangatahi ki Lake Alice – Children and young people at Lake Alice

61. We estimate between 400 and 450 children and young people went through Lake Alice between 1970 and 1980. Records from Oranga Tamariki show the Department of Social Welfare admitted 203 children and young people to Lake Alice ("individuals admitted by the Department of Social Welfare").[125] We have limited information about survivors who did not have Department of Social Welfare involvement. However, we believe they were a significant cohort. From records and interviews with survivors we have been able to identify 362 children and young people who were admitted to Lake Alice in this period, some of whom would have been in the wider hospital rather than the unit.

62. Of the individuals admitted by the Department of Social Welfare, about half had their first placement at Lake Alice from home (102)[126] and about half from care placements (101).[127] The breakdown of first admissions is shown in Table 1.

Table 1: First admission of children and young people (individuals) by the Department of Social Welfare to Lake Alice

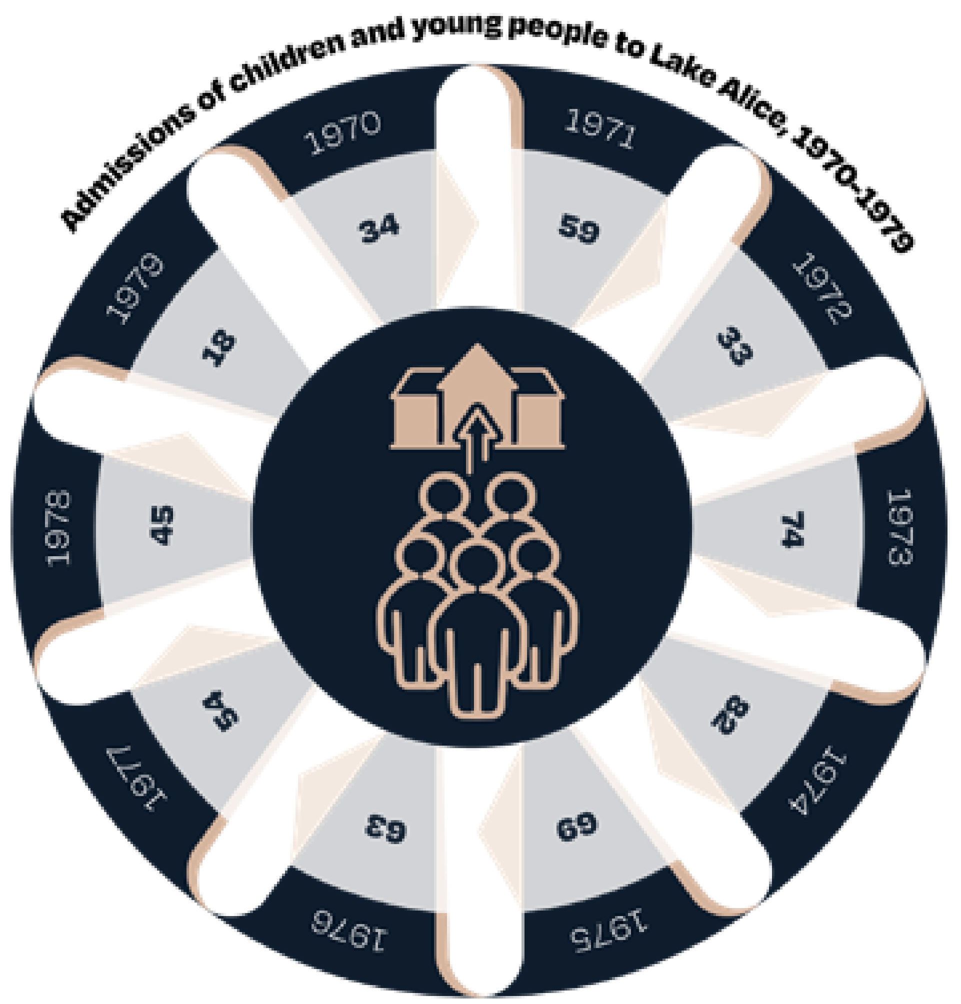


Note: Treat this data with caution, as it was drawn from incomplete files and some files may have been lost or destroyed.

Source: Data collated by Oranga Tamariki from Department of Social Welfare files.

63. Many survivors spent time in several different care placements. For example, if a survivor's first admission to the unit was from home they actually may have been in a care placement before that and returned home for a short time before going to the unit. Lake Alice annual reports show admissions of children and young people (under age 17), initially to the general hospital and later to the unit, grew steadily during the early 1970s, peaking at 82 in 1974 before tapering off in the second half of the decade. The annual reports contain no discharge figures and tell us only the number of admissions during any given year, not the number of individuals admitted.

Table 2: Admissions of children and young people to Lake Alice, 1970–1979



Source: Lake Alice annual reports for 1970–1979.[128]

64. Some children and young people were admitted and discharged more than once, meaning that of the 531 admissions for the period, some of these will be the same children and young people returning to the unit multiple

times. For example, the 203 children and young people admitted by the Department of Social Welfare had a total of 273 admissions (five were admitted to the hospital's national security unit, a maximum-security villa).[129] These records show 44 children and young people (about one in five) were admitted more than once, including 14 admitted at least three times, five admitted at least four times and two admitted five times.[130]

Ngā ara whakauru – Pathways to admission

65. Each of the main pathways to admission at Lake Alice is discussed next; from home, State residences, hospitals and child health clinics.

Ngā whakaurunga i ngā kāinga – Admission from home

66. Most of the children and young people who went to the unit were living at home before their first admission. Some had direct involvement by the Department of Social Welfare and others were admitted by their parents or guardians, often on referral from general practitioners or child health care clinics.

67. We received accounts from 31 survivors, or whānau members, who were admitted into Lake Alice directly from their homes, 9 girls and 22 boys. 10 were referred to Lake Alice through medical services such as child health clinics, half of these by Dr Leeks.

68. Some survivors told us that difficulties at school preceded their admission to the unit from home. For example, Mr Leota Scanlon believes his school contacted the Department of Social welfare, which led to his admission to the unit:

> *"The social worker told Dad that I needed a psychiatric evaluation because of the fights I was having at school. The social worker told him that they wanted to send me to Lake Alice Hospital. I knew my Dad couldn't understand what they were saying because he couldn't speak English. The social worker then gave me the phone to talk to Dad and I said to him in Samoan that I didn't want to go to that place, being Lake Alice. I told him in Samoan because I didn't want the Principal to understand what I was saying. Dad agreed to send me to Lake Alice. I was taken straight to Lake Alice from school by the social worker."*[131]

69. For disabled survivors, their parents or guardians often thought the survivor would get better care at the unit than their families were able to provide. Mr BZ (Ngati Porou) told the inquiry his grandparents thought the unit "would be the best place to help with my epilepsy. It was getting hard for them to look after me. They told me I would be safe, but they did not realise it was a bad place".[132] Mr BZ told the inquiry his epilepsy got worse while he was in the unit because he was getting electroconvulsive therapy (ECT).[133]

70. Other times, survivors' parents were seeking help to manage their tamariki behaviour. For example, Mr EN told us he first went to see Dr Leeks after his mother sought help managing his behaviour, which included fighting at school and truancy.[134]

> *"Dr Leeks and I had five or so visits. He just sat there and stared at me with a kind smile. Mum would have to leave the room till it was over. He asked me some questions, can't remember what they were. I was taken to Lake Alice after that. I never knew why I was there. No one told me. No one asked me if I wanted to go."*[135]

71. Survivors were often referred to the unit by doctors. Ms Sharyn Collis went to see Dr Leeks at a child health clinic. She said Dr Leeks used admission to the unit as a threat:

> *"Leeks kept telling me when I was in Manawaroa [health clinic] that I would end up at Lake Alice if I didn't behave. He used Lake Alice as a tool to threaten me. I felt trapped and I did not have any protection at home either. Leeks, my GP [general practitioner], my mother and others were all a part of sending me to Lake Alice."*[136]

Ngā whakaurunga i ngā kāinga Kāwanatanga - Admission from State residences

72. Dr Leeks visited to consult at nearby residences, Kohitere (a home for boys aged 14 to 17)[137] and Hokio Beach School (which housed boys aged 12 to 14)[138] to provide psychiatric services to some residents from 1971.[139] His visits were described by the Kohitere principal as 'spasmodic', and the time he gave Kohitere 'very limited'.[140] The Hokio principal had similar complaints, writing in 1972 that psychiatric services to the school were "well below the level that could be reasonably expected".[141]

73. Survivors admitted to the unit from residences often felt the reason for their admission was for punishment. Mr Tyrone Marks and Mr Rangi Wickliffe both said they were admitted to Lake Alice from Holdsworth as a 'deterrent' for their misbehaviour. Mr Marks' admission files contain a document from the principal Mr Marek Powierza, who noted the admission was "due to persistent absconding and subsequent burglaries and other misdemeanours whilst missing from Holdsworth".[142]

74. Of the individuals admitted by the Department of Social Welfare, 16 boys were sent from Holdsworth, for admission periods ranging from around two to 20 weeks, the average being 10 weeks.[143] Three staff were instrumental in the admissions from Holdsworth: acting principal John Drake, deputy principal

Duncan McDonald and founding principal Marek Powierza. Mr Powierza said, "Children were sent to Lake Alice if their behaviour could not be controlled".[144]

75. Mr John Watson, a housemaster at Holdsworth from 1972 to 1975, said he learned of the referrals to Lake Alice on the basis of persistent absconding and aggressive behaviour and was concerned about the reasons for referral.[145] He believed the school could have managed the boys' behaviour and did not think it was necessary to send them to a psychiatric hospital.[146]

76. Evidence we gathered suggested similar reasons for admissions from Kohitere and Hokio. The Ministry of Social Development found that threats, such as being sent to Lake Alice, were also used by some staff.[147] The ministry said some boys who "did not respond to any discipline" were sometimes sent to Lake Alice for periods of up to two months.[148] One survivor described running away from serious violence at Kohitere.[149] He was picked up and taken straight to Lake Alice.[150] He said there was "nothing wrong with me mentally", so there was no psychiatric reason for such an admission.[151]

77. Of the individuals admitted by the Department of Social Welfare, 19 boys were sent from Kohitere, 11 for behavioural reasons, seven for wellbeing or mental health reasons, and one for both reasons.[152]

78. Of the individuals admitted by the Department of Social Welfare, nine were sent from Hokio. Survivors told us Hokio was a violent place[153] and sexual abuse by staff was common. Many survivors told us they did not have a mental illness, but no one bothered to find out if their behavioural difficulties were the result of sexual abuse.

Ngā whakawhitinga i ngā hōhipera – Transfers from hospitals

79. Some survivors were transferred to the unit from other psychiatric and psychopaedic hospitals, either temporarily or permanently.

80. Often these survivors had experienced several care placements and significant abuse before their admission to other hospitals and their transfer to the unit. For example, survivor Sharyn Shepherd, born intersex, was sexually abused in various placements including Mount Wellington Residential School, Ōwairaka Boys' Home and several foster care placements.[154] She developed an eating disorder due to a lack of self-worth as a result of the sexual abuse and was admitted to the psychiatric ward of New Plymouth Hospital and then to the unit.[155]

81. Some survivors were temporarily transferred to the unit from other hospitals. For example, one survivor told the inquiry he was transferred to the unit for three days when he refused to return to Wakari Hospital in Dunedin, where he was being regularly sexually abused:[156]

"The effects of the abuse I suffered and witnessed were compounded by my isolation from my family and the protection and support they may have been able to provide to me. In hindsight I wonder why the focus on these occasions was on chemical sedation, control and force rather than investigating the cause of my distress."[157]

82. It appears transfers occurred between the Kimberley Centre and the unit, either on a temporary or permanent basis. The Kimberley Centre was a residential psychopaedic hospital, primarily for people with a learning disability, cognitive impairment and neurodiversity. Survivor Walton James Mathieson-Ngatai said, "quiet kids from Lake Alice would go over to Kimberley, and the kids from Kimberley who got up to mischief were dropped off at Lake Alice. If the kids from Kimberley behaved, then they would go back to Kimberley".[158] He particularly remembered one incident in 1972 when about six children came from Kimberley in a van:

    "One of the children from Kimberley was just five years old. He used to have fits, epilepsy, and they would give him ECT. They brought him over from Kimberley to give him ECT at Lake Alice."[159]

83. We have evidence of Dr WF Bennett, the medical superintendent of Kimberley, agreeing with Dr Pugmire to transfer one of his patients to Lake Alice in exchange for a female Lake Alice patient.[160] We also know Dr Leeks regularly visited Kimberley to consult with staff on adolescent patients, some of whom he admitted to the unit.[161]

Ngā whakaurunga i ngā whare hauora tamariki - Admissions from child health clinics

84. Some children admitted to the unit were referred from child health clinics. These clinics were the main referral and treatment centres for children with psychiatric and emotional problems in the early 1970s.[162] Although these clinics were initially intended as stand-alone community clinics, it eventually became common for them to be located on hospital grounds.[163] In many cases, admissions recorded as being from home or foster care would have come through a child health clinic referral.

85. Referrals to child health clinics were through general practitioners, although schools, social workers and parents were also involved.[164] A 1973 report by Dr Alan Frazer about treatment facilities in the Wellington area suggested child health clinic services were generally "orientated to the 'middle-class' family", whereas children from poorer families were squeezed out of the system and tended to be held in social welfare homes.[165] Most of those assessed or treated by these clinics did so as outpatients and remained in their own homes.

86. In 1971, Dr Leeks was appointed to the Palmerston North child health clinic and the Palmerston North Hospital Board. He then expanded the services offered by the clinic and established new clinic branches at Lake Alice and in Whanganui.[166] Dr Leeks also gained the agreement of the Lake Alice medical superintendent, Dr Pugmire, to admit 'disturbed adolescents' to the hospital.[167] In many ways, this marked the beginning of the unit. The child health clinic at Whanganui, where Dr Leeks worked, became a major source of referrals to the unit.[168]

87. In theory, clinic referrals involved some form of screening, but evidence from survivors and subsequent reviews of diagnoses by psychiatrists suggests even patients who received a formal diagnosis of a psychiatric disorder were not, in fact, always mentally ill. Even at the time, government officials noted the lack of clear clinic referral processes. In 1975, Dr Frazer wrote there was general agreement children referred to the unit should be "fairly severely disturbed [but] this is by no means the case".[169]

Ngā kāhua o ngā tamariki me ngā rangatahi i te manga – Profile of the children and young people at the unit

88. This section discusses the 203 individuals admitted to Lake Alice with involvement by the Department of Social Welfare in terms of their age, gender, ethnicity and disability.

Ngā pakeketanga o ngā tamariki me ngā rangatahi i te manga - The age of the children and young people at the unit

89. The median age of the individuals admitted by the Department of Social Welfare was 13 at first admission, and the youngest was eight.[170] Survivors told us about a child who was four or five when they spent time at the unit.[171] We were able to confirm through admission records that a four-year-old child was admitted to the hospital in 1974 with his mother.[172] The youngest child we have been able to identify as being treated in the hospital was admitted in 1978 and was five years old.[173]

Ngā ira o ngā tamariki me ngā rangatahi i te manga - The gender of the children and young people at the unit

90. Significantly more boys than girls were admitted to the unit. Of the individuals admitted by the Department of Social Welfare, 165 were boys and 38 were girls (including one intersex survivor).

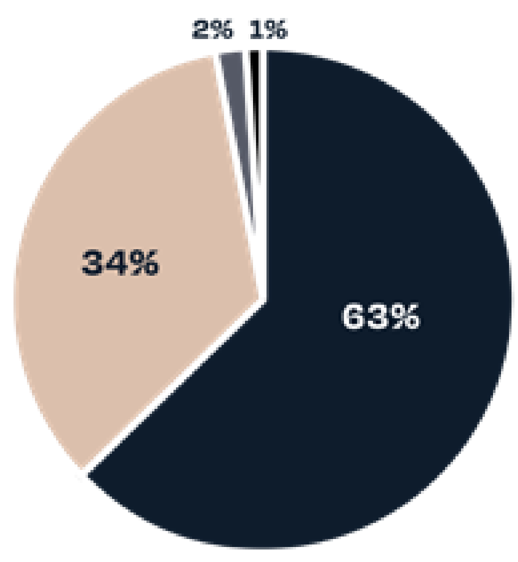
91. If we separate admissions by pathway, 23 of the 102 individuals admitted from home were girls (23 percent) and 15 of the 101 individuals admitted from residences, foster care, and transfers from other hospitals were girls (15 percent). See Table 1 for a complete list of care settings.

Ngā mātāwaka o ngā tamariki me ngā rangatahi i te manga - The ethnicity of the children and young people at the unit

92. Of the individuals admitted by the Department of Social Welfare, 192 had an ethnicity recorded, although in the 1970s ethnicity records were often incomplete or inaccurate.[174] Contemporary studies have shown social workers and NZ Police often relied on highly flawed methods, such as 'sight identification', to determine ethnicity.[175]

93. Several Māori survivors told us their Department of Social Welfare files incorrectly recorded them as European. A Samoan-Rarotongan-Māori survivor was recorded as being Māori only.

94. Tamariki and rangatahi Māori were over-represented in admissions to the unit in comparison to the total population. Of the 192 individuals with a recorded ethnicity, 121 **(63 percent)** were recorded as European, 66 **(34 percent)** as Māori or Māori-Pacific, three **(two percent)** as of Pacific descent, and one **(less than one percent)** as of Indian descent.[176]



95. The over-representation of Māori was greater for admissions from residences, foster care, and transfers from other hospitals (see Table 1 for a complete list of care settings). For admissions from home, 27 individuals were recorded as Māori or Māori-Pacific (29 percent). For survivors whose first admission was from care settings described above (and for whom an ethnicity was recorded) 24 individuals were recorded as Māori (41 percent).

Pārongo hauā mō ngā tamariki me te hunga rangatahi i te manga – Disability information about the children and young people at the unit

96. We know from survivor accounts some disabled children and adults spent time in the unit and the wider hospital. We do not know the number of disabled children and young people who were admitted to the unit due to incomplete records, issues with misdiagnoses and changing understandings of disability. Survivors' experiences of ableism[177] are discussed later in this chapter.

Te roa o te noho ki te manga – Length of stay at the unit

97. We know from survivor accounts and hospital records that the length of time individuals spent at the unit varied. The individuals admitted by the Department of Social Welfare spent an average of 29 weeks (203 days) at the unit, although 19 spent more than 600 days in the unit (whether from a single admission or repeated admissions).[178] The shortest time at the unit was three days, and the longest continuous time was almost 203 weeks (1,421 days). We do not know whether the length of stay varied for children and young people who did not have Department of Social Welfare involvement.

Ngā take i whakaurua ai ki te manga -Reasons for admission to the unit

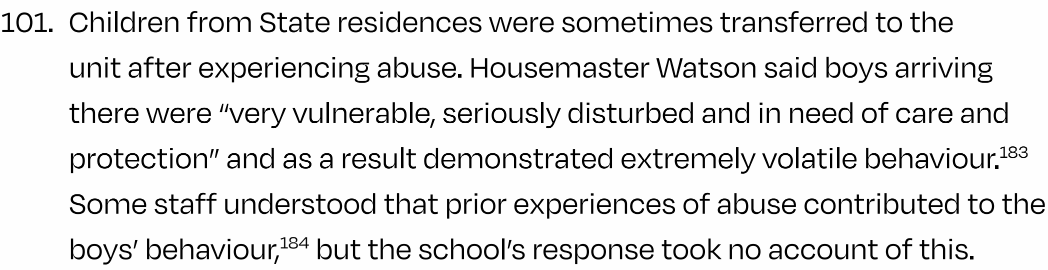
98. Children and young people came to Lake Alice for many different reasons, but one common thread was the experience of significant abuse suffered beforehand. Often their parents, guardians or the Department of Social Welfare were struggling to manage their behaviour – frequently itself the result of the trauma – or other suitable residential options were lacking. In most cases, we found no evidence of a formal psychological or psychiatric assessment or diagnosis before admission or treatment.

99. Survivors told us that the root cause of the behaviour was not addressed and that if it had been, psychiatric intervention would not have been deemed necessary. For example, many survivors were struggling to cope with sexual abuse at home before their referrals. Ms Sharyn Collis told us after being raped at age 14 she began acting out and was sent to counselling with Dr Leeks and admitted to the unit from there.[179] She told us:

> *"My mother's attitude was that it didn't happen and I was lying or I deserved it. I started acting out like running away and not attending school. I was disruptive at home and swearing all the time, but that was typical of a rape victim, I guess."*[180]

100. Some survivors told us trauma as a result of abuse continued to be misdiagnosed on their admission into the unit. Ms Sunny Webster, discussing her diagnosis as shown on medical records, told us:

> *"I was diagnosed in Lake Alice with reactive depression, hysterical character disorder.*[181] *This is not what was wrong with me and the document proves that I was misdiagnosed. Nowhere on there does it say that I was a victim of sexual abuse, and that was the problem."*[182]

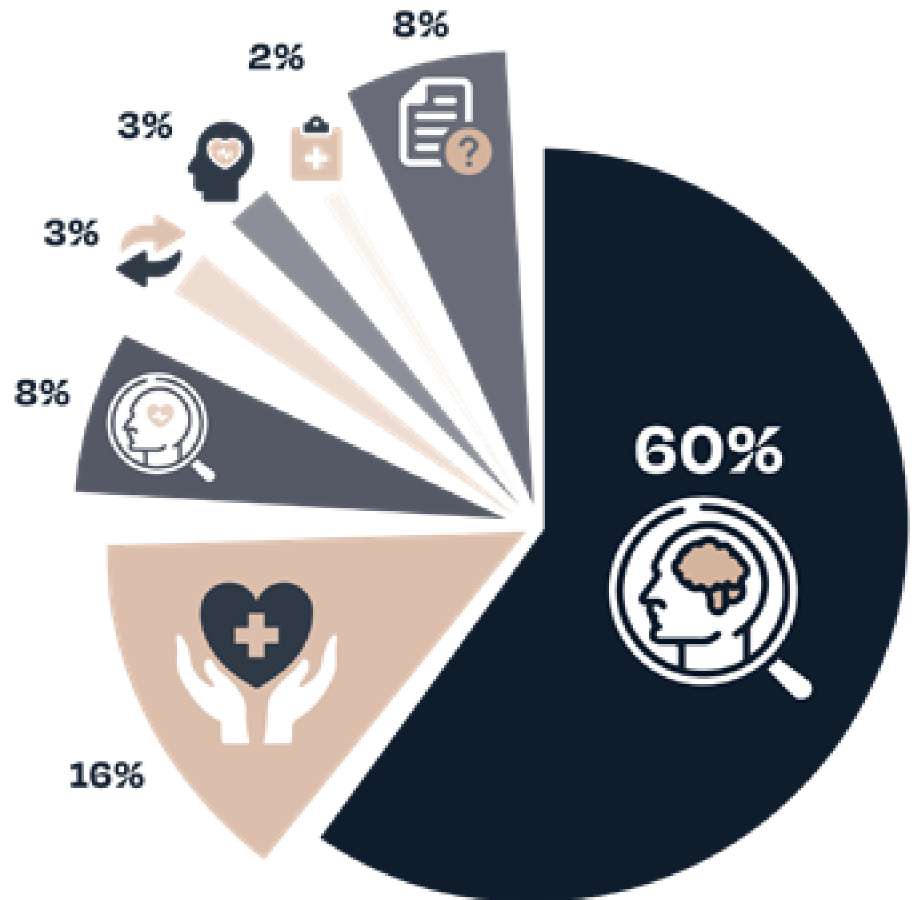


101. Children from State residences were sometimes transferred to the unit after experiencing abuse. Housemaster Watson said boys arriving there were "very vulnerable, seriously disturbed and in need of care and protection" and as a result demonstrated extremely volatile behaviour.[183] Some staff understood that prior experiences of abuse contributed to the boys' behaviour,[184] but the school's response took no account of this.

102. Some survivors have told the inquiry that they had no understanding of why they were placed at the unit, and only learned of their diagnosis later in life. One survivor, Ms Robyn Dandy, recalled:

> *"None of us children knew why we were at Lake Alice. We thought it had been because we were naughty for things such as shoplifting or running away from home. We were all just normal kids – none of us seemed to have mental problems. I note my records say I had a 'personality disorder'. The only problem I had was a mother who did not love or care for me."*[185]

> *"ECT should never be used as a punishment or to modify behaviour. Its alleged use at Lake Alice Child and Adolescent Unit seems to me to be symptomatic of a prison guard mentality. It portrays a kind of power imbalance which is not appropriate for therapy. One where you have a position of power and you have some means of exerting power over the people that are under your control. You're exerting that power not because it's beneficial to the patient, but because it enhances your power and authority. It's not even appropriate, in my opinion, within the prison system. The health care system shouldn't have anything to do with coercive practices."*
>
> ***- Dr Allan Mawdsley***



103. Department of Social Welfare records confirm 'behavioural' was the most common reason for referrals to Lake Alice. The Department of Social Welfare's 273 admissions were categorised as:

- behavioural: 164 admissions (60 percent)

- wellbeing or mental health: 44 admissions (16 percent)

- behavioural and wellbeing or mental health: 23 admissions (eight percent)

- transfer: nine admissions (three percent)

- Mental Health Act 1969: eight admissions (three percent)

- ongoing treatment or review of medication: four admissions (two percent)

- unknown reason: 21 admissions (eight percent).[186]

104. Dr Leeks said at first the unit tended to take adolescents considered 'uncontrollable' and posing problems for the Department of Social Welfare.[187] He said: "some of these children do not need to be in hospital, but apart from the child unit there has been nowhere for them".[188] The hospital's administrator at this time, Mr Thomas Henricus van Arendonk, said in 2001, that the children and young people there "were not really mentally ill.[189] Rather, they were problem children who had run out of help".[190]

105. There was a distinct haphazardness to the admission of children and young people to the unit, and Dr Leeks said the unit grew in an uncontrolled way.[191] After Dr Leeks left Lake Alice, an internal Department of Education memorandum noted he had been admitting "all and sundry".[192] Many felt the Department of Social Welfare used the unit as a 'dumping ground' for children whose behaviour was considered too challenging for other residential institutions. For example, Mr Craig Collier, a teacher at the unit's school from 1977 to 1978 said: "Some of these children displayed behaviours such as hyperactivity, Asperger's and anti-social behaviours. I believe that the [unit] seemed to be a dumping ground for those who were not able to be handled by schools or other institutions."[193]

106. However, nurse aide Charles McCarthy recalled the behaviour of children in the unit seemed "like [that of] any other young person".[194] Social worker Brian Hollis said, "I did not see any of [the boys] needing long-term treatment in a psychiatric hospital. Most of them, I thought, should simply be at Lake Alice for assessment."[195] Former Lake Alice nurse Jack Glass said it was his perception "most of the adolescents had parent problems more than anything else". He said they, "came with criminal or behavioural problems, not necessarily psychiatric problems".[196]

107. After reviewing more than 90 cases, Sir Rodney Gallen said some children had been diagnosed with some form of mental illness, but the vast majority had no such diagnosis and were admitted for behavioural reasons:

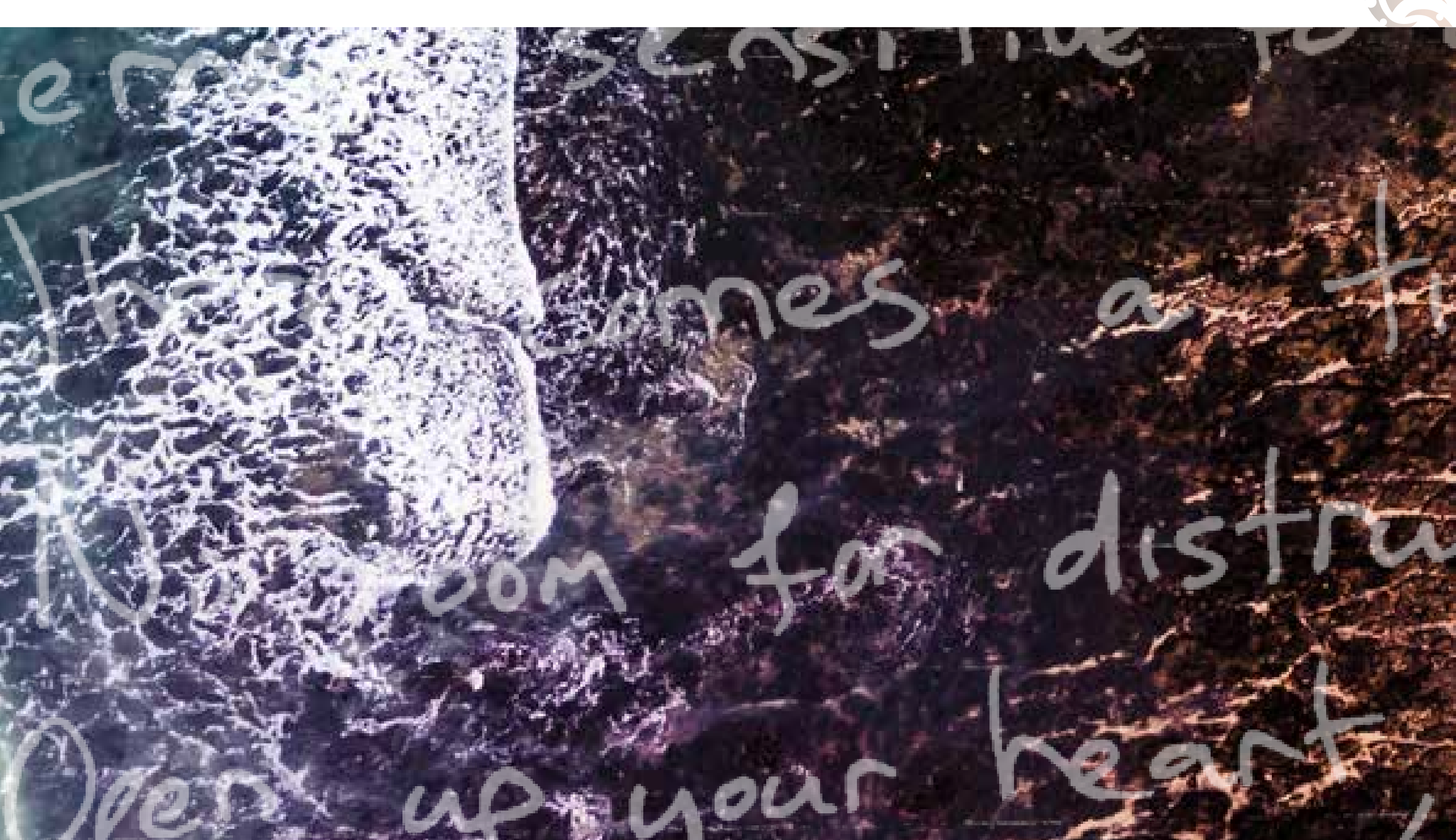
> *"They were in fact presenting behaviour problems which for one reason or another were not controllable by the persons who had responsibility for them, nor had those behavioural problems been controlled, in some cases, by placement in other institutions ... some had been subjected to severe physical and sexual abuse before their admission, others had suffered some kind of trauma which had affected their ability to integrate into the community."*[197]

Ngā tūtohitanga – Summary of findings

Ngā āhuatanga i whakaurua ai te tangata ki te manga – Circumstances that led to individuals being placed in the unit

The Inquiry finds:

- Most children and young people at the Lake Alice Hospital child and adolescent unit were admitted for behavioural reasons, often arising from tūkino – abuse, harm or trauma, rather than mental distress.
- Social welfare involvement was a common pathway of admission to the unit, disproportionately affecting Māori. About 41 percent of those admitted from social welfare residences were Māori, and about 29 percent of those admitted from home with social welfare files were Māori. Poor quality records make precise figures impossible.
- The Department of Health, Department of Social Welfare and staff at the unit did not have proper processes in place to ensure the lawful admission, treatment and detention of children and young people in the unit.



2.1.3 Ko te aramahi i whāia i te manga kāore i pūata, kāore i whai haepapatanga – The claimed approach at the unit lacked transparency and accountability

108. This section summarises the descriptions of the unit Dr Leeks gave in response to investigations and external scrutiny during the 1970s. We preface this summary by observing that Dr Leeks' descriptions and accounts were not always fully transparent or accurate about the nature, extent and purpose of the unit's activities. The accounts need to be read with that qualification in mind.

109. As a starting point, Dr Leeks said the unit was set up as a back-up for children and adolescents who could not be treated in outpatient psychiatric clinics.[198] He described the patients as including:[199]

> *"Those young persons unable to respond [to treatment] on a once or twice weekly basis, and can no longer be controlled by parents, school, society or themselves. These will include the behaviour disorders merging with developing character disorders and those whose psychosis requires special surveillance, schooling and treatment, and who are not responsive in Outpatient facilities."*

110. The unit became available in August 1972, and the first cohort of patients admitted included those Dr Leeks described as "uncontrollable or deemed to be improperly placed" at nearby welfare residences Kohitere, Hokio and Holdsworth.[200] Dr Leeks said the children in the unit tended to be normal or better than normal in intelligence.[201] But some of the children were, in his view, "bottom of the barrel kids … anti-social and destructive".[202] By 1974, it was decided to admit fewer "character disordered children and adolescents from welfare institutions".[203] He described about a third of the people at the unit as "behaviourally disordered", a third as "in the neurotic realm"[204] and a third who were "psychotic upon admission".[205] By 1976, the unit was receiving children from all over the country. Dr Leeks said it was common to be asked to take a child on the basis that "no other unit, school or institution [would] have him/her".[206]

Kāore i whai hua te huatau a Dr Leeks, arā, te "hapori whakaora" – Dr Leeks' "therapeutic community" concept did not succeed

111. Dr Leeks said his goal was to create "a therapeutic environment, not one based on punishment".[207] He said the unit provided individual and group therapy,[208] medication and ECT within "the broader background, one always hoped, of a therapeutic community using mostly behavioural techniques".[209]

He acknowledged the therapeutic community concept did not work well in the first few years, but he thought it was very good in the last three years (1974 to 1977).[210] The aim, he said, was "to benefit the children in terms of psychological and emotional growth, and to help them to cope adequately with their environment outside the hospital setting".[211]

112. Dr Leeks said the desired staff profile was "kindly, warm, understanding, intelligent with a sense of humour and a minimum of sentimentality",[212] although he admitted that was not always achieved. Sir Rodney Gallen later acknowledged that some staff treated patients with compassion and understanding.[213] Patients referred to those staff members with affection and gratitude.[214] But Dr Leeks said it was hard to attract staff to the unit. The work involved long hours (up to 12-hour shifts) and it demanded "total involvement".[215] He acknowledged some staff had to be moved on because they were unsuited for their roles and an assault by a staff member led to dismissal and imprisonment.[216] He said staff were often affected by their experiences at the unit and they needed solid support systems.[217] Having said that, he gave an example of a relatively senior nurse who described his two and a half years at the unit as the richest experience of his career.[218]

113. Dr Leeks acknowledged that some children perceived being put into a psychiatric unit as punishment.[219] But for others, he said, it was "a welcome release from an intolerable situation".[220] Dr Leeks claimed that most children appeared to get a great deal out of being part of a community, despite the pain of examining their behaviour and their feelings.[221] For some, he said, it was a painful process to leave the unit.[222] Some children told Sir Rodney Gallen they enjoyed the sport and the facilities at the unit.[223] Nurse Terrence Conlan said the unit was a relatively happy place for the children even in the early days.[224] He said they were taken on outings, often spent a lot of time outdoors and in the gym, and often went to the sand hills behind the hospital to gather lupin seed to sell. When he left Lake Alice, he received many gifts and cards from the children in the unit.[225]

Te whakamahinga o te haumanu whakahiko-hukihuki – Use of electroconvulsive therapy (ECT)

114. Dr Leeks regularly prescribed and administered ECT at the unit. He stated it was always given therapeutically and was not a punishment.[226]

115. By way of context, properly administered ECT is now, and has been for many decades, a recognised and effective medical treatment in cases of major depression and sometimes for other mental illnesses such as bipolar disorder, schizophrenia, mania and catatonia.[227] It is typically used when other treatments have not been successful.[228] It involves passing an

electrical stimulus through two electrodes placed on the head of a patient to cause a seizure. In 2019, 245 people received ECT in New Zealand.[229] It is, however, a controversial treatment for some. A petition to the New Zealand Parliament Health Select Committee in 1999 from an opponent of ECT claimed ECT in any form is inhumane and degrading and always causes brain damage.[230] For some, ECT in any form is regarded as torture.[231]

116. When ECT was introduced into Aotearoa New Zealand hospitals in the 1940s, the practice and recommendations for administering it were inconsistent. ECT was sometimes given 'unmodified'; that is, without anaesthetic and muscle relaxant.[232] This could cause fractures and dislocations as well as severe pain in the head or choking if the electric current did not immediately render the patient unconscious.[233] For this reason, a general anaesthetic and muscle relaxant were commonly given from the late 1950s onwards to make ECT more comfortable for patients.[234] An anaesthetic puts a patient to sleep before the electric current is delivered.[235] A muscle relaxant prevents a patient from suffering fractures or dislocations if the body convulses as part of the induced seizure.[236] ECT delivered in Aotearoa New Zealand now is always given with general anaesthetic and a muscle relaxant. ECT given this way is called 'modified' ECT.

117. Best practice for administering ECT in the 1970s involved trained staff administering a general anaesthetic and muscle relaxant, after which they would place electrodes on a recognised location on the scalp before applying an electrical stimulus that would result in a generalised seizure. Medical and nursing staff would supervise the patient for a period afterwards.[237]

118. Properly administered, ECT, whether modified or unmodified, should be painless.[238] In a letter to Dr Pugmire in 1976, Dr Leeks elaborated, "The process is explained to the child or adolescent; they are told they will be immediately unconscious and unable to feel anything, and would wake in a few minutes feeling considerably better".[239] Dr Leeks has stated that his method of ECT was generally painless and patients would have no memory of receiving the treatment.[240]

119. Dr Leeks used what was called the glissando technique for ECT. The glissando technique was primarily employed before muscle relaxants were used as part of modified ECT. It involved increasing the current intensity from a very low level, when the patient was awake, to the chosen maximum strength, when the patient would be unconscious, over a period of about one to two seconds.[241] Dr Leeks said this technique did the job of anaesthetic by producing a rapidly rising form of electric current that "put the patients out almost immediately but allowed the contraction of the muscles to happen slowly".[242] He said some patients experienced transitory headaches and nausea, but this resolved quickly.[243] For these reasons, he said there was no need for to give an anaesthetic with ECT.[244]

Te whakamahinga o te haumanu matakawa – Use of aversion therapy

120. Dr Leeks said he introduced an aversion therapy regime towards the end of 1972 in response to violent and sexual misbehaviour by "a few of the more emotionally damaged" patients.[245] He said his preference was to use therapy, medication and ECT as treatment, but for patients needing greater control he decided to try aversion therapy along with a reward system.[246] Use of the technique increased in 1973 following violent incidents including an attack on a staff member with an iron bar.[247] He said it was also used in an attempt to extinguish "homosexual and physically violent behaviours".[248]

121. Aversion therapy as a technique was initially developed in the late 1920s to treat alcoholism but was later used for the purpose of modifying behaviours considered abnormal or challenging.[249] It was used in 1935 to 'treat' homosexuality using an electric current.[250] Other aversive stimuli have included nausea-inducing drugs and substances.[251] It is based on Dr Ivan Pavlov's theory of classical conditioning and aims to cause a patient to reduce or avoid undesirable behaviour by conditioning the person to associate the behaviour with an undesirable stimulus, such as an electrical or chemical stimulus. Dr Pavlov famously conditioned dogs to salivate to the sound of a bell by repeatedly pairing the bell with the presentation of food, which induced salivation, but subsequently the bell alone was sufficient to induce salivation.[252] By the 1980s, the therapy had become controversial on ethical and humanitarian grounds and was largely replaced by other therapeutic interventions,[253] although a form of aversion therapy using an electric shock device continues to be used at the Judge Rotenberg Educational Center in Massachusetts.[254] The United Nations Special Rapporteur on Torture condemned this as torture in 2013.[255]

122. At Lake Alice, Dr Leeks primarily used electric shocks as negative stimuli to discourage unwanted behaviour. He maintained patients experienced these shocks only as 'discomfort',[256] and they were below the pain threshold.[257] He said this form of therapy was intended to make patients "think twice" about repeating the undesirable behaviour.[258] He said it was devised by psychologists and used a great deal internationally for "sexual disorders or perversions, alcoholism, compulsive gambling" and "any behaviours, really".[259] In some cases, he said, it needed to be done daily – either at fixed times or after a particular behaviour had been carried out.[260] He said the patients "all knew" that if they carried out a particular unwanted behaviour, staff would "immediately take them and give them the treatment".[261] He claimed it could be done by virtually anyone, including psychologists or even family members.[262] One or two sessions were usually enough, Dr Leeks said, although one boy needed about 10 sessions because of his violently assaultive behaviour.[263] Dr Leeks did not disagree when NZ Police later said aversion therapy could

be described as penalising patients for misbehaviour.[264] Dr Leeks claimed to NZ Police he felt uncomfortable with aversion therapy and discontinued it after about a year.[265] He also wrote in the late 1970s that he had some "doubt about the ethics and long-term results" of the aversion therapy regime.[266]

123. Dr Leeks used an older Ectonus electric shock machine for aversion therapy, using a different setting from that used in ECT.[267] The model used had a variable current dial that could be used for the glissando technique or misused to deliver longer or painful shocks. It was not always clear between Dr Leeks and the nursing staff which treatment they were using on patients with the ECT machine. Dr Leeks occasionally recorded a patient as having received ECT when a nurse described it as aversion therapy.[268] Regardless of the label used, survivors described electric shocks as causing similar levels of severe pain. Properly administered, neither therapy would cause pain of the type consistently described.

124. Where possible, we draw a distinction between the legitimate use of electric shocks as a therapy (that is, ECT) and the use of an ECT machine to deliver electric shocks as aversion therapy or for punitive purposes. The use of unmodified ECT without anaesthetic or muscle relaxant or without following proper medical protocols is also discussed. Medications (primarily paraldehyde) were also used as aversive stimuli, particularly by the nursing staff.

"He punched me in the head several times and pulled my hair back and while I was on the floor he kicked me a couple of times as well. Dr Leeks seemed to have totally lost control, which was unusual, because he was usually so cool about everything, even when he was giving us ECT."

- Mr CC

2.1.4 Te haumanu matakawa mā te patu hiko: He momo whakamamae – Aversion therapy by electric shock: A form of torture

125. In contrast to Dr Leeks' descriptions of a therapeutic community, the survivors who spoke to the inquiry overwhelmingly described their experience of Lake Alice as one of violence and terror. A key component of that experience was the use of electric shocks to punish or deter behaviour in the name of aversion therapy, sometimes wrongly described as "unmodified ECT", in circumstances that departed from any recognised form of treatment.

Te patu hiko: wheako purapura ora – Electric shocks: Survivor experience

126. All of the survivors who spoke to us about electric shocks being administered at the unit said they were used as punishment. Most survivors told us threats of receiving shocks were a part of daily life in the unit. Mr Alan Hendricks, who did not receive shock treatment himself, told us:

> *"ECT was regularly used as punishment. The ECT machine would be wheeled into the dining room to scare us into being good. As soon as we saw the machine, everybody stopped talking and we would be silent. The only reason for the presence of the ECT machine was as a threat of punishment.*
>
> *... I am quite sure that it was punishment and not part of the treatment. I wasn't stupid and could put two and two together. I saw people misbehave, saw them threatened with the punishment, saw them dragged away, heard their screams, and could see the heat marks left on their legs around the knee area when they returned. Those marks were described to me by the boys involved as being from the electrodes."*[269]

127. Survivors described Dr Leeks as "the main instigator" of the delivery of electric shocks.[270] Other staff would "go through the motions", "doing what they were told to do by Leeks".[271] This is consistent with Dr Leeks' account. He told NZ Police staff were reluctant to get involved in aversion therapy, so he "expected to have to do it all myself anyway".[272]

128. Survivors felt staff influenced Dr Leeks' decisions about who got electric shocks by reporting to him who had been "naughty" that week. "Anything

anyone did that was unacceptable to the staff was put in the Day Book and bought up weekly when the weekly ECT happened."[273] Kevin Banks said:

> *"Unmodified ECT was for punishment. You got it if your name was in Dr Leeks' 'blue diary'. The staff would put you down for this during the week and you could get it for very small transgressions such as talking back to staff, smoking cigarette butts, running down the road etc..."[274]*

129. Some survivors described the sessions of shock treatment being worse if they had upset staff members. For example, Mr Charles Symes said that once he was grabbed from behind by someone to be taken for ECT, started fighting without realising it was Dr Leeks and broke his nose.[275] He said, "I got a hammering from ECT after that. I got ECT for six days in a row and each time it was harder and harder. I was then put in security for three weeks".[276] Mr JJ said:

> *"I think the doctors and nurses got a kick out of giving it to us. It was like they wanted to really, really hurt us. One day there was an incident between me and a nurse. I broke a pot accidentally. He threw a hammer at my head. After that, he gave me ECT. I got it 12 times in the same day. I was in so much pain after."[277]*

130. Some survivors met Dr Leeks only when he was administering electric shocks.[278] Some survivors felt Dr Leeks got enjoyment from delivering shocks. One survivor said, "I remember Leeks' face when he would turn the knob; he smiled every time, and his smile would get broader and broader the more pain he caused".[279] Mr Marks said, "To me, it was clear the staff enjoyed giving it to us. When I would beg or cry for them to stop, they would just laugh."[280]

131. Some survivors also remembered Fridays as "Black Friday" because Dr Leeks typically gave electric shocks on that day.[281] Survivors vividly described the anxiety of waiting for Dr Leeks to arrive, not knowing who would be chosen to receive shock treatment.

132. Most survivors told us they were afraid of being given electric shocks and many described the feeling of waiting to find out if they were on the list to receive shocks on a Friday. Bryon Nicol told us that children and young people who were to receive shocks would be locked in the dayroom so they couldn't escape while they waited for their name to be called.[282] Mr Banks told us, "I would wet my bed with fear on Thursday nights because I was so petrified of ECT".[283] He went on to say, "the whole room, even the big tough boys, were in terror and many would be crying in fear. Sometimes Dr Leeks would come into the day room himself and say 'who's for the zap' or 'who's for the ride on the thunderbolt' or 'who's for the national grid'?"[284]

133. Some survivors told us that children and young people would lose control of their bladders and bowels because they were so afraid to get shocks. For example, Mr Wickliffe said, "I knew lots of other kids who got ECT. They were always terrified of it; you could just see it in them. Some would urinate or defecate themselves in fear or others would be in the foetal position. Some kids would try to escape out of the windows".[285] Mr Wickliffe told us he and another survivor would often be on the list to receive shocks, "we would both lie in the foetal position in the dayroom, urinating and defecating with fear, clinging to each other, crying, waiting to see if we would be called for ECT. We only had each other".[286] Mr Malcolm Richards explains:

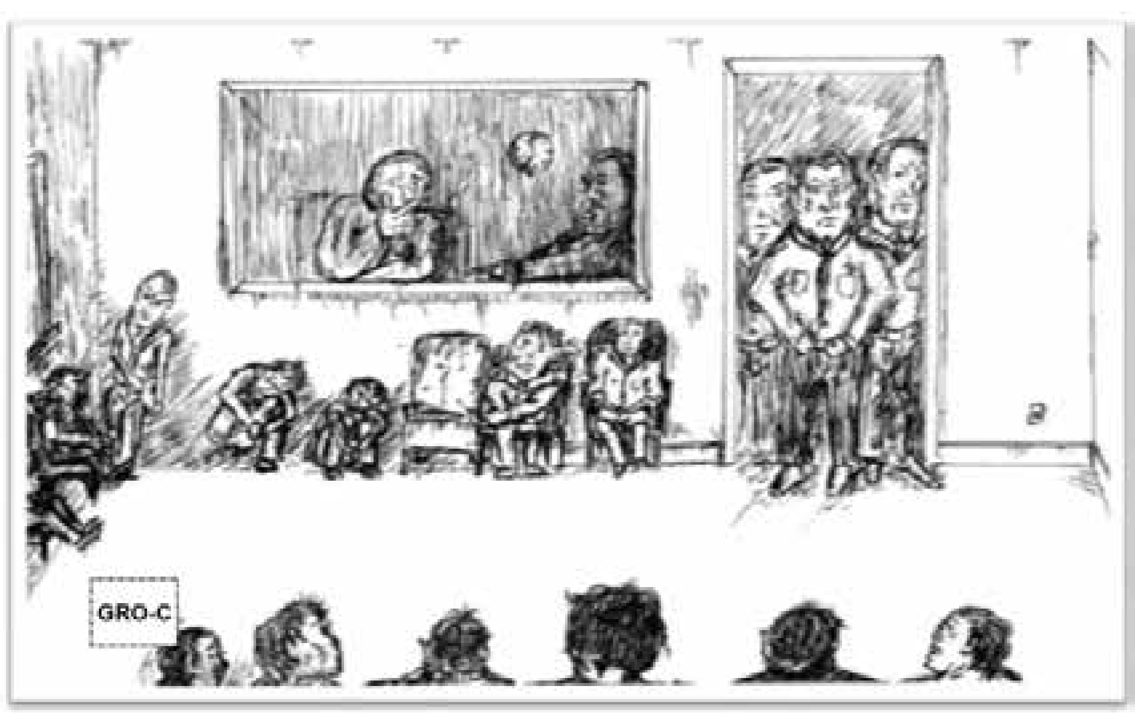
> *"We could see the children being physically dragged up for it; we could hear the terrible screaming. After their ECT the children were put on their bed in the upstairs dormitory near the ECT room. We could see them being brought down half-dead looking hours later, for dinner."*[287]

134. Mr JJ said when they were watching television in the lounge they knew when shock treatment was happening because "stripes would run across the TV screen".[288] Mr Banks told us that when Dr Leeks gave shock therapy the doors to the dayroom and the room where ECT was given were left open, "In the dayroom the boys could hear the screaming and cries of pain from those who were getting it".[289] He said they also saw the children and young people after they received shocks.

> *"Just seeing them was terrifying. Some had water drizzling down their temples; some had blood coming out of their mouths and all of them were dazed. Sometimes they had to be carried downstairs and sometimes they were unconscious. There were children aged 5 and 6 who received ECT, with and without anaesthetic. I recall seeing ECT administered when I was on cleaning duty to a boy who was 9. I saw the marks on his temples after he had it and heard his screams."*[290]

135. Some survivors described becoming familiar with the steps that were taken each week. For example, Ms Collis said,

> *"I knew that if Leeks came in with his trolley and tray, I was going to be put to sleep by injection and then get ECT. If he came in with just a trolley and no tray, I was going to [get] ECT but not put to sleep. I would hide under a table when they would come to drag us to give us shock treatment in the small side rooms. It was always Leeks that gave me ECT. The pain was like my head was exploding. Sometimes, I would wet myself, sometimes I would vomit, and I would get the shakes afterwards."*[291]



Drawing of patients waiting to receive electric shocks.[292]

136. Once in the room, survivors were restrained while Dr Leeks gave the electric shocks. Mr Symes said, "Whenever they tried to strap me down like this on the table, I would always lash out and try to fight it. I would hear the ECT machine warming up, it would make this humming sound that I can still remember today. Once the humming stopped, it meant the machine was ready and the pain started."[293] Some survivors described being made to play an active role in the process. For example, Mr Marks said, "The ECT began with staff forcing me to prepare the electrodes myself. We had to wrap bandages around a pair of steel headphones. I then had to dip them in salt water so the shocks would not burn my skin".[294]

137. Many survivors said Dr Leeks would turn the electricity dial up and down again and again so they repeatedly lost and regained consciousness. One survivor said Dr Leeks would start the machine on a low level, then turn it up and down again several times.[295] He described a second button which, if pressed, would knock survivors out instantly.[296] He said he was fully awake for all shock treatments.[297]

138. Mr Wickliffe said it was the most painful thing he had ever experienced in his life.[298] He said he would scream his lungs out because, "the harder you screamed, the more bearable it was",[299] even though there was only a tiny hole in the mouthguard through which to scream.

> *"I remember, while being given the ECT, that Leeks would be asking me questions like: 'How do you feel?' It seemed that only the highest-pitched, screamed responses would satisfy Leeks. If you didn't give an appropriate scream to his questions, he would move the electrodes*

from the top of my temples down to the side of my jaw. I think that Leeks liked to listen to the screams. I remember that when Leeks moved the electrodes down to a part of my cheek, I would give him a really hearty scream. Leeks would then be telling the other nurses around the table: 'This must be the spot'."[300]

Drawing of patient receiving electric shocks.[301]

139. Survivors said they remembered the shocks playing with their vision and seeing black and white lines. Mr AA said the shocks caused "a quick intense pain with everything flashing".[302] Yet another said the pain was so agonising she thought she was going to die.[303]

140. Survivor accounts are consistent with Dr Garry Walter's opinion to NZ Police in 2009 when he said severe pain was one consequence of unmodified ECT if the glissando technique was used improperly and the current was insufficient to bring about immediate loss of consciousness. He said other side effects were "flashes of light if the current was close to the optic nerve, aura, partial insight [sic], experience of the fear of death, perception of rhythmical movements, perception of respiration and choking".[304]

141. Some survivors described very little aftercare following shock treatment. For example, Mr Symes said, "When he finished shocking us, we were wheeled back into our wards, they would unbuckle the straps that were holding us down, and roll us off on to our beds. We were just flicked off like we were rag dolls. It

would take about five or six hours to come out of it".[305] Mr Richards described being carried out after receiving ECT and dropped into a cold-water bath.

> *"I felt a blow to my head and not sure if I hit the end of the bath as I was dropped in or if I had been given another belt with the ECT machine. I was pretty out to it and I could not stay afloat and sunk. I felt I was drowning until someone eventually pulled my head up. To this day I have problems with traumatic memories that come back with cold water – even a cold-water drink will bring on the flashbacks."*[306]

Drawing of patient after receiving electric shocks.[307]

142. Two survivors, Mr Symes and Mr Andrew Jane, were given ECT despite suffering from heart problems. When Mr Symes went to Lake Alice, his medical file said he had a heart problem.[308] Mr Symes said once after receiving shock treatment he spent about a week and a half in hospital and was on a respirator because he was having heart and breathing difficulties.[309] As an adult, a surgeon told him his heart condition meant he should never have been given ECT and that he was "lucky to be alive".[310] Mr Symes told us that his experiences with ECT had exacerbated his ongoing heart problems.[311] Mr Jane had a heart operation as a young boy. He told us this would have been obvious to staff from the large scar on his back.[312]

Ngā kōrero a ngā kaimahi mō te haumanu matakawa, te patu hiko me te Haumanu Hukihuki ā-Hiko āwhina kore – Staff accounts of aversion therapy, electric shocks and unmodified ECT

143. Staff recollections of Dr Leeks and his practices were mixed. Nurse aide, Denis Hesseltine, said when he worked with Dr Leeks he honestly believed the psychiatrist had good intentions of helping young people to behave more positively.[313] Former nurse, Brian Stabb, recalled Dr Leeks having "a genuine concern for his charges".[314] Yet, at other times, Dr Leeks was seen as "omnipotent and unreasonable" and a man who "put himself above being personally affected by administering [aversion therapy], and in so doing, failed to recognise the development of his own sadism and that of some of his staff".[315]

144. Mr Stabb and Mr Al Scholes described helping Dr Leeks administer unmodified ECT, and both were disturbed by what they witnessed. Mr Stabb recalled witnessing about a dozen unmodified ECT sessions[316] and the sheets being soiled after one session.[317] He said unmodified ECT would last about five to 10 seconds and would stop once the patient had a seizure.[318]

> *"Unmodified ECT is not an easy or pleasant business to view or assist with. The patient's shoulders and knees had to be restrained to avoid injury as the convulsions were often quite violent. They would often yell and scream. Any claim that unmodified ECT was quick and painless is not true."*[319]

145. Mr Stabb felt Dr Leeks was occasionally attentive to patients in group and individual therapy. However, he described his use of unmodified ECT as sometimes "unsavoury to say the least"[320] and "sometimes questionable, and on the fringes of acceptability, even for those times".[321] He vividly remembered one incident in 1975 involving a 15-year-old boy, Mr DW, whom he described as "active" and "quite sociable".[322] Dr Leeks saw the boy after he ran away. Following a 10-minute interview, Dr Leeks decided the boy should be given unmodified ECT. Mr Stabb described what happened next.

> *"[Mr DW] did not co-operate and had to be restrained. It was a prolonged episode in which he broke away from us at one point, and we had to chase him through the villa. During the chase I recall Dr Leeks running around the dormitory with the ECT machine under his arm. He was joking with us all in the process. It was bizarre. When we caught [Mr DW], he was taken upstairs fighting and screaming and given unmodified ECT. It was deeply distressing. The whole experience left me shaky, nervous, giggly, and close to incontinence."*[323]

146. Mr Stabb later expressed his discomfort to Dr Leeks about the way the boy had been treated. He recalled that Dr Leeks "reprimanded me and told me very clearly that it was not my place to question his clinical judgement, and that if I continued to do so, he would arrange to have me transferred to another villa. He also told me that I should consider my position in the hospital and my reliance upon hospital housing".[324] Mr Stabb said this threat had a profound effect on him, and his relationship with Dr Leeks was never the same. Asked about this incident at our hearing in 2021, Mr Stabb agreed he could see how the boy would have regarded the electric shocks as punishment.[325]

147. The incident was recorded in Mr DW's notes by nurse Terry Fountain. He wrote that Mr DW left the hospital grounds at breakfast time on 11 August 1975 shortly before he was due to have ECT. He said this may have been the reason for absconding. He was returned shortly before midday by Marton police. The entry concluded, "Unmodified ECT Dr Leeks".[326]

148. Mr DW's nursing notes record he was given electric shocks at least seven times. In September 1976, after he had left Lake Alice, Mr DW was seen by Dr Frazer, a child psychiatrist at the Department of Social Welfare. Dr Frazer wrote that Mr DW had told him he received ECT 12 times. He described Mr DW's account of events at Lake Alice as "very disturbing" and noted that his account was not an isolated one, "We have other reports from similar in-patients [about] the misuse of drugs, the use of ECT and the exposure to sexual deviation".[327]

149. Mr Scholes, who worked at the unit from 1972 to 1974, views differed from those of Dr Leeks that patients were always unconscious when given ECT or that it was painless. He said what he witnessed was painful. "Sometimes the patients weren't rendered unconscious and sometimes they would have felt the shock administered ... on other occasions the patients would be conscious throughout."[328] Mr Scholes also accepted Dr Leeks gave unmodified ECT as punishment.

> *"I do not really like to think of the ECT given in the Unit as having been punishment, but if I am being truly honest, it was punishment. With Dr Leeks, if a patient did something wrong, the response would be to give them ECT. I did not agree with how Dr Leeks administered unmodified ECT, and for the part I played in that I am sorry."*[329]

150. Gloria Barr, a nurse aide at the unit in 1976 and 1977, said it was common knowledge among staff and patients that Dr Leeks gave electric shocks as punishment (incorrectly described as ECT) and that patients were terrified of it. She said that "whenever a patient was taken upstairs, the rest knew what was going to happen. It was awful".[330]

151. Ms Barr said Dr Leeks once told her to help him give "ECT", which must have been unmodified, to a 12-year-old boy who had soiled his pants. She said the boy was "absolutely petrified" and the "expression on his face was one of sheer terror as he was marched upstairs".[331] She said Dr Leeks told her and another staff present to hold the boy's limbs while he applied the electric current.[332] She said the boy was immediately rendered unconscious, but it was "terrible to watch".[333] She told us she considered what happened to the boy to be torture. "I wish I had done something about it more then, but I really didn't know who to go to."[334]

152. Charge nurse Corkran told us he had no memory of being present when unmodified ECT was used.[335] However, on 27 January 1975, he recorded that Dr Leeks gave unmodified ECT to a patient.

> *"Admitted, along with another mis-guided youth, to have been responsible for several acts of vandalism directed at hospital property and fellow patients who have fallen out of favour with them. Placed in s/room [seclusion room] where he lost what critically balanced control he does have, was unresponsive to Largactil 50 mg by injection and was finally given unmodified ECT in an attempt to help him re-establish control. Dr Leeks officiating."*[336]

153. Mr Conlan, a nurse in the unit from 1972 to 1977, recalled "having words"[337] with Dr Leeks over electric shocks he gave to Mr Paul Zentveld. Mr Conlan, who thought the treatment was aversion therapy, said Mr Zentveld began having muscle spasms, which he said was not meant to happen. Mr Conlan questioned Dr Leeks about this, and he replied to the effect that Mr Conlan was living in a hospital house. Mr Conlan interpreted this as a warning to not question Dr Leeks' judgement again and to do as he was told.[338] He said Mr Stabb had told him Dr Leeks had issued an identical warning to him by referring to the hospital house he was living in.[339]

154. In 2001, Crown Law asked Dr Leeks' first wife, Ms Priscilla Leeks, what she considered Dr Leeks' purpose was in giving electric shocks. She said they were intended as a "controlling device" to "modify children's behaviour" and at times, in her opinion, there were "elements of punishment in the handing out of ECT".[340]

155. Dr Pugmire said Dr Leeks stopped using aversion therapy in 1974 after having experimented with "the use of electricity in negative reinforcement".[341] In 1977, Dr Leeks said he decided to give Mr Banks a series of three aversion therapy sessions for allegedly attacking another boy.[342] Dr Leeks said this consisted of 'faradic stimulation' (a technical form of electrical therapy) while he thought and talked about his feelings of attacking the boy concerned. Mr Victor Soeterik, a psychologist who helped Dr Leeks at the unit, said he did not feel comfortable with the idea of faradic shock after

Dr Leeks showed him a British journal on the subject, which described it as a type of aversion therapy to suppress behaviour temporarily.[343] Having said that, Dr Pugmire recorded that when he removed the ECT machine Dr Leeks was using in December 1976, Mr Soeterik was part of a delegation brought by Dr Leeks to 'put their case' to have the machine returned.[344]

Te patu hiko ki te paehema me ngā ū – Electric shocks applied to genitals and breasts

156. Dr Leeks applied electric shocks to patients' genitals and breasts, sometimes making other patients watch him do so. There is evidence that 15 individuals at the unit and at least one person in the adult wing were given electric shocks to the genitals, groin or breasts. In 11 cases, Dr Leeks was identified as responsible. Nurses were identified as responsible for the rest. Dr Leeks denied giving shocks to people's genitals,[345] but said he did put electrodes on boys' thighs.[346] Survivors and former staff described how Dr Leeks attached the electrodes to the upper thigh before sliding them up to their groin and on to the genitals.[347]

157. Survivors described the pain as excruciating. Mr Banks said it was, "like hot needles going into your testicles".[348] Survivors said the pain travelled through their whole body. Three survivors said the burn marks on their genitals remained to this day.[349] One survivor said Dr Leeks put electrodes on her breasts, and she was aware of other girls who had experienced the same thing.

158. Perceived homosexuality was a common justification for giving boys electric shocks to their genitals. This justification was used in five of the 12 cases in which we found boys were given shocks to their testicles. One of the five told us Dr Leeks put electrodes on his temples, arms and hands for resisting ECT, on his legs for kicking a door, and on his genitals for masturbating and participating in homosexual activity. Dr Leeks would say, "[Let's] cure your sexuality the hard way".[350] Other reasons for getting shocked on the genitals included refusing medications[351] and bed-wetting.[352]

159. Dr Leeks and staff would make other patients watch them giving shocks to a patient's genitals and made some patients give the shocks. One survivor said Dr Leeks punished him after a boy complained that he had abused him – an allegation the survivor denied. Dr Leeks made the boy give the survivor electric shocks to his genitals, saying it was his chance to exact punishment. "The boy then held the electrodes on either side of my penis." He said this caused "unbelievable pain, it was agony".[353]

160. Mr Wickliffe said he witnessed a survivor being given shocks on his penis. He heard the survivor screaming and sneaked upstairs to investigate. He poked his head around the door and was shocked to see that staff had "wrapped his penis in gauze and then attached electrodes to it [and] then proceeded to zap him".[354] On another occasion, Dr Leeks made a group of boys give this survivor electric shocks for abusing them. One of those in the group was Mr Banks.[355]

161. Another instance of a group of boys giving shocks was witnessed by staff and other boys in the unit. The survivor was Mr CC, who sexually assaulted five boys in the unit in 1974 and was later charged by NZ Police and convicted. Mr CC himself had been the victim of abuse. When the crimes were reported, Dr Leeks had Mr CC placed in solitary confinement in villa 8, the hospital's medium-security villa. Mr CC said Dr Leeks entered his room in a rage about the sexual abuse. He was also upset that he would have to tell the boys' parents what had happened to them.[356]

> *"He punched me in the head several times and pulled my hair back and while I was on the floor he kicked me a couple of times as well. Dr Leeks seemed to have totally lost control, which was unusual, because he was usually so cool about everything, even when he was giving us ECT."*[357]

162. On his second day in solitary confinement, staff restrained Mr CC as Dr Leeks subjected him to a prolonged series of electric shocks to his "arms, legs and body, I was moving around trying to get away, I was yelling out in pain and terror … At one point I was cowering in the corner. He had turned the dial up and was pushing the prongs on parts of my body. I thought I was going to die".[358] Mr CC said that on his third day in villa 8, Dr Leeks invited the boys Mr CC had abused into the room to give Mr CC electric shocks: "Leeks got them to turn the dial in turns. Some turned it longer than others. I was so traumatised. It felt like forever."[359] Mr Banks said Dr Leeks told him to give Mr CC shocks and "to turn the dial up as high as we wished".[360] Dr Leeks later confirmed Mr Banks' account, saying he remembered Mr Banks turning up the dial to its top level. However, he said this was "still below the level of pain, but it was a fairly intensive stimulus".[361] Dr Leeks justified this to the Medical Association as being a therapeutic exercise.[362]

Drawing of Mr CC being given electric shocks.[363]

163. Mr Banks recalled "the horror on [Mr CC]'s face – he looked like he was screaming, but not a sound was coming out of his mouth".[364] A second boy, Mr EA, said all he could hear was, "Howard Lawrence [a nurse] in the background laughing and saying, 'he's getting what he deserves'".[365] Another survivor described the fear on Mr CC's face while he was restrained.

164. Nurse Conlan confirmed Dr Leeks invited the boys to give Mr CC electric shocks and put the electrodes on Mr CC's thighs and then his genitals. He said he found the entire experience 'strange', 'upsetting' and 'disturbing, particularly since it was "the first time I had seen this done" and it was outside the criteria the staff had seen for the use of electrical aversion.[366]

165. Ms Leeks, who also worked in the unit, remembered Dr Leeks becoming enraged after learning an adult patient had exposed himself to patients in the unit. She said Dr Leeks told her he wanted to give the man electric shocks and "would attach the nodes to his penis to stop that sort of behaviour".[367] It is possible she was referring to an incident that Mr Conlan also described involving an adult patient "labelled a sexual predator".[368] Mr Conlan said he came back from lunch one day to find Dr Leeks had the adult patient in a room, along with several of the unit's patients. Mr Conlan said Dr Leeks asked him to be present, "while the kids shocked the patient on the legs and other places on his body. I was shocked and disgusted and got into a row with Dr Leeks as a result of what was taking place".[369] Mr Conlan

said this incident and the one involving Mr CC were the only occasions he considered Dr Leeks had 'exceeded' the criteria for use of electric shocks.[370]

166. Other staff, including Mr Stabb, heard of patients being given electric shocks on their genitals. Mr Stabb told us, "I tried the ECT machine on my arm to see how it felt. It hurt. I could not imagine having that feeling on somebody's genitals".[371] In a media interview in 2001, Mr Hunt said, "ECT was used on boys' testicles to punish them for so-called sexual misconduct".[372]

167. Mr Symes was the first survivor to complain of receiving electric shocks on the genitals from Dr Leeks. In a sworn statement to the Citizens Commission on Human Rights in 1978, he said Dr Leeks gave him ECT "below the belt" and on his "private parts".[373] Mr Symes said he took his statement to NZ Police in Whangarei and the Department of Health, but no investigation eventuated.[374]

168. Sixteen individuals complained about receiving electric shocks on their arms, hands, shoulders, thighs, legs and feet while in the unit. Survivor, Pete Rose, said he witnessed Mr Steve Hunt give shocks to a 17th patient (now deceased) on his thigh for not eating his dinner. Mr Rose said the patient was unable to eat because he was in a drugged state.[375] Mr Rose said Mr Hunt became enraged and brought the ECT machine to the dinner table and addressed everyone present, saying:

> *"'I want you all to see this – this is what happens if you don't eat your dinner' or words to that effect. He then placed the electrodes on [the patient's] thigh and proceeded to give him several shocks. [The patient] shuddered as each of the shocks were delivered."*[376]

169. Survivors said other nurses, including Mr Conlan and Mr Lawrence, also gave patients shocks on their limbs as punishment for misbehaviour. Survivor, Alan Hendricks, recalled seeing boys come back from receiving electric shocks with 'heat marks' on their legs and knees.[377] Mr Banks said Mr Hunt, Mr Lawrence, Mr Conlan and Mr John Blackmore were "the main ones who were into zapping us on our legs". He said they would sometimes make patients, "put the electrodes on your knee, and you would be asked to turn the dial yourself. How could I possibly describe the pain? It was like a sledge hammer".[378]

170. Mr Scholes told us he saw Mr Hunt give one boy shocks to the knee after he was seen kicking someone on the sports field. Mr Scholes told Mr Hunt he considered this "a bit over the top", but Mr Hunt replied Dr Leeks had authorised such measures and he should take up the matter with him.[379] Mr Hunt and Mr Conlan both admitted giving patients electric shocks but maintained it was done on Dr Leeks' instructions.[380] Mr Hunt accepted he gave a patient electric shocks on the legs for absconding.[381]

171. In a media interview, Dr Leeks also acknowledged he gave patients electric shocks on the legs. He said this was part of aversion therapy and, under this therapy, it "doesn't matter whether you put it on their fingers or toes, or feet or legs, or arms".[382]

Aromatawaitanga mātanga, motuhake hoki o te patu hiko i te manga – Expert and independent assessment of electric shocks at the unit

172. There is a marked difference between what experts said about Lake Alice and Dr Leeks in the 1970s and what experts have said since the mid-1990s. In the late 1970s, a series of psychiatrists spoke in favour of Dr Leeks and defended their understanding of the conduct in the unit. They included Dr Jim Methven and Dr John Werry, who attended the commission of inquiry into Mr Hake Halo's case,[383] Dr Dobson, who defended Dr Leeks publicly after an Ombudsman's inquiry,[384] and Dr David McLachlan, who provided an expert opinion to NZ Police in 1977, which we discuss further below.[385] Dr McLachlan's opinion contained the following testimonial in support of Dr Leeks:

> *"It would be appropriate … to comment on Dr Leeks personally as I know of him. He has been well regarded by psychiatric colleagues, and has been accepted as a psychiatrist with specialist training, interest, and ability in the management and treatment of young people. On many occasions he has been invited to address medical gatherings on aspects of his work, and this reflects his standing. Colleagues who know him much better than I do, accept him as a man who is compassionate, concerned for his patients and working diligently for their wellbeing. It would be entirely out of character for him to undertake the sort of ill-motivated practises [sic] that are alleged."*[386]

173. Many other psychiatrists spoke publicly in favour of Dr Leeks in the late 1970s. Some may have fallen into the error of thinking that the complaints about Lake Alice were about the legitimate use of ECT. At the time, the use of ECT was particularly controversial. Some opponents saw the therapy in any form as inappropriate or a form of torture, a view some maintain to this day. This may have led some in the psychiatric community to be overly quick to defend Lake Alice, assuming they were defending the use of therapeutic and properly administered ECT.

174. Since the mid-1990s, medical, psychological and legal experts have been clear in their condemnation of what happened at Lake Alice. In 2001, Sir Rodney Gallen called Dr Leeks' use of electric shocks to inflict pain and coerce behaviour "outrageous in the extreme".[387] At our hearing,

an expert on aversion therapy and operant conditioning, Dr Barry Parsonson described Dr Leeks' behaviour as a form of torture.[388] Dr Alan Mawdsley said he had never heard of such conduct before and described it as "appalling", "astounding" and "the behaviour of [a] thug".[389]

175. For our hearing in 2021, Dr Parsonson reviewed Dr Leeks' claimed use of these treatments. He told us he could find no evidence to suggest he "applied any established therapeutic procedure or followed any of the basic precepts of [aversion therapy]".[390] He also found Dr Leeks did not comply with accepted operant punishment practice.[391] Psychiatric research has always regarded the use of punishment, the heart of this practice, as an intervention of last resort.[392] Dr Parsonson told us he considered giving electric shocks to the limbs to be "closer to torture than it is to any known form of therapy".[393] Dr Walter said it was "never accepted practice" to give electric shocks to the parts of the body associated with "offending behaviour".[394]

176. Dr Parsonson told us the training and research literature from the late 1940s onwards set out the proper application of aversion therapy.[395] He said Dr Leeks' use of electric shocks did not comply with properly conducted aversion therapy or operant punishment as Dr Leeks:

- did not seek patient consent beforehand,[396] which was necessary and vital to the treatment's effectiveness[397]
- administered shocks to inappropriate parts of the body, including the genitals, which was not a recognised feature of any aversion therapy[398]
- routinely caused extreme discomfort and pain,[399] whereas only a mild pain or degree of discomfort was required to establish a connection with the unwanted behaviour[400]
- did not time the application of electric current to target, coincide and establish a conditioned response with the unwanted behaviour.[401]

177. Leoni McInroe received ECT from Dr Leeks as an adolescent at the unit. Her records were reviewed by psychiatrist Dr Peter McGeorge in 1993 and Dr Werry in 1995.[402] Both found that Ms McInroe did not have any condition that could have legitimately been treated by ECT.[403] Dr McGeorge described her ECT as "quite unjustified",[404] and Dr Werry said ECT had been "misused for behavioural control though I cannot say whether or not this was done wittingly".[405] Child and adolescent psychiatrist Dr Susan Perry gave a similar opinion in 1997 on Dr Leeks' use of ECT on Mr DW, another unit survivor.[406]

178. Two psychiatrists examined Ms McInroe's file notes for Crown Law in 2001. One of them, Dr Walter, described her ECT in December 1975 as a "dubious practice to say the least" because it was administered in response to "causing

trouble" over boys.[407] He said Dr Leeks gave her ECT as punishment, and a file note at the time supported this conclusion. The note read, "If any repetition of last week's behaviour, to have ECT".[408] He also noted a one-off session of ECT did not constitute a course – either then or at any other time – and this added to the dubiousness of the treatment.[409] He said it was unusual to give ECT so late in the day (5.30pm), suggesting the decision had been "rushed", and the fact the patient had later vomited reinforced this impression because it raised the question of how adequately she had been fasted. There was also no evidence of Ms McInroe's family being consulted or her consent obtained.[410]

179. Dr Philip Brinded, the other psychiatrist to review Ms McInroe's records for Crown Law, said it was "difficult to see what [symptoms] she displayed that would have warranted [giving her] ECT". He said her notes contained mostly comments about her boisterousness and excitability, and how she was "attention-seeking and manipulative".followed by the note "ECT x 2". He concluded that giving her ECT "certainly [fell] outside accepted medical practice".[411] In 2009, Dr Garry Walter advised NZ Police that "ECT was (and is) a treatment for a psychiatric disorder, not (isolated) psychiatric or other symptoms (like disobedience or absconding for example)".[412]

180. In 2001, the Crown asked Dr Brinded, as well as three other psychiatrists (Dr Jeremy Skipworth, Dr Walter and Dr Rees Tapsell) to review the treatment of 20 other claimants. Their analysis was hindered by the lack of records from Dr Leeks showing why and how electric shocks or ECT were administered to the claimants. However, they identified many examples of ECT being given inappropriately.

181. For example, when forensic psychiatrist Dr Skipworth reviewed the treatment given to one survivor, he concluded Dr Leeks "administered unmodified ECT, probably for punishment". Dr Skipworth said this would have caused "significant pain", and the survivor's legal claim was "entirely justified".[413] Dr Skipworth looked at the notes of another survivor, who was admitted at age 14 and again at 17. He said the information confirmed the survivor had been given "ECT" numerous times as punishment for smoking and masturbating.[414] Similarly, Dr Skipworth concluded a third survivor "was indeed given ECT as punishment for bad behaviour". The notes did not reveal whether the ECT was modified or unmodified, but Dr Skipworth said it was clear to him from the survivor's detailed description of his treatment that it was unmodified. "Either way", he said, "this is grossly inappropriate treatment and would have been considered so even in 1973".[415]

182. Psychiatrists in the Ministry of Health also recognised that Dr Leeks had misused electric shocks. Psychiatrist Dr Janice Wilson was the ministry's Director of Mental Health when Ms McInroe filed her claim in 1994. She told us Ms McInroe's claims of inappropriate, unmodified ECT and the misuse of aversion therapy were "compelling and believable".[416] Dr Anthony Duncan, another psychiatrist, was the ministry's Deputy Director of Mental Health in 2001, when the Crown settled with the first group of unit patients. He was eager to distinguish Dr Leeks' use of electric shocks as aversion therapy from ECT, saying it was "totally indefensible to use electric currents to deliberately cause pain using any equipment, including ECT equipment".[417]

183. In 2007, Mr Craig Patterson from the Royal Australian and New Zealand College of Psychiatrists was interviewed in a 20/20 television documentary. He commented on what happened at the unit, describing it as 'torture' and 'terror', and said "electric shocks for the purposes of getting children to modify behaviour is not medicine. It is not psychiatry ... it is assault, it is grievous bodily harm".[418]

184. Crown lawyers, too, recognised there was strength to survivors' claims that Dr Leeks had used electric shocks inappropriately. In February 1999, Crown Law told the Ministry of Health that some of the claimants' medical files seemed to corroborate their allegations they received unmodified ECT and that ECT was used as punishment.[419] Dr Anthony Duncan, Deputy Director of Mental Health, wrote in August 2000:

> *"The Ministry accepts that there was "a culture of fear" in the adolescent unit and that ECT was used as punishment. As a consequence of the 'culture of fear', and the arbitrary use of ECT, it is inevitable that all claimants will have been psychologically damaged by their experience."*[420]

185. In 2009, Attorney-General Christopher Finlayson said Dr Leeks' form of aversion therapy using an ECT machine was "indefensible even for its time".[421]

Te whakamahi i te patu hiko hei whiu – Use of electric shocks as a punishment

186. Sir Rodney Gallen, reporting to the Government in 2001, was clear in his view that electric shocks were administered at Lake Alice "not as a therapy in the ordinary sense of that word, but as a punishment".[422] That conclusion was supported by a considerable body of evidence, which has since been augmented before this Abuse in Care Royal Commission of Inquiry, much of which we summarised in the previous section. The evidence that Dr Leeks and his staff gave electric shocks to punish is compelling. Survivor accounts of extreme pain inflicted punitively were credible, plausible, consistent and supported by the available evidence, including the accounts of some staff. As Sir Rodney concluded, there was "no doubt at all that the children saw the administration of [electric shocks] as being a punishment and intended to dissuade them from certain forms of conduct".[423]

187. There is also no doubt that electric shocks were administered in the unit in ways that were not a legitimate form of ECT, even though an ECT machine was used to administer the shocks. Among other things, Dr Leeks:

   - gave electric shocks when the dominant purpose was to change behaviour rather than properly conducted therapy
   - used an Ectonus ECT machine to manually increase the electric current, which resulted in patients remaining conscious for much or all of the time and experiencing significant pain and discomfort
   - seldom sought consent beforehand from patients or their legal guardians
   - applied the electrodes to patients' limbs, chests and genitals – not to the recognised area of the scalp
   - sometimes gave electric shocks on a one-off basis, rather than as part of a normal course of treatment.

188. Dr Leeks maintained he never used an ECT machine for punishment. Asked during a media interview in 1977 whether he had used electric shocks as a form of corporal punishment, he dismissed the suggestion as "arrant rubbish".[424] In an affidavit sworn in 1995, he said the unit was, "based on its being a therapeutic environment, not one based on punishment. Electro-convulsive therapy was not a punishment. When required to be given, it was a treatment".[425]

189. However, the evidence we have heard clearly establishes that Dr Leeks intentionally used the ECT machine to deter children from actual or perceived bad behaviour by delivering electric shocks to other parts of the body. Indeed, for many, the experience of waiting for electric shocks was itself a form of punishment and inseparable from the experience of actually receiving the shocks.

I whakamahia te patu hiko hei whakamamae i ngā tamariki me ngā rangatahi – Electric shocks used to torture children and young people

190. At our public hearing in 2021, the Solicitor-General accepted the allegations made by Lake Alice survivors had "all of the features of torture".[426] She said torture has three elements. First, the infliction of severe pain and suffering,[427] "no doubt that has been met".[428] Secondly, by a person acting on behalf of the State,[429] "also no question that has been met".[430] Thirdly, for the purpose of punishment. She was reluctant to express a view on that question, but said if a fact-finder, such as this inquiry, found that purpose to be the case, all three elements of torture would be met.[431] She accepted that, as alleged, the conduct at Lake Alice "meets the three criteria for torture".[432]

191. We agree with the Solicitor-General's conclusions about the severe pain and suffering survivors experienced and Dr Leeks' status as a public official. We have already concluded the evidence is compelling that electric shocks were sometimes administered at Lake Alice as punishment, outside the bounds of any proper therapeutic approach. It follows that in the view of the inquiry those acts meet the definition of torture as outlined by the Solicitor-General.

2.1.5 I tua i te patu hiko: Wheako tūkino o ngā purapura ora ki Lake Alice – Beyond electric shocks: Survivor experience of abuse at Lake Alice

Te taenga atu ki Lake Alice – Arriving at Lake Alice

192. The experience of arriving at the unit was traumatic for most survivors. Some spoke about the distress experienced watching others arrive. For example, Ms LL told us, "I have a vivid memory of a young boy of five to six years old standing on the steps of Lake Alice holding a teddy bear and screaming for his mum and dad. He had been dropped off in a car and left alone there. He was pākehā. That cut me to the core".[433]

193. Survivors often described their impressions of the buildings at Lake Alice as intimidating and prison-like. One survivor described not being told where she was going, being driven down a long road, seeing a building with high ceilings and big windows, and getting the feeling in her gut to run.[434] Mr Jane also told us "the building was like a prison – all fenced up. Everyone was locked up, and you couldn't get out. It was like going into maximum security".[435]

194. Some Lake Alice survivors said their initial impressions of Dr Leeks were favourable. They used the terms 'nice',[436] 'kind'[437] and 'placid'[438] to describe how they first saw him. However, these impressions often changed, as Mr Hendricks explained. "He was placid to talk to, but you couldn't go against him, he was the boss. The less you had to do with him, the better. It wasn't good when Leeks was around".[439] Ultimately, most survivors we spoke to remembered Dr Leeks as a frightening man they tried to avoid.

195. Many survivors told us that arriving at the unit and meeting Dr Leeks was disorienting and processes weren't explained to them. For example, Mr Richards told us:

> *"What I recall about my arrival was that Mum and I went into Dr Leeks' office for about five minutes. He spoke to my mother, not to me. He then called a nurse in to take me upstairs and sent mum on her way. Upstairs I was told to strip out of my clothes and shower. I was then told to pick out some clothes from a big sack. I don't recall ever being assessed by a doctor or nurse. It was not explained to me that I would be getting ECT. It was never explained to me what it was in for and I was never asked to consent to it."*[440]

Photo Credit: Mike Heydon / Jet Productions
"Instead of love and care I got cruelty and torture"

Name: Bryon Nicol

Age when entered care: 11

Age now: 61

Hometown: South Island

Time in care: 1972–1978

Type of care facility: Boys' homes – Stanmore Boys' Home, Holdsworth School, Hokio Beach School, Kohitere, Dunedin Boys' Home; psychiatric hospital – Lake Alice; borstal – Invercargill.

Ethnicity: European

Whānau background: Seventh of eight children.

Currently: Married with four children, Bryon and his wife are grandparents.

Bryon Nicol

The first time they gave me electric shocks I went willingly, because I didn't know what it was. After that I was like all the other boys – they had to drag me up the stairs. I was absolutely petrified.

'ECT' was given on a Friday, always unmodified – no anaesthetic or muscle relaxant beforehand. My first time getting electric shocks was also the first time I remember meeting Dr Selwyn Leeks. I was on the bed with a rubber mouthguard in. The machine gave me vicious pain and made me feel dizzy, with fuzzy lines running through my brain. My arms and legs flailed about in agony. You just wouldn't believe how bad the pain was.

They would call your name while you were having lunch, and that meant you had to stay. We were taken to a day room and locked in, so we couldn't escape. I was often so scared that I soiled myself.

I only saw Dr Leeks when he gave me electric shocks and I soon became terrified of him. I'd see his Kombi van pulling up in the grounds and terror would run through me. My life became about survival – I was in such a state of fear and misery every day, it wasn't possible to make friends or learn anything. Unmodified ECT was given as a punishment – it seemed that how long you got it for depended on how 'bad' the staff thought you had been that week. I tried to run away once, so Dr Leeks gave me electric shocks on my feet to teach me a lesson. The pain was worse because it ran up into the rest of my body, whereas if you had shocks on your head, the pain stayed there.

I was also raped by another patient repeatedly and when I told the staff, they didn't believe me – and punished me for "lying" by giving me more electric shocks. My records show I was even given shocks for "showing off in front of the girls". You just got what was given to you, you had no control over anything.

> ***I had a hard time at school and I was always being punished for how I was. I'd been in trouble for breaking and entering, and I was a super-hyperactive child, just wired all the time and jumping off the walls with energy. Today they'd call it ADHD. To add to that, we had a hard family life for a lot of reasons and I didn't have a happy or easy childhood.***

My notes say I was admitted to Lake Alice because of "hysterical character disorder and suicidal gestures". There was an incident when I climbed to the top of a cathedral in Christchurch and called out that I was going to kill myself. I wasn't, though – I was just being naughty and trying to get attention.

I told my Mum what was going on, but she didn't believe it. She did write to Dr Leeks to complain about the lack of information about my progress, and they told her it was none of her business as I was a state ward.

My life has been totally screwed up following the 'treatment' I got in Lake Alice. I have a lot of pain – muscle pain and pins and needles in my legs and feet. I'm still haunted by the trauma, and I live it in my mind and body daily. In particular, the memories of being raped, the sight and smell of urine and faeces swelling up in our pants and dripping down while waiting for electric shocks, and begging for help but being called a liar and punished for it. These are the worst memories, and they flash up every day.

Being in care made me feel like I was just a piece of shit to staff and authorities. It wasn't a caring environment, and I never felt like anyone valued me. I reckon I had ADHD, and instead of love and care and help with it, I got cruelty and torture and was made to feel like a worthless human being.

> ***I went to jail at one point. I taught myself to read while I was there, and after I got out I met my wife and she helped me turn my life around. I'd started drinking to numb the memories but now I haven't drunk alcohol for 14 years. My wife is endlessly patient and so amazing – she had been in care too, so she understood me. I reckon I would be dead long ago if I hadn't met her.***

For me, the inquiry has always been about a proper apology from the Government and to make sure it never happens to another child, ever again. That's my priority.

References:

Witness statement of Bryon Nicol, WITN0350001 (24 March 2021).

Letter from Bryon Nicol's mother to Dr Selwyn Leeks, WITN0350004.

Letter from Dr Sydney Pugmire to Dr Stanley Mirams, WITN0350005 (22 June 1977), p 1.

196. Mr Wickliffe told us he was first taken to Lake Alice for ECT treatment from Holdsworth when he was 10. He didn't know why he was going, and he said when he arrived he was given a cup of brown liquid that made him very sleepy, and he next remembers waking up, "with a throbbing headache and dry mouth in a bed, and the ward was full of people who weren't moving and had blankets on top of them".[441]

197. Survivors described the dormitories within the villas as hostile. For example, Ms Debbie Dickson who was admitted to the unit when she was nine told us:

> *"I remember the bedroom that I stayed in. I was all by myself … It had just one bed, with no toilet. As an adult looking back, it reminds me of a prison cell. They would lock me in at night. I remember feeling so scared when the lights went off and the doors were closed for the evening."*[442]

198. Overall, most survivors told us the environment was one of fear in the unit. For example, Ms McInroe told us:

> *"I can recall feeling unsafe. Always unsafe in an unpredictable environment. I recall feeling helpless and hopeless – frightened and anxious of my surroundings and all of the adults around me. Initially I was terrified of everything and everyone. This terror never left – it lessened as I became more and more institutionalised and older and a bit more accustomed to the absurd setting, but it never left."*[443]

Te noho tahi a ngā tamariki me ngā rangatahi ki ngā pakeke – Housing children and young people with adults

199. The placement of the unit within the wider hospital meant children and young people sometimes shared the space with adult patients. Many survivors told us they felt frightened of some of the adult patients. In this section, we discuss what survivors told us about being housed with adult patients, and how some survivors spent time in the medium-security and maximum-security units in the hospital.

200. Nurse Scholes told us that while the young people lived in villas in the grounds of the wider hospital, it was the intention and practice to keep them separate from the adult patients.[444] He said, "this was as much for their own protection from some of the more chronic adult patients, as it was for the peaceful enjoyment of the facilities by the adult patients, without being stirred up by the adolescents".[445] However, although this may have been the intention, children and young people at Lake Alice were sometimes housed in villas with adult patients.

201. Until August 1972, no separate facility existed for young people. Mr Marks told us that in June 1972 he was admitted from Holdsworth "through the back door" into an adult villa.[446] After the first separate villa was opened, the unit was often at full capacity, so sometimes children and young people were placed in the adult villas. Mr Donald Ku was admitted in October 1972 when he was nine.[447]

> *"I was one of the youngest of the children at Lake Alice. There were about eight to ten children in the ward when I was first put in, but there were also adult patients around us all the time, who could have been between 20 and 80 years old. It was very unsafe for us children."[448]*

202. Mr Wickliffe, who was admitted in September 1972, told us he moved around a lot of the villas but his first villa "was for criminally insane adults. We were locked in with them and had no protection from violence or sexual assault".[449] He said they also shared recreation spaces with adult patients (for example, the garden or during movie nights), which exposed them to greater risks of physical and sexual abuse.[450] Mr AA also told us that when he was in the unit they had meals in the main hospital with the adult patients from the open side of the hospital.[451]

203. The accommodation for girls was always with adult patients, first in the admission ward and later in a wing in the women's ward. Ms McInroe, who was in Lake Alice in 1975 and 1976, said the villa she was in had three wings that were joined in the middle by an unused nurses' office.[452] She noted one wing was for the girls, one was for adult women (some of whom were on remand for criminal offending), and the third held adult male patients (most of whom had been released from the maximum security villa).[453] She said the girls' bedrooms were not always locked, and they shared a lounge with the other wings in the villa, so "the reality was that girls under 16 were being housed with adult offenders".[454]

204. Some survivors also told us that staff used the presence of adult patients to frighten and punish them. For example, Ms Collis said:

> *"Another form of punishment was being taken for walks near the maxi-security. The nurses would make sure it was the men's exercise time. The nurses would make sure you know they were in there for murder. That was really frightening. They would rattle the fences. You would be scared they could get over the fences."[455]*

205. As set out below survivors told us staff used placement in the medium-security and maximum-security villas as a threat and a punishment.

Te kāinga noho whita mōrahi – The maximum-security villa

206. In the 1970s, the hospital's maximum-security villa, otherwise known as the National Security Unit (security villa), was Aotearoa New Zealand's only officially designated psychiatric security institution.[456] The security villa shared grounds with the Lake Alice Psychiatric Hospital, but was administered separately. Nursing staff were not shared, and patients had to be transferred formally.[457]

207. An admission application had to meet criteria demonstrating why an individual needed such secure care and be approved by the Director of Mental Health.[458] Criteria for admission included an assessment that the patient had a chronic "mental disorder", was dangerous, had frequently absconded from hospitals and shown destructive or seriously antisocial behaviour during the absence, and had a history of failure to respond to treatment in other settings.[459] In his letter setting out the process, Dr Mirams emphasised that the criteria were guidelines only, that clinical judgement and experience must be of over-riding consideration, and that not all criteria needed to be met to justify a transfer.[460] A staff member from the security villa in 1970s confirmed that his understanding of the criteria for admission was that individuals were not admitted unless they had "a major psychiatric disorder" or "posed a serious risk of violence to others" and "the referring hospital or agency was unable to care or manage them".[461]

208. The staff member told us the security villa's patients aged from 15 to 78.[462] He also said that because of the proximity of the security villa to the unit, transfers occurred between the villa and the unit and a significant number of young people were housed there.[463]

Photo of maximum-security villa.[464]

209. Some nurses used the fear of transfer to the security villa to threaten patients. Adult survivor, Anne Helm, said the terror amidst the wider hospital of the security villa was "palpable".[465] Mr Ku said, "maximum was the place where all the bad people went and got punished. We were all scared of maximum and the nurses would threaten us all the time that we would go there if we didn't behave".[466]

210. Mr Banks said he was sent to the villa for two weeks in April 1975 for refusing to obey an order by Howard Lawrence to clean the toilet block and the floor with a toothbrush.[467] He said he was allowed out into a tiny exercise yard for 30 minutes a day and given a few books "but otherwise there was nothing apart from a mattress, blanket and bucket".[468]

211. Dr Pugmire wrote that children and adult patients would have recreation in separate yards, and the children would always be under observation from staff in the tower.[469] However, Ms Collis, a survivor, recalled seeing a yard about the size of a double bedroom in which adults and tamariki were together and she believed the tamariki were there as punishment.[470]

Photo of internal exercise yard at the maximum-security villa.[471]

Photo of cell corridor in maximum-security villa.[472]

212. Despite the criteria for entry into the security villa, Dr Leeks noted in a letter to the Director of Social Welfare that it had become a rule that all those who absconded from the unit were placed in the security villa.[473] In that particular instance, a 15-year-old State ward who had absconded three or four times in a year was placed in the security villa for close to two months.[474] In 1976, Dr Leeks told the Department of Social Welfare's Whanganui director, Mr Eric Medcalf, about another boy he sent to the security villa for a month for 'violence'.[475] However, another psychiatrist disputed this, saying that after reviewing his file the 'violence' consisted of absconding overnight.[476]

213. In 1977, Dr Oliver Sutherland from the Auckland Committee on Racism and Discrimination wrote to Minister of Health Frank Gill, about the committee's concern that a 14-year-old patient was being held in the security villa.[477] Mr Gill replied that the government was not concerned about the placement of such a young person in the villa, saying the decision about admissions "rests with those who carry the clinical and statutory responsibility".[478]

214. In September 1977, after Dr Leeks left Lake Alice, Dr Pugmire told Dr Mirams that several patients in the security villa had protested the fact three young patients who had been transferred there from the unit were given special treatment by being placed in preferential accommodation.[479] Dr Pugmire explained they were placed there because he "feared questions might be asked" about their youth and the fact they were being housed there for the Department of Social Welfare,

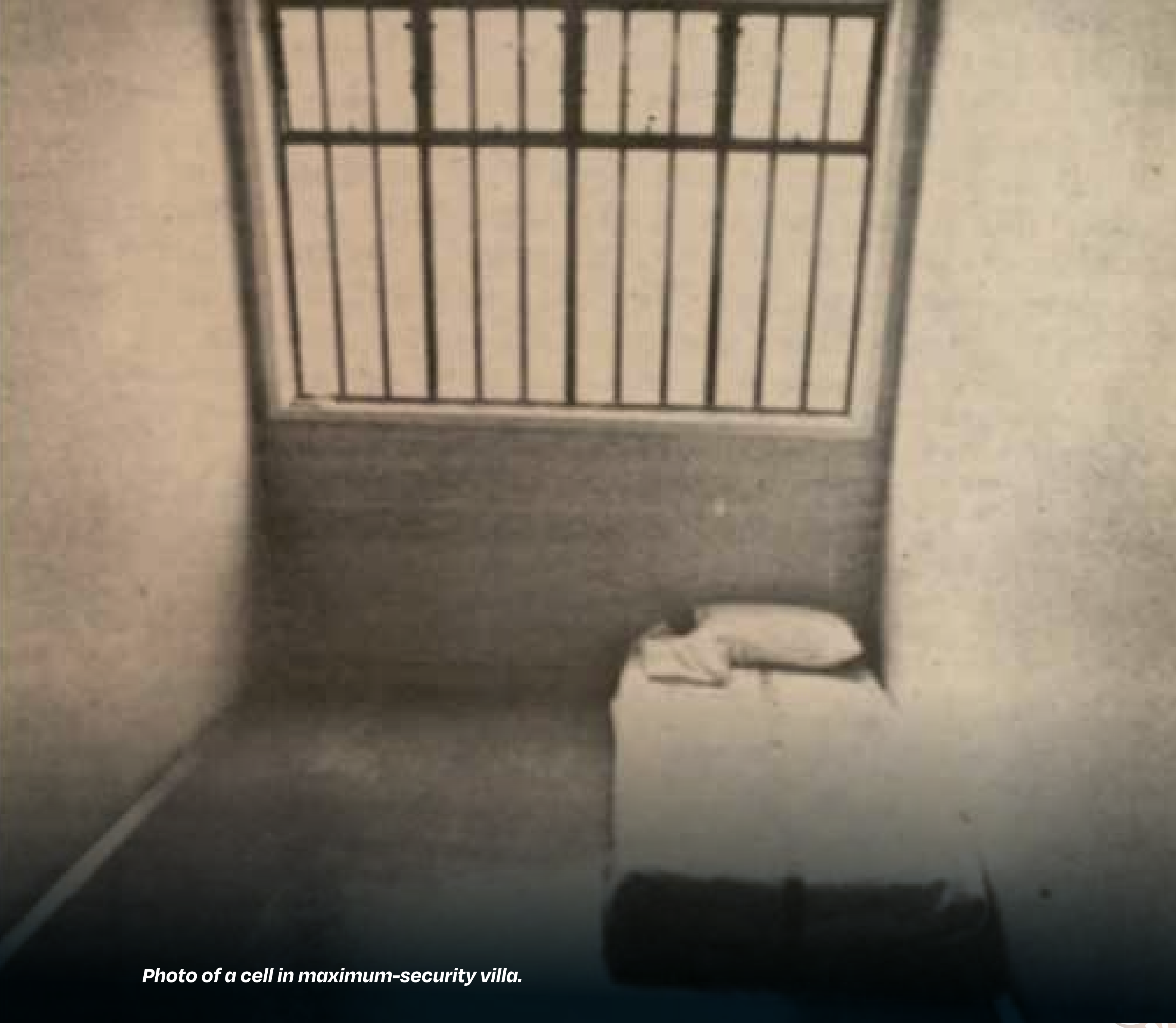


Photo of a cell in maximum-security villa.

which didn't have "quite such good facilities".[480] Dr Pugmire said the three had been subjected to 'hugging' and 'pawing' by adults in the security villa.[481] Another adult patient in the security villa said at one time three patients were under the age of 16 in the villa.[482] He said he witnessed one boy, aged 14, being sexually abused by an older patient, and a boy aged 16 being sexually abused by older patients on at least three occasions.[483] He said children were locked up with hardened criminals and sex offenders and did not know why they were there.[484]

215. Charge nurse Corkran told us he came back to Lake Alice after one weekend and wondered where a boy in the unit had gone.[485] He was told the boy had been put in the security villa because he had drunk a bottle of milk. "I talked to Dr Pugmire about this and his rationale was that [a teacher] wanted to start a classroom in the [security villa] and wanted kids in there. I am still angry about this." [486]

Te kāinga noho whita waenga – The medium-security villa

216. A medium-security villa was used to house remand patients, 'difficult patients' and patients discharged from the maximum-security villa.[487] A 1977 report found the medium-security villa was 'grossly overcrowded', unsuitable for the purpose for which it was being used, and lacked adequate segregation between patients during the days and in the evenings.[488]

217. Mr Scholes said patients were generally temporarily transferred to this villa after running away, and the purpose of the transfers was as a reminder that "it was better to be in an open villa than a secure villa".[489] He said some of the long-term patients in villa 8 could exhibit behaviours that he can see would have been scary to younger patients (for example, oral outbursts).[490] He said despite this, all patients in this villa were kept under close supervision to prevent adult patients posing a physical risk to younger patients.[491] He said he could not recall any instances of an adult patient attacking a child or young person there.[492]

218. Mr Banks was 15 when he was put in the medium-security villa, and he found it "a very frightening and scary place".[493] He said the risk of sexual abuse meant he had to learn quickly how to keep other patients off him without injuring them, as that would result in a paraldehyde injection as punishment.[494] Mr Banks said, "I often stayed awake at night, lying scared in my bed with the blankets tightly tucked in, to protect myself".[495] Mr Marty Brandt told us he was put into the adult villa for refusing to take medication and was sexually assaulted on the first night.[496]

Te whakamahinga hē o ngā rongoā – The misuse of medications

219. Paraldehyde was widely used in psychiatry until antipsychotic medications became available in 1956.[497] It was mainly used as a sleeping medication or sedative to subdue aggressive or highly excited patients.[498] It could be injected or taken orally and it had a "strong aromatic odour and a burning, disagreeable taste".[499] When injected it was painful and required the use of glass syringes due to its corrosive properties.[500] The unpleasant odour was also present in people's sweat, breath and urine after it had been taken.[501]

Ngā rārangi wheako mō te whakamahinga o te patuhukihuki – Accounts of paraldehyde use

220. Many survivors were given powerful sedatives such as paraldehyde in the unit. The use of such medications, as well as the threat of their use, contributed to the climate of fear in the unit. Nursing notes show that patients were regularly given paraldehyde and other sedatives such as chlorpromazine between 1971 and 1977.

221. One survivor described paraldehyde injections as "like having a burning steel bar up your backside".[502] Another said it was just horrific.[503] A third said it felt like boiling water had been poured over the skin.[504] Many said it left them in pain and unable to walk or sit down for a long time afterwards. Ms McInroe said she received paraldehyde many times by injection, but only once by mouth and it "tasted so foul that I vomited".[505]

222. Survivors described getting paraldehyde injections to various parts of their bodies. Mr Banks described the injection as initially feeling very cold and then turning very hot, like burning acid.

> *"The injection would normally be put into the buttocks and the pain would go down my whole leg. It would be very hard to walk. The leg would feel dead and I would have no strength in it. It was painful to sit down for about three days. When I had it in my arm it would hang limp for the day. Once I was given it on the shoulder and on several occasions in the big muscle above my knees. This was particularly painful place to have it and the staff were aware of this."*[506]

223. Many survivors told the inquiry that paraldehyde was given as punishment for things such as kicking a ball at a window,[507] theft,[508] fighting,[509] smoking[510] and throwing apples.[511] Mr Halo told the inquiry "paraldehyde is just like another way of giving us a hiding, the way I see it, but using that injection".[512] Another survivor recalled being given paraldehyde after another boy kicked him during a game of soccer and he kicked him back.[513] He told us a nurse grabbed him by the hair, marched him back to the villa, and dragged him upstairs to one of the rooms, which converted into a cell.[514] He said the nurse "made me drop my pants and he injected paraldehyde into my backside. It was an intensely painful feeling, and it was very sore. The pain lasted for hours".[515] Mr Banks told us sometimes he'd be given the choice between ECT or paraldehyde as punishment.

> *"Both were used to control us and keep us in fear. The worst punishment was unmodified ECT but Paraldehyde injections were also a feared punishment. You could get a Paraldehyde injection for anything at all such as talking back to staff, hitting another boy,*

not making your bed properly or not getting up on time. They were extremely painful. I believe I would have had a Paraldehyde injection more than 50 times over my three admissions to Lake Alice."[516]

224. Nursing notes provide evidence that paraldehyde was used more often than recorded in medication charts and sometimes created a clear inference that the purpose was punishment, as the following examples show:

> ***26 August 1974:*** *Throwing apples this afternoon. Paraldehyde 1cc IM given.*[517]
>
> ***23 September 1974:*** *Misbehaving at school, disruptive and refusing to do as requested. Given Paraldehyde 5mls by injection.*[518]
>
> ***25 September 1974:*** *This eruptive, aggressive, and hysterical little boy does not appear to have learnt very much from repeated administrations of paraldehyde.*[519]
>
> ***22 April 1976:*** *Accompanied other boy to steal lollies from the office 2cc Parld.*[520]
>
> ***7 August 1976:*** *IM Paraldehyde given for kissing and cuddling behind [villa 7].*[521]
>
> ***19 October 1976:*** *Fighting with [survivor] p.m. 1 cc of Paraldehyde administered as a deterrent for such behaviour in the future.*[522]
>
> ***14 March 1977:*** *[Survivor] continues to thumb his nose at authority by organising his cig supply. Caught out of bounds smoking after school. Paraldehyde 1cc ... given as a deterrent.*[523]

225. Many staff, including Mr Stabb, Mr Lawrence and Mr Conlan, acknowledged paraldehyde injections were painful.[524] They said they administered paraldehyde for a variety of reasons, including "settling patients down that were acutely disturbed",[525] "settling down patients who were out of control", [526] "to calm people down",[527] "to stop violent acting out",[528] "for violent or really manic behaviour", [529] "as a tranquilizer used in acute psychosis" [530] and "for control of disruptive or antisocial behaviour".[531]

226. Ms Leeks, a child therapist at the unit, said paraldehyde might have been used to modify behaviour.[532] Mr Conlan said paraldehyde injections were part of Dr Leeks' aversion therapy programme,[533] and Dr Leeks set out specific guidelines for the use of paraldehyde.[534] He told us that if sterilised water was not used, the injection would leave a 'greater sting', and Dr Leeks' instructions were not to mix the paraldehyde with sterilised water.[535]

227. Mr Conlan said Dr Leeks had written down the criteria for using paraldehyde for aversion therapy purposes, and the criteria and his written authority for its use were kept on the inside cover of the unit drug book.[536] He said paraldehyde injections were to be given in the upper arm for violent boys or in the thigh for kicking.[537] Our inquiry was unable to find the book. Mr Conlan said the charge nurse would tell Dr Leeks who had been given paraldehyde and why.[538] Nurses would make recommendations, based on the criteria, to Dr Leeks about which patients should get an injection.[539]

228. Based on our review of the nursing notes, Mr Conlan frequently recorded using paraldehyde.[540] He later expressed regrets about overuse of paraldehyde, and said he thought nurses had abused the drug simply to curb normal boisterous behaviour.[541]

229. Mr Stabb recalled an incident involving Mr Conlan and a 15-year-old girl who had misbehaved on a school camp in late 1975 or 1976. He said Mr Conlan,

> *"removed her trousers and gave her an injection of paraldehyde in front of nine other male residents and two other female residents. This was witnessed by … the Lake Alice school teacher at the time, and was during a school camp offsite in late 1975 or early 1976. I remember feeling really disturbed by the incident, both at the indignity of it and the inappropriateness of what had been done".*[542]

230. Mr Stabb told us there was a blanket prescription in every ward, signed by the medical superintendent, for intramuscular paraldehyde.[543] It was to be used in emergency situations (for episodes of violent and aggressive behaviour) where it was necessary to sedate a patient.[544] He considered it was well intentioned and designed for the realities of life at the hospital, but that blanket prescriptions gave rise to abuse.[545] Mr Stabb said such wide discretion would be unacceptable nowadays but was "quite usual" in the 1970s. He told us the use of paraldehyde during his time was minimal and he never used it as a form of punishment.[546] He told us the use of paraldehyde during his time was minimal and he never used it as a form of punishment.[547] Mr Hesseltine, Mr Conlan and Mr Corkran similarly said the use of paraldehyde at the unit was minimal.[548] However, this does not match with the nursing notes we reviewed, which are consistent with the accounts of survivors who said its use was frequent and pervasive.

231. Nurse aides, Barr and McCarthy, were critical of the way paraldehyde was used at the unit. Ms Barr said patients were "given paraldehyde injections as punishments for misbehaviour while at the hospital. This rendered them zombies for days, giving them a particular chemical smell, which took days to be excreted from their bodies through the skin, kidneys and lungs. It was hideous".[549] Mr McCarthy said if some of the survivors' claims of

abuse were about paraldehyde, then he believed he could "categorically say their claims are true".[550] Mr Soeterik said he considered paraldehyde use akin to a 'chemical straightjacket' and 'sledgehammer tactics'.[551]

232. In 1976, Dr Leeks received a written complaint from the mother of a boy given paraldehyde injections as punishment.[552] She said her son told her he was given five injections for bad behaviour.[553] A charge nurse confirmed to her that the injections had been given as "deterrents" and she said she found it "not only disturbing but mightily displeasing that punitive measures are being used under the guise of treatment".[554] Dr Leeks wrote to the mother saying he had looked into the matter, "which rather surprised me, but find that this is not used".[555] The boy's nursing notes record he was given paraldehyde for being "involved in a scuffle".[556] His nursing notes refer to his mother's letter on 25 July 1976, and two days later record that he was given paraldehyde for "skylarking in the dormitory".[557]

233. Correspondence between Dr Mirams and Dr Pugmire in March 1977 shows both regarded the use of paraldehyde at Lake Alice as high. Dr Mirams expressed surprise paraldehyde was still being used with the "degree of regularity implied by the figures you provide" and wished to be assured that Dr Pugmire had given careful consideration to whether it was still "an appropriate psycho pharmacological agent today".[558] Dr Pugmire said he, too, was 'surprised' at the amount of paraldehyde that had been issued from the Lake Alice pharmacy during the past year.[559] Dr Pugmire was responsible for the hospital's national security unit and said injections of tranquillizers (either largactil or paraldehyde) was needed only "two or three times a year" in that unit.[560] In contrast, paraldehyde was used routinely in the unit and became an integral part of managing patients' behaviour.

Ngā werohanga patuhukihuki hei whakamamaetanga - Paraldehyde injections used as torture

234. Some nurses at the unit, condoned by Dr Leeks, administered paraldehyde routinely, excessively and punitively. As with electric shocks, paraldehyde injections that caused severe pain for the purpose of punishment satisfy the definition of torture as outlined by the Solicitor-General.

Ngā wānanga haumanu ā-rōpū i te manga – Group therapy sessions in the unit

235. Group therapy sessions were compulsory in the unit.[561] Dr Leeks said initial attempts to get group therapy under way were hindered by his lack of time, disinclination of the staff and, what he termed, the "rather concrete approach to life" by most of the older boys.[562] However, he said group therapy was used a "great deal" after 1974.[563]

236. Dr Leeks said the aim of all therapy was to benefit the children and young people in terms of psychological and emotional growth and to help them cope with their environment outside the hospital.[564] Dr Leeks considered many patients preferred group sessions to individual therapy.[565] He said the sessions included some junior staff, a social worker and a visiting educational psychologist.[566] At the end of each session, Dr Leeks said a discussion and supervision with the staff occurred.[567] In an interview in 1977, Dr Leeks acknowledged these sessions left patients in tears.[568] He said "some people see this as treatment and others as punishment. Any emotional thing is aversive, or an emotional pain to the person involved in recalling past bad experiences".[569]

237. Mr Soeterik visited Lake Alice between 1975 and 1977 as an assistant psychologist and later worked as a clinical psychologist at Manawaroa Hospital.[570] Mr Soeterik said the therapy was 'confrontational' and could also be "very tense because nobody wanted to speak".[571] He could not recall any patients being made to speak or answer questions.[572] He also said he did not suggest anybody should get ECT for not speaking up in group therapy.[573]

238. Dr Leeks said he and Mr Soeterik were "most involved" in group therapy.[574] Mr Soeterik said that, although he was in training at the time, he had increased involvement in group therapy as his training progressed.[575] Other staff recalled Mr Soeterik playing a large part in group therapy.[576] Five survivors recalled Mr Soeterik running sessions alongside Dr Leeks or on his own. One survivor spoke highly of Mr Soeterik, saying he "was the only one who treated me well".[577]

239. However, many survivors told us they found the weekly group therapy sessions in the unit distressing. Ms Collis told us the process was inherently flawed because the "people who are abusing you are running the group therapy sessions".[578] Another survivor said patients would be picked on until they broke down, saying, "I don't think it was so much therapy as some horrific form of bloodletting".[579] A survivor described what these sessions involved.

> *"Usually Dr Leeks or Vic [Soeterik] would start off by asking one of us particular questions and they all centred around our childhood and our parents and our relationships with our parents and we would eventually [go] along the lines of wanting us to admit, in the case of girls, our father or somebody in the family who had sexually interfered with us. You [would] just be bombarded with questions and it kept up through the whole session until you broke down. It usually lasted from 1 pm till 3 pm."*[580]

240. Some survivors also said that if they did not participate in group therapy it could lead to solitary confinement. For example, Ms LL said:

"In these sessions you were supposed to talk about your problems. Everyone used to clam up though. A lot of us didn't even know what we were in Lake Alice for, so talking about our 'problems' was a bit difficult. Vic [Soeterik] was asking questions – I can't remember what he asked me – and I answered him although I can't remember what I said either. He then said that it was "an answer". I don't really know what he meant but I guess he thought I was being sarcastic. So I was taken upstairs to the solitary confinement room and kept there for about four hours".[581]

241. Many survivors told us that if they did not participate in group therapy sessions in the way the staff wanted, this could lead to electric shocks. One survivor told us Dr Leeks would sometimes point at someone in group therapy, and two nurses would drag them out to have ECT.[582] Leoni McInroe said Dr Leeks gave her ECT for giggling during group therapy. "He said to me, 'if you don't cut it out, you're going to get ECT'. I apparently did something else to upset Dr Leeks – I cannot recall what. He then said, 'that's it ... you're going to get shock treatment tonight'. And I did."[583] Mr Richards and Mr AA said patients who did not talk about their problems in group therapy would be threatened with or given electric shocks.[584]

242. When faced with the threat of ECT, Mr Richards said he did speak about his past sexual abuse in front of other patients.[585] After this, two boys who had been in the session followed him and, "when they had the chance, put a hand down my pants. I had the impression that these two boys had learned about my vulnerability at the group therapy and took advantage of it".[586]

243. In summary, the evidence showed that the overall experience of group therapy sessions for most survivors was traumatising and oppressive. Survivors felt compelled to participate and were threatened with punishment if they did not. For some, their participation in group therapy sessions increased their vulnerability and made them a target for physical and sexual abuse in the unit. Evidence from survivors and other staff members showed Dr Leeks and Mr Soeterik played key roles in the group therapy programme at the unit.

Te whakamahinga o te noho taratahi – The use of solitary confinement

244. Each villa had rooms that could be used for solitary confinement.[587] Dr Leeks described the 'destimulation room' as a bare room with a bed or a mattress.[588] Another staff member said they were standard rooms that could be locked and had a bucket for a toilet.[589] A survivor described the rooms in the following way.

"[The rooms] had a single bed with shutters closing off the windows. This room could be used as a security room. The doors were very thick

and heavy (oak I suppose) and they had a peephole: a little square window type thing with a sliding shutter across: which could be opened from the outside."[590]

245. The terms 'seclusion',[591] 'time-out',[592] 'roomed'[593] and 'destimulation room'[594] were all used by unit staff to describe the practice of confining patients to a locked room. Survivors we spoke to predominantly used the terms 'seclusion' and 'solitary confinement'. In this report, we have chosen to use the term solitary confinement, as we consider it more often reflected the practice used in the unit. However, not every situation would meet international legal definitions of solitary confinement.[595] When reflecting staff perceptions or in quotations we have kept the person's words.

246. In 1977, Dr Pugmire said there was a general directive that tamariki should not be detained for longer than 20 minutes.[596] He also considered that the checking of seclusion and restraint forms by an appropriate body served as a safeguard against patients being "locked up for punishment or for trivial or frivolous reasons".[597] Dr Leeks told the 1977 commission of inquiry that patients in the unit were usually placed in confinement for between 20 minutes and two hours to help them 'de-stimulate' and it was unlikely they would stay there all day.[598]

247. Some staff members we spoke to had similar recollections of how this practice occurred in the unit. For example, Mr Hesseltine told us, "seclusion was not used often and only patients who were physically violent and needed time out. They would only be placed in seclusion for a matter of hours. Seclusion was not used for punishment but to calm patients down".[599] Mr Stabb said, "we would usually not use seclusion for longer than an hour. I do recall a couple of occasions where a patient would spend a morning or afternoon in there. Dr Leeks could prescribe seclusion, but I don't recall it happening".[600]

248. Nursing notes refer to timeframes set out by Dr Pugmire and Dr Leeks. For example, one entry about a seven-year-old survivor says, "He is emerging as quite the little mischief maker whilst with the other boys. Referred to one of the boys as a F____ Bastard, secluded for 15 mins".[601] However, many other examples are more difficult to reconcile with their descriptions. For example, the notes for Mr Halo showed he was put in solitary confinement for two days between 21 and 23 July 1976 as a deterrent for perceived uncontrollable behaviour.[602] Mr Hendrick's nursing notes recorded it had been decided "to room [him] each night for a week" for "setting up boys, defiant to staff".[603]

249. Survivors describe being put into solitary confinement for long periods. For example, Mr CC was 14 when he was put into solitary confinement after sexually abusing some of the other patients.[604] He told us nothing was in the room apart from a mattress on the floor and a bucket and it

felt "like a holding pen".[605] He said he was in solitary confinement in villa 8 and was left alone with no food or water for the first day and night.[606] He was transferred to the maximum-security villa about two days later, where he was kept in solitary confinement for two to three weeks.[607]

250. Ms McInroe told us she was put in solitary confinement on several occasions, and it was always clearly stated that it was for punishment.[608] She described one occasion where she was in solitary confinement for 21 days.

> *"That nearly killed me; my spirit, my soul, my wanting to live. I can't even express what 21 days feels like alone in this world locked in that room knowing that I don't have anybody on the inside or the outside that cares about me and that these adults can come and inject me and punish me, leave me a bucket to go to the toilet in, and leave me in this little box away from anyone. They were the longest days and nights of aloneness and complete abandonment. A nurse came in at about 15 days when I'd been in there and she snuck me a book and that probably was the only thing that kept me from breaking completely."*[609]

251. Survivors told us they were also put into solitary confinement for reasons such as fighting,[610] absconding,[611] smoking,[612] masturbating[613] and not taking part in activities in the unit.[614] For example, one survivor told us he was put in solitary confinement multiple times, once for about six days.[615] The reasons included smoking and masturbating.[616] Mr Wickliffe told us he was frequently put in solitary confinement.

> *"Most of the time I was locked away, it was before ECT. I think it was because they did not like to deal with me running around the day room due to the terror of knowing I was about to get it. Other times, I was locked up as punishment for different things like for not wanting to nail together the beer crates we had to make. The longest time I was locked up was for a week."*[617]

252. Ms LL said staff used solitary confinement as an enforcement measure, and, "if you didn't toe the line or do what staff wanted, you knew you would be locked up in solitary confinement".[618]

> *"Being locked up was scary. Horrible. It's not nice to be locked up. A lot of anger would build up in me, I couldn't understand why it was happening. There was nothing to do. Time just stopped – it didn't go anywhere you know? But more than anything, I was scared because I didn't know what might happen next."*[619]

253. Mr Marks said he was put in 'solitary' four or five times, each time "for no real reason, just as a punishment because it seemed the staff felt like it".[620] He said he was in there for a few hours to a day or so each time but had no food, no water or toilet and no one checked on him.[621]

254. One survivor said he would usually have to be wrestled and dragged to solitary confinement and would be put there for just about anything. Mr Scanlon said putting individuals in solitary confinement gave staff an opportunity to physically abuse them "because the rooms were isolated and out of the way".[622]

255. Some staff members' recollections of solitary confinement practices supported those of survivors. For example, a social worker who visited Lake Alice said she had a vague recollection that "children were sometimes placed in a security room for discipline", which she considered in keeping with the disciplinarian approach staff took.[623] It was a view shared by the unit psychologist, Mr Soeterik, who remembered staff telling him they used solitary confinement for periods he considered "excessively long".[624] Mr Corkran said "in hindsight, I probably overused the application of seclusion".[625]

256. We will return to the topic of solitary confinement in the final report, including whether misuse of solitary confinement breaches human rights standards.

Te taitōkai nā ngā kaimahi mahi tūkino – Abuse by particular staff members

257. Aside from Dr Leeks, the individual staff members survivors said were the most abusive were Mr Lawrence and Mr Blackmore. Survivors reported repeated sexual and physical abuse by both, both used paraldehyde injections as punishment and both helped Dr Leeks give them electric shocks.

Howard Lawrence

258. Mr Lawrence was born in Canada, trained in Australia as a psychiatric nurse, and worked at Lake Alice from 1966 until 1993.[626] He worked in the unit for nearly a year when it first opened. Mr Lawrence had no training or experience in working with children.[627] He was one of the most prolific offenders at the unit. Numerous survivors described sexual assaults and physical violence at his hands, including the use of painful paraldehyde injections as punishment. He was also capable of psychological abuse and assisted Dr Leeks in giving survivors electric shocks. Survivors described him as a cruel and sadistic man.[628]

259. On one occasion, Mr EN said Mr Lawrence took a group of patients to an area behind the villas where he showed them an open grave and told them people had been killed and buried there. He said Mr Lawrence told the group he could put them in a hole there and no one would know: "He said he had done it before and nobody knew about it."[629] Mr EN told us Mr Lawrence punched

him in the head, and he witnessed Mr Lawrence do the same to another boy. He said Mr Lawrence was "particularly horrible and cruel" to patients.[630]

260. Mr Christopher Zaal described how Mr Lawrence, Mr Hunt and other staff sexually assaulted him. He said that on six occasions Mr Lawrence dragged him to the toilet at night and raped him.[631] Mr Lawrence would also grab him by the neck and slam his head into a wall.[632] Mr Lawrence also told him and others they would "get fried" if they did not do as they were told.[633]

John Blackmore

261. Mr Blackmore was employed as a nurse aide in the unit from its establishment until early 1974.[634] Survivors said he sexually and physically abused them, gave them paraldehyde injections as punishment, and had a hand in Dr Leeks giving them electric shocks as punishment.

262. Mr Blackmore regularly raped and sexually assaulted Mr CC when Mr Blackmore took him to his home in Marton on weekends. Mr CC said Mr Blackmore would sexually abuse him all weekend and then ignore him throughout the week: "I was so angry with what had happened that about three months into this I started taking my anger out on the other boys by physically and sexually abusing them."[635]

263. Other patients recalled Mr Blackmore taking Mr CC home on weekends.[636] Mr CC said he complained about the abuse to Mr Hunt but he was ignored.[637] However, NZ Police were apparently told of Mr CC's claims because a 1974 court report noted that Dr Pugmire said Mr CC had made "wild allegations" of sexual abuse by staff, which he said "were immediately investigated by the local police who established they were a complete fabrication".[638] We could find no NZ Police records of any investigation.

264. Mr CC's allegations resulted in Mr Blackmore's removal from the unit. Mr Scholes recalled Mr Hunt telling him Mr Blackmore had been transferred to another villa because "there had been a complaint that Johnnie Blackmore had been getting too close with the children and had to be moved out of the villa".[639] Mr Stabb also recalled hearing years later that Dr Pugmire had removed Mr Blackmore from the unit over allegations of sexual abuse.[640]

265. Other survivors also described being sexually abused by Mr Blackmore in the hospital and at his home.[641] Mr Wickliffe told us he was unable to see his parents on home leave because he was told he had been misbehaving. Mr Blackmore instead took him to his house where he was sexually abused.[642]

Taitōkai – Sexual abuse

Te taitōkai nā ngā kaimahi – Sexual abuse by staff members

266. Sexual abuse was common in the unit. Two nurses, Mr Lawrence and Mr Blackmore, were implicated in many of the allegations of serious and repeated sexual abuse. Another nurse, Mr Brian Paltridge, was jailed in December 1972 for indecently assaulting a boy in the unit.

267. The application of electrodes and electric shocks to the genitals for aversion therapy was also abuse of a sexual nature by staff.

268. Ms Collis told us she was raped many times by Dr Leeks in the unit. She recalled these assaults happened after she was injected with an unknown drug and put to sleep.

> *"I don't remember a lot of what happened because of the drugs he would inject into me. The first time he did this, I woke up and he was standing at the end of my bed, my top had been pulled over my breasts and my jeans were down to the top of my thighs. He put me back to sleep again and when I woke for the second time, he was gone. I was sore and sticky between my legs. I felt drunk and ready to pass out. I knew that he had raped me."*[643]

269. Ms Collis said she complained to staff, but they refused to believe her. One nurse said it was her "imagination playing up". She said she soon gave up telling any staff about what Dr Leeks did to her.[644]

270. Survivors described being targeted in their beds at night by staff, both in the unit and in the adult villas. One survivor remembered hearing other boys screaming in pain while being raped at night.

> *"Sometimes it was before the nurse would get to me and rape me also. I was so ashamed and embarrassed about what was happening to me sexually, and this embarrassment and shame has stayed with me my whole life. These are horrific memories to live with."*[645]

271. Several survivors suspect they were raped while heavily sedated or unconscious after ECT. Mr Richards said he had no idea how long he had been unconscious after ECT, but he "came to back in the cell with a sore, sticky rectum" and believed he had been raped. "I have flashbacks of this but no clear view of the person. I was left in the cell after that ECT for two or three days, cold, naked with one blanket and a bucket for a toilet."[646]

272. Mr Rose said he believed he had been abused after being given a paraldehyde injection, which a nurse told him was something to help him sleep. But it completely knocked him out and when he woke next morning still feeling groggy, he noticed he had a sore anus. "I stuck my hand down my pants and found I was bleeding from the anus. I really do not know for certain what happened, but I suspect Nurse Hunt sodomised me. However, as I was completely unconscious I am simply not certain what happened."[647]

273. Other survivors said staff members threatened them with electric shocks if they didn't co-operate. A nurse told Ms Shepherd no one would believe her anyway if she complained later and she would be labelled a liar. "He then said that liars get shock treatment around here, or words to that effect." He raped her, but, despite the pain, she was "too scared to cry out due to the threat of ECT".[648]

274. Mr Banks told us a teacher made him pull down his pants, after which the teacher masturbated himself and then threatened him with "the thunderbolt" from Dr Leeks if he told anyone.[649]

Te taitōkai nā ētahi atu tūroro i te manga – Sexual abuse by other patients in the unit

275. Many survivors also told us about sexual abuse by their peers, and how the hospital administration failed to keep them safe. Mr Banks said children were sexual prey for bigger, older boys who "competed with each other to get to us".[650] We know that most of the boys with harmful sexual behaviours had themselves experienced sexual abuse, both at the unit and before admission.

276. One of these older boys was Mr CC, who was 14 when he was admitted to Lake Alice in 1973. Staff at the unit were aware Mr CC, who had been sexually abused by a staff member in a State residence, had a history of harmful sexual behaviour before his admission.[651] Mr Nicol told us Mr CC tried to sexually abuse him not long after he arrived at the unit.[652] Mr Nicol told staff about the incident, but he was punished for lying by being given electric shocks.[653] His complaint was recorded in his nursing notes in the following way, "Has accused other boys of trying to interfere with him. This boy is very cunning, all he wanted was a single room to himself because he hates sleeping in dormitory".[654]

277. We have no evidence to suggest staff took steps to investigate his allegation or prevent further abuse. The next entry in his nursing notes is two days later and records that Mr Nicol was found by staff upstairs on a window ledge and had "threatened to jump out in an effort to be put in a single room".[655] An entry the following day recorded that he was given paraldehyde followed by "stern counselling".[656] Mr Nicol told us Mr CC continued to abuse him. "A few days later, [Mr CC] raped me. He did this about three times over the next six weeks. When I told the staff, they just laughed and called me a liar."[657] Mr Nicol

was discharged from the unit in December 1973. In early 1974, following complaints by several other boys in the unit, a report was made to NZ Police about Mr CC and he later faced seven charges of indecent assault.[658]

278. Ms McInroe described witnessing sexual abuse in the hall.

> *"There was a stage in the hall with curtains. I clearly remember someone pulling back the stage curtain, and a girl from our villa was being raped violently on the stage by a boy from villa 7. He didn't stop even though he was completely exposed, standing facing the hall, facing all of us with her in front of him. Staff pulled him off her. She was so drugged, so defenceless, so completely incapable of protecting herself. I cry again recalling that experience and thinking about her."*[659]

279. In April 1976, Dr Leeks told the boy's social worker he had been "attacking girls", and as a result was sleeping in a locked room.[660]

Te taitōkai nā ngā tūroro pakeke – Sexual abuse by adult patients

280. Many survivors also told us about sexual abuse perpetrated by adult patients of Lake Alice. Much of this abuse occurred when children were housed with adult patients and not supervised properly by hospital staff.

281. Mr Marks was sexually abused every night by an adult patient in the adult villa he was placed in. He told us the patient "took advantage of the fact I was smaller and more defenceless". He told nurses about the abuse, but they told him to be quiet.[661] Mr Wickliffe also recalled frequent sexual abuse by adult patients, saying that they "pretty much had free rein, particularly at night as the nurse only came around once and our dorm wasn't locked".[662]

282. Other abuse happened during joint social events with patients from the unit and adult patients. Ms LL recalled being groped by an adult patient during a disco. "One of the adults in the ward grabbed me out from the dance floor, took me into a corner and started feeling me up all over. I could see that there were a couple of staff members watching him doing it to me and doing nothing."[663]

283. Ms Debbie Dickson was nine when she was admitted to the unit. She was placed with adult female patients. One evening, staff came into her dormitory to discover an adult female patient sexually abusing her. The woman was then transferred to another villa.

284. The incident came to the attention of visiting educational psychologist Iain Tennant. Mr Tennant wrote to his superior, Mr David Page, about the way staff had handled the incident. Mr Tennant told Mr Page staff initially planned to "hush up the incident" but at his insistence subsequently notified Ms Dickson's parents.[664]

285. The charge nurse said he discovered Ms Dickson had been sexually assaulted, arranged for her to be medically examined and then called Ms Dickson's mother and explained what had happened. He said Dr Tisse Siriwardena wrote up a report of the incident and the charge nurse recalled that Ms Dickson's mother "appeared satisfied with the response".[665] A note on Ms Dickson's medical file confirmed her mother discussed the assault with Dr Siriwardena on 26 October 1978 and Ms Dickson's mother was assured her daughter had not suffered any "physical injury or harm as a result".[666] Within weeks, Ms Dickson was discharged back to the care of her parents because Dr Siriwardena considered "her continuous stay in the hospital in the company of more disturbed children would be detrimental to her".[667]

286. Ms Dickson told us she had no recollection of the assault, although she was upset at how staff had handled the incident:

> *"How could they do nothing about it? Simply sending me to the doctor for a check and noting that there was no physical harm is not enough. There was no follow-up to see if I was okay after being sexually abused, and as far as the notes are concerned, nothing happened to her. Like I said, I've clearly blocked it all out and I guess that's for the better."*[668]

287. Mr Tennant also wrote to Mr Page expressing concern about the safety of young patients at Lake Alice. He said, "boys who have been placed in villa 8 are almost automatically faced with homosexual advances from the adult male patients. Because of their age and inexperience, few of the boys are able to resist these".[669]

288. Mr Tennant said Dr Pugmire responded by building a nurses' station between the adult wing and the boys' dormitory.[670] But Mr Tennant remain unconvinced, saying the basic problem was a lack of adequate facilities so that children and young people were segregated from adults.[671]

Te mahi uruhi o ngā ārai hapūtanga – The use of forced contraceptives

289. The hospital administration seems to have been aware that patients in the unit were involved in sexual activity or abuse.[672] It attempted to use what limited tools it had to prevent sexual abuse, but in practical terms its response mainly consisted of routinely prescribing contraceptives to young women in the unit.[673] Depo-Provera, an injectable progesterone-based contraceptive effective for about three months,[674] was the most common. Many survivors told us they were prescribed contraceptives in the unit without their consent. Ms Collis said she was given the contraceptive pill every morning as part of

her "medical treatment". "We were forced to have it, and the nurses would check that we swallowed it. I was not, by consent, sexually active."[675]

290. Another survivor with a learning disability, told us she was admitted to Lake Alice in 1971 when she was 12. "As soon as I arrived I was taken to a room and given an injection to prevent pregnancy."[676] She went on to say that she was given ECT many times on each of her three stays at Lake Alice.

> *"The doctors who administered the ECT were all male and I remember many times when I woke up I was sore 'down below'. I realised that I had been raped. I specifically remember the tattoo on the wrist of the man who did it to me. I remember telling my mum about it when she visited me but she said it was just 'growing pains' and ignored me. I have no doubt at all that I was raped on most of the occasions when ECT was administered to me."[677]*

291. A file note by Dr Pugmire about another patient in 1978 acknowledged the practice of prescribing contraceptives to adolescent patients. He wrote that a 15-year-old Dr Leeks had diagnosed with schizophrenia was given Depo-Provera "to avoid unwanted pregnancy".[678] Dr Leeks gave another of his patients Depo-Provera because the risk of her involvement with "those of few ethics" could result in her becoming pregnant.[679]

292. Prescribing contraceptives was often justified in patients' files on the basis of their perceived "promiscuity".[680] However, a submission by Dr Pugmire to the Department of Justice in 1980 argued that remand patients might prey on "a captive audience of nice innocent good living Christian young women and men who cannot escape from [them] and who are not at their best mentally so that they are ripe for exploitation, misuse and victimisation in every possible way".[681] He also said contraceptives "avoid[ed] the embarrassment of having to explain to the respective mothers that they have been fertilised by a passing criminal psychopath. Shortage of psychiatric nursing staff puts a very strict limit on patient supervision and there is not much else that a hospital can do to protect their patients".[682]

293. In summary, the evidence shows sexual abuse was pervasive at the unit and committed by staff members, adult patients and other patients in the unit. The hospital failed to prevent sexual abuse occurring, and when staff became aware of specific instances they often failed to adequately respond. Survivors were often not believed and when it was acknowledged that abuse had occurred allegations were not always referred to NZ Police. The application of electrodes and electric shocks to the genitals at the unit was also abuse of a sexual nature.

Te tūkino ā-tinana i te manga – Physical abuse in the unit

294. Most survivors told us adults in the unit often treated them with indifference, neglect and callousness. They described physical abuse and violence at the hands of staff, adult patients and their peers.

295. Many survivors we spoke to told us said they were physically abused in the unit by nurses and other staff. Mr BZ said, "Sometimes the staff would throw us around. They would say 'well that's what you deserve' and 'take that'".[683] Mr Banks said one place where regular physical violence occurred was the "boot room", the room in villa 8 where work boots were kept. He told us staff would take patients to this room and punch and kick them.

> *"I was punched in the back of the neck and kicked by two staff. Other patients were roughly treated in there. It was quite obvious as the staff would start on them in the day room and from there take them to the boot room. It could be heard and was talked about."[684]*

296. As discussed above, Mr CC said while he was in solitary confinement, Dr Leeks came in to the room by himself and started to swear at him.[685] Mr CC described Dr Leeks as having punched him in the head, pulled his hair and kicked him several times while he was on the floor.[686]

297. Physical abuse happened in the open at Lake Alice. For example, Mr EN told us,

> *"I remember seeing boys getting kicked in their backs and back sides, and hit on their legs. Once in the dayroom [Howard Lawrence] was sitting in front of a boy like he was counselling him. The boy was sad and [Lawrence] was laughing. Then I saw [Lawrence] punch him straight in the face and knocked him out. He told us we weren't to look or we would get the same."[687]*

298. Mr Rawiri said of staff, "they all just seemed to walk around like [they] were above the law".[688]

299. Some staff members were described by survivors as being particularly violent. Mr Banks said, "some nurses were sadistic and they all participated in the torture of us. Some beat up patients, including me, and some sexually abused patients, including me".[689] Mr Ku told us several nurses, especially Mr Lawrence, "would walk past me and kick me and slap me just because they wanted to and just because they could".[690] Mr EN told us he was punched in the head by Mr Lawrence at the lunch table for complaining about the food.

> *"[He] came from behind and struck me on the side of the head knocking me stupid. He said you might like to eat like a pig with your*

father at home but here you eat with your manners. The other cooks and all the boys present saw me being punched."[691]

300. Some survivors told us about being physically abused by older patients. For example, Ms McInroe said that she was struck in the head with a heavy metal ash tray stand while she was asleep.[692] She has a broken optical muscle, and told us the specialists who assessed her for accident compensation found it difficult to determine whether this was due to the severe blow to her head at this incident or an impact of violent seizures during shock therapy.[693]

301. Some survivors told us about fighting between the residents of the unit. For example, Mr BZ said, "there was fighting between patients at Lake Alice. Sometimes it would be over smokes".[694] Sometimes survivors felt they needed to physically protect themselves from other residents. For example, Mr Richards said scuffles broke out all the time. "I had to always be on the lookout to protect myself from being sexually abused by the other boys. I had to fight them off physically if they tried it on, which they did. That got me into trouble a few times."[695] Another survivor said the fights among young people were not necessarily because they didn't like each other, but because it was a way to release pent-up energy and stress.[696]

Te tūkino ā-kare ā-roto me te tūkino ā-hinengaro i te manga – Emotional and psychological abuse at the unit

302. Dr Leeks said the unsuitability of some staff in the unit's early years was "unpleasantly obvious".[697] At this point he said staff tended to have a "demand and obey" attitude towards patients, which resulted in "much interaction between staff and youngsters which was not therapeutic but increased their negative attitudes towards the adult world".[698] However, he said new staff were more therapeutically oriented and in late 1974 there was more training for staff.[699] He believed that within the next two years the unit reached its high point of efficiency, and the staff were dedicated to working with young people.[700]

303. Social worker Brian Hollis, like some who gave evidence to us, thought staff were not so much trying to punish patients as control their behaviour. "I'm sure it also made them feel superior to think that the great social welfare couldn't manage those particular boys, but they could. However, I'm sure they were well-intentioned in doing so."[701] Mr McCarthy said at the time he thought most senior nurses "treated the rangatahi with care and respect; some treated them more like family".[702]

304. Some survivors said they recalled some staff members were kind to them.[703] Another survivor said, "as a kid I couldn't tell if they were good or bad but they seemed alright. It was only later in life that I realise, looking back, that some of

the staff at Lake Alice were corrupt and caused a lot of harm to the kids there".[704] Mr JJ said the female staff tended to be kinder to him than the male staff:

> *"A lot of the male staff were horrible, but Nurse Leonard was lovely and kind and like a mother to us. Mrs Duncan the cook was also lovely and would mother us children. Some of the female staff were lovely, they would give us lollies, kisses, and awhi. Some of the male staff found every opportunity to laugh at us and make fun of us ... As children we were told by the male nurses that there were men with guns in the towers and that if we ran away, we would be shot. I believed that."*[705]

305. However, most survivors told us staff were cruel to them and inappropriately used their power in the unit. For example, Mr EN told us, "Life was horrific in Lake Alice. The men who were in charge of us did whatever they wanted to us boys there. I didn't know if they were nurses or what but they had all the power over us. All of us boys suffered under the people in charge".[706] Ms McInroe said,

> *"Most of the staff were cruel. Some were overtly cruel and held back nothing. Some had moments of kindness and tried to be your friend, but they too, happily and without reservation, dished out your punishment, injected you with drugs, locked you in seclusion, were there when you got shock treatment, and denied you pain relief."*[707]

306. Many survivors described how staff would regularly belittle them. For example, Mr Banks said, "I was constantly told by staff that I was bad and they were going to 'drum it out of me'. I was also told that I'd be there for life".[708] Ms Shepherd also told us, "I was afraid that I would never leave the place. As patients, we were powerless and had no voice. The staff could essentially do what they wanted to us and they made that quite clear. The staff at Lake Alice reinforced the fact that I was different from others in there. I was constantly ridiculed by staff and patients alike about my gender situation. No one tried to stop this abuse".[709]

307. Ms McInroe described what she called "the daily ritual horrors" of life in the unit of being forced to undress in front of staff for showers.[710] She said, "Many of them would make humiliating comments about us and our bodies. They would point out things and laugh and compare naked children and naked adolescents".[711]

308. Threats were a key strategy staff used to maintain control in the unit. Mr Hendricks said that although he did not see anyone being physically or sexually abused while he was at the unit, "We were mentally abused every day though, little comments like 'wait till Saturday'".[712] Saturday mornings were when Dr Leeks would visit the villa and give residents shocks and other punishments.[713] Ms Dandy described the unit in the following way, "there was

fear and terror all the time. The nurses were awful and quite cruel. Sometimes they would taunt us that Dr Leeks was coming … ECT was always used by staff as a threat of punishment to us".[714]

309. Survivors told us about the cruelty of some staff and how emotional and other types of abuse often overlapped. For example, Mr Ku said Mr Lawrence would often take the kids in the woods for walks.

> *"On one of those 'walks' he told me to hold his penis while he pissed. I refused to do that, and he threw me on the ground and pissed on me. When we got back to the villas, he told people I had wet myself, and when I denied it, he got angry and dragged me down the stairs. He gave me to some security men who put me in maximum security. I stayed there for two days."*[715]

310. On another occasion, a nurse tasked some children with carrying a person on a stretcher. As they were carrying the stretcher the sheet covering the body slid off, revealing the corpse and a toe-tag.[716] Mr Banks told us, "I was very disturbed as I had never been around a dead body before. When I got back [the nurse] was laughing and thought it was a great joke, we hadn't known the person had died. It impressed upon me human life was of very little value at Lake Alice".[717]

311. Ms McInroe said staff bullied patients and some staff encouraged bullying among the children.[718] She said she joined in sometimes and was "deeply saddened to admit my part in that behaviour", which was occasionally the result of being "egged on or set up by staff".[719]

312. Some staff members also recalled instances of emotional abuse. For example, Mr Stabb told us he once found a boy tied up in a laundry bag and let him out.

> *"He wouldn't speak and wouldn't move without being led. I attempted to give him a drink, but he could not hold the cup and any water would dribble out of his mouth. When [the nurse responsible] returned from tea, I asked him what was wrong with the boy. He told me that he had behavioural problems and that this was part of his treatment. He returned him to the bag."*[720]

313. Teacher, Anna Natusch, considered many staff had a callous attitude.[721] She recalled one occasion.

> *"A Māori boy who had suddenly developed greying hair fell to the floor rigidly convulsing, with eyes rolling back in his head until only the whites could be seen. "Just a drug reaction," said the nurse in charge. "Take no notice. Continue with the lesson!" He lay there, unattended, alone, a lonely, sad and frightened figure, and I went on with the lesson.*

I never forgot that Māori boy and the suffering he went through. I was helpless to help him and I, too, was touched by the callous atmosphere [and] didn't really realise the agony he was in."[722]

Ngā wheako kaikiri o ngā purapura ora i te manga – Survivors' experiences of racism at the unit

314. Māori and Pacific survivors experienced both institutional and interpersonal racism at the unit. The Crown has accepted there was systemic racism at the unit.[723] The way the unit was run was not culturally informed and there was no respect for Māori or Pacific cultures or incorporation of those cultures into practices in the unit. Survivors were separated from their cultures, languages, and their whānau or aiga.

315. Māori survivors told us that they were singled out for punishment by staff. Mr EN said Mr Lawrence was "very racist and made this extremely obvious".[724] Mr Ku told us Mr Lawrence was particularly known for this. He said Mr Lawrence would "walk past me and kick me and slap me" just because he wanted to, and that he:

"Would do this to all the Māori boys, and I think it was because he was racist. We weren't doing anything wrong, but he would always pick on us. He definitely treated the Māori boys worse than the Pākehā boys. He would grab the Māori boys by the neck and shake them."[725]

316. Mr Ku also told us of repeated physical assaults by Mr Lawrence, and he felt he was targeted for these assaults because he was Māori. Mr Lawrence gave him electric shocks and urinated on him.[726] Another survivor, Mr EN, recalled how Mr Lawrence told him that "being a nigga was a reason enough to get paraldehyde".[727] He remembered how Mr Lawrence boasted "he could do anything to us that he wanted" and how Dr Leeks' visits seemed to further inflate his sense of power.[728]

317. Another survivor told us he believed "Māori were treated a lot worse than other boys". In his experience, Māori boys received more electric shocks than the others, and although "we were the minority … we still received the most punishment".[729]

318. While the term 'institutional racism' was generally not used by survivors or witnesses when describing Lake Alice, their experiences and reflections show the policies and practices of Lake Alice were not culturally informed, did not allow Māori and Pacific children to maintain their connection to their culture and, worse, punished Māori and Pacific children more because of their whakapapa.

319. Māori survivors' cultural needs were not met. One Māori survivor reflected on the impact Lake Alice had on his cultural identity. He explained that his

experience in State residential care and Lake Alice separated him from his culture, and as a result, "the source of all my sense of identity and belonging".

> *"Lake Alice totally disregarded my Māori culture. I did not have access to any Māori cultural learning as a patient there. Cultural values and beliefs are very important to me and having none of that when I was growing up had a detrimental effect on my wellbeing ... I felt like I didn't belong anywhere.*[730]

> *"The longer I stayed in Lake Alice and in the Social Welfare system, the more disconnected I became from my Māori culture and more disconnected from my identity. I had a feeling that I didn't belong anywhere. Where I really belonged was with my mum and dad – with my whānau. When I was removed from that environment, they took me away from my Māori culture. I wish they had given me to my grandmother. I think my life would have been very different if they had.*[731]

> *"I have suffered, and my kids have suffered because of this racist system."*[732]

320. At the inquiry's public hearing, counsel for the Crown accepted that the unit was institutionally racist against Māori, saying it was clear "there was little or no thought given at the unit to respecting and preserving the mana and tapu of tamariki Māori ... Nor was there any provision made in legislative policy and practice settings to kaupapa Māori standards of care or to upholding the Crown's obligations under Te Tiriti o Waitangi".[733]

321. The inquiry not only heard from survivors about their experiences of institutional racism in Lake Alice, but also heard the reflections of former staff members on this. A former nurse aide at Lake Alice, Mr McCarthy, sharing his insights, said he did not notice any different treatment but did note there was an "absence of understanding of different cultural needs for Māori patients".[734]

322. Further, he said the way Māori view health and wellbeing, and the importance of that view, was not considered. Mr McCarthy also noted he found it unusual he saw "very little involvement of whānau in the lives of rangatahi" while they were in the unit.[735]

323. Mr Wikepa Keelan, a nurse at Lake Alice from 1974 to 1978, shared similar sentiments. He said while initially he did not notice how services treated Māori differently, as it was the "accepted status quo", he soon realised mental health and addiction services were "out of synch" with Māori.[736]

> *"This is evidenced by Māori having poorer health outcomes and increasing inequity across the Mental Health and Addiction system nationally. Although at the time there was not much evidence to draw on, the impact of the unlevel playing field is clear today …*
>
> *… the system is failing Māori and there is good evidence of inequity across Mental Health and Addiction services to prove this. For example, some Māori patients came into the hospital affected by Wairua illnesses which were largely disregarded or misunderstood by the clinicians.*
>
> *That clash between Māori cultural requirements and Western clinical imperatives is still alive and well today, fuelled by conscious and unconscious biases, and is the reason why the Mental Health and Addiction national system is not working for Māori. The evidence for inequity and poor Māori health outcome is evidence all across the health system including the Mental Health and Addiction service."*[737]

324. Pacific survivors also experienced racism in the unit. Mr Scanlon, a Samoan survivor, told us:

> *"At that age, I didn't really know what racism was … Looking back on my time at Lake Alice, it was clear that the Polynesian and Māori kids were treated worse than the palagi kids because we were getting more injections and electric shocks than the palagi kids. There were rules for them and different rules for us."*[738]

325. Before his admission to the unit, Mr Halo had been at an intermediate school where he was put in a special unit for children learning English as a second language. At Lake Alice, he received no language support. This was particularly damaging because, as Mr Halo noted, "my problems started from me being unable to speak English".[739]

326. Long-time social justice advocate Dr Oliver Sutherland said at the inquiry's public hearing that the story of Mr Halo exemplified the institutional racism prevalent in the 1960s and 1970s. He said Mr Halo was labelled handicapped and violent because he struggled to speak English and lashed out when teachers punished him for his poor performance. Dr Sutherland said the way Mr Halo was treated showed a glaring failure of the institutions that dealt with Mr Halo and his family, in particular, education, NZ Police, youth court, social welfare and health institutions.[740]

"At that age, I didn't really know what racism was ... Looking back on my time at Lake Alice, it was clear that the Polynesian and Māori kids were treated worse than the palagi kids because we were getting more injections and electric shocks than the palagi kids. There were rules for them and different rules for us."

- Leota Scanlon

327. Mr Halo was admitted to Lake Alice from Ōwairaka Boys' Home on the assumption he was already a State ward, but he was not. He was sent to Lake Alice through a combination of miscommunication and deception. He said his parents were told he was being taken to Lake Alice to go to a school there, and they were not told it was a psychiatric hospital, "They never knew the true story".[741]

328. He said he had been able to contact his mother and tell her about the electric shocks and injections, but she did not know how to get help or intervene, mainly because English was her second language and she could not call on any Niuean interpreters. "She felt that, because I was in the State's hands, there was nothing she could do."[742]

329. The Crown accepted the Pacific patients in the unit experienced institutional racism. It acknowledged that "there was little or no attention devoted to considering the difficulties that Pacific patients faced in the totally alien environment that neither recognised nor respected their culture, their languages, or their relationships with their families".[743]

Ngā wheako whakatoihara hauā o ngā purapura ora i te manga – Survivors' experiences of ableism at the unit

330. Many disabled children and young people were admitted to the unit, including those with a learning disability or neurodiversity. However, we are unable to give precise numbers due to poor record keeping and issues with inappropriate diagnoses.

331. Discriminatory attitudes towards disability contributed to survivors' admissions to the unit, and many survivors also experienced ableism in the unit. This affected both survivors who identify as disabled and survivors who don't, but were perceived to be disabled by the hospital or other authorities.

332. Many survivors told us that receiving a diagnosis of disability contributed to their admission but did not mean they, or their family, received extra support. For example, Mr Ku told us he does not think he was disabled when he went into the unit. "I was just a young boy struggling with being brought up in a hard environment."[744] He said his parents were struggling too, but instead of helping, hospital authorities diagnosed him with learning disability and "got me locked up".[745]

333. Survivors' experiences of racism and ableism intersected. For example, Mr Halo moved to New Zealand with his parents from Niue when he was six years old and did not speak English when he arrived.[746] He told us he did not understand what was happening in school. "I think because I didn't speak in class, they thought I was handicapped."[747] He said that he later changed schools and was

put into a special class, where he felt out of place, became restless and bored, and got into trouble.[748] He told us the State and schools needed to do more to help people from different cultures, especially if English was their second language, because his problems started from not being able to speak English.[749]

334. Mr JJ had a learning disability that meant he struggled to learn how to read, write or spell.[750] He said this was made worse by stress he was under at home and that his primary teacher would hit his desk with a cane and shout at him for not being able to do the work.[751] He said he got teased and made fun of at school and at home for his difficulties learning.[752] He would lash out and hit children who were teasing him, which led to his reputation for being aggressive and then to his admission to the unit.[753] Mr JJ said Dr Pugmire wrote a psychiatric report that was both insulting and led to his being taken away from his family, made a ward of the State and, eventually, admitted to the unit.[754] Dr Pugmire's report, which recommended Mr JJ be admitted to Campbell Park, a residential special school, said:

> *"This 12-year-old Māori boy is one of a family of sub-cultural, subnormal children born to an irresponsible Māori mother by an unstable violent father. His IQ is in the 75 to 85 range, but his behaviour at home and at school suggests not only low intelligence, but a gross instability or early psychosis."*[755]

335. Some survivors were never told why they were admitted to the unit. Others said their parents told them they needed a break[756] or that there was nowhere else for them to go.[757] A survivor who told us she was born with a physical and learning disability said her parents had told her sister, "sending me to Lake Alice was 'the best they could do with someone like me'".[758] It is clear whānau were not told what would happen in the unit. For example, Mr BZ said his grandparents decided the unit "would be the best place to help with my epilepsy".[759] They were finding it hard to look after him and told him he would be safe: "They did not realise it was a bad place."[760] He spent nearly a year and a half in the unit.

336. Once in the unit, many survivors experienced ableism. For disabled survivors, and survivors who needed additional support or accommodation, they were placed in an environment that misunderstood and ignored their needs. For example, Mr Nicol told us, "I had a disability. Instead of love and care and help with it, I got cruelty and torture and was made to feel a worthless human being."[761]

337. All the children and young people admitted to the unit became vulnerable to an environment that stripped them of any control or influence over their own lives or circumstances. Children with disability experienced increased risks of abuse and neglect due to a complex variety of societal factors, including a lack of adequate support to identify and report abuse.

338. Accounts from disabled survivors show little thought was given to accessibility, additional support or accommodations. For example, Mr Mathieson-Ngatai told us he remembered a boy who was brought to Lake Alice from Kimberley who used a wheelchair and was made to sleep downstairs, because the dormitories were upstairs and inaccessible.[762] Mr Antony de Malmanche has mild brain damage, which meant he had trouble remembering and learning new things growing up.[763] He told the inquiry he remembered having a brain scan while at the unit, which showed the damage and that his brain had been deprived of oxygen, and Dr Pugmire gave him his diagnosis of brain damage.[764] However, he told us, "I never got treated for this. I was always treated like my problem was just abnormal behaviour and I was punished accordingly".[765]

339. The knowledge that some of the unit's patients had la earning disability should have prompted staff to make sure they were communicating and explaining what was happening in the unit in a way that was appropriate to survivors' needs. Instead, the disabled survivors who spoke to us were often confused about what was happening to them in the unit. Many disabled survivors we heard from expressed confusion about why they were admitted to the unit. One said he was simply put in a car and onto a plane without understanding what was happening.[766] Many survivors have also expressed confusion about why they received shock treatment and paraldehyde injections in the unit, because it was not explained to them by staff. We also heard evidence that survivors with learning disability were punished for not understanding staff instructions. Mr DT said the male nurses used to hit him for not listening to them. "They hit me all over – in the stomach, anywhere they were capable of. One time, five or six nurses hit me in the tummy using their fists ... I would be told off ... quite a lot."[767]

340. Most disabled survivors told us their education suffered badly while in the unit. For example, Mr Mathieson-Ngatai attended Homai College before being admitted to Lake Alice. He said, "when I went to Homai College I could not read or write. I was beginning to go completely blind, so I went to learn braille. I quite liked Homai College. It was good being taught how to read braille".[768] When Mr Mathieson-Ngatai attended Lake Alice school, he did not have access to braille, instead he would be asked to read printed text using a magnifying glass, which severely limited his ability to learn.[769] This neglect affected survivors' literacy and greatly restricted their developmental opportunities in other aspects of their lives.

341. Staff in the unit appeared to have little expectation disabled survivors would have positive outcomes. Many of the disabled survivors we heard from did not go to school at all during their time in the unit. For example, Mr BZ said he did not go to school at Lake Alice. Every day, he would walk around the block and for the rest of the day he would sit around.[770] The disabled survivors who did attend school faced significant barriers that inhibited their ability to learn. They said

there was too much focus on craftwork and too little on things like mathematics.[771]

342. Some disabled survivors remained in residential care after their discharge and continued to have limited access to educational opportunities. Others were discharged from the unit and went to schools, although the disruption to their education while at Lake Alice and limited support in their new schools, restricted their ability to resume learning. Mr de Malmanche, who spent two years at Lake Alice, said,

> *"I was so far behind my peers when I got out. I went into fourth form at high school, and I didn't have a chance. Of course, my mother expected me to be up to speed with everything and pass my school certificate. It wasn't going to happen."*[772]

343. Falling behind educationally during crucial developmental years has had life-long consequences. Mr JJ spent 10 months at Lake Alice but did not attend the unit's school during his time there. Instead, he was "put to work making pot plant plaster casts and other things".[773]

> *"Most of my life, I was not able to find a job. No one would take me on after they asked about my education and found out I couldn't read or write. Also, I have just not been well enough to work for most of my life. I believe I lost the chance to earn a living because of Lake Alice and Cherry Farm [a psychiatric hospital]."*[774]

344. Mr DT went to school near Lake Alice instead of attending Lake Alice school. He told us that his school, "was a lot safer with more protection from the other boys ... The teachers would treat the students differently – treat them fairly. At Lake Alice, they treated you unfairly".[775]

345. Disabled survivors' health needs were also neglected. Some survivors told us they received medical treatment in the unit that was unsuitable for their disability and sometimes made their situation worse. Three individuals at the unit – Mr Mathieson-Ngatai, Mr Halo and Mr BZ – had a history of childhood epilepsy. All three received shock treatment for the condition. Mr Mathieson-Ngatai said it did not help, and his epilepsy improved only after leaving Lake Alice and receiving proper medication.[776] Mr Halo said ECT reactivated his epilepsy, after he'd had no symptoms for years.[777] Mr BZ said ECT made his epilepsy worse.[778]

346. We found disabled children and young people were more at risk of receiving shock treatment and experiencing medication abuse, sexual abuse, physical abuse and psychological abuse in the unit. Most received shock treatment, were given paraldehyde as punishment, and were given other medications without knowing what these were for.

347. Many disabled survivors told us they had been physically abused. Mr Mathieson-Ngatai said, "when I had epileptic seizure, I would shake, and staff would come along and kick me in the guts".[779] Survivors also told us of numerous instances in which staff abused disabled children and young people in front of others. Mr Nicol said,

> *"I will always vividly remember once at meal time a mentally disabled boy was masturbating under the table, and all of a sudden, a staff member came over and injected him in his penis, right there in the dining room. I was at the same table and saw the whole thing. The boy screamed the most horrifying screams I have heard apart from those of us having ECT. It was the most horrible thing. It is one of the memories that won't go away."*[780]

348. Many disabled survivors shared their experiences of sexual abuse in the unit. The abuse usually happened many times and sometimes involved multiple nurses. One survivor said a staff member witnessed him being sexually abused and simply turned his back. When Mr Nicol reported to staff that another patient had attempted to sexually abuse him, the staff member accused Mr Nicol of lying and punished him with electric shocks.[781]

349. Psychological abuse, in the form of threats and bullying, came from staff as well as other patients. Mr BZ said that he would get teased by the other patients. "They would make up silly stories about me. I would sulk because of it. Because I was sulking all the time I would get put into lock up."[782] Mr DT, who has a learning disability, said the other children would call him names. "I don't think it's worth me repeating what they said. This made me feel bad. I didn't cope with it well. I just wanted to hit them."[783] He said some of the boys would bully him and explained that one way they did this was to repeatedly strip the bedsheets off his bed, eventually he got sick of it and yelled at them.[784]

350. Mr DT said, "I would be told off more than often – quite a lot. They kept a diary for bad behaviour and I was in it lots. I would get in there for hitting and lashing out."[785] Mr DT went on to say, "If you got told off, you would go into the lock up room for the day. You would spend the night in the lock up room, until the next morning. This happened to me several times and different people as well as me. Once or twice, I was in the lock up room for more than the day. It was a lonely space."[786] He said that Dr Leeks and Dr Pugmire also weren't very kind to him, "they treated me unfairly. Pretty much similar to the way the kids treated me".[787]

351. Another survivor, Mr Steve Watt, witnessed Mr DT being bullied and said that no matter how badly the bullies taunted Mr DT, they were never punished as much as Mr DT was for responding to their taunting.[788]

Ngā wheako mae takatāpui, mae irawhiti o ngā purapura ora – Survivors' experiences of homophobia and transphobia

352. Many survivors experienced homophobic and transphobic abuse at the unit. This affected some survivors who now identify as part of Rainbow communities and others who don't. Discriminatory attitudes against members of Rainbow communities contributed to some survivors' admission to the unit and the abuse they experienced there. In this section, we discuss how homosexuality was considered a problem to be 'treated' and that Dr Leeks used electric shocks as part of this 'treatment'. In addition to these conversion practices, survivors were punished for behaviour that staff considered 'homosexual' and for failing to conform to traditional gender norms.

353. Behaviour that reflected diversity of sexuality, gender identity or gender expression was often a basis for admission into the unit. For example, boys who were perceived as feminine, wearing women's clothing and using make-up. One State ward was admitted into Lake Alice for 10 months following concerns he preferred girls' clothing and had 'feminine mannerisms'.[789]

354. Once children and young people were in the unit, homophobia and transphobia contributed to the abuse survivors experienced there. Sometimes this was because clinical staff believed behaviour that might reflect diverse sexuality, gender identity or gender expression was something that could and should be 'treated'. In other cases, it was regarded as something that needed to be suppressed through punishment.

355. Evidence shows that Dr Leeks believed sexual identity was determined at an early stage and was reversible only up to a certain point. When discussing the treatment of one patient in October 1972, Dr Leeks wrote, "As regard to his homosexual trends, these may not be reversible as one's sexual identity is determined from a fairly early age and added to within the first five to seven years of life. Subsequent events only emphasise that which was already there".[790] When discussing the unsuccessful treatment of another patient, Dr Leeks wrote, "It is unfortunate for him, but by now his effeminate identity appears immutable".[791] However, Dr Leeks still attempted to change his patients' sexuality.

356. Dr Leeks used aversion therapy to 'treat' behaviours labelled as homosexual.[792] In 1977, when he gave NZ Police a list of patients who had been given aversion therapy in the unit and the reasons why, the reasons listed included 'homosexual activities'.[793]The drug paraldehyde was also often given to tamariki in an attempt to suppress behaviours perceived as homosexual. One survivor's nursing notes record an incident where three boys were caught "half naked, playing a perverse game of spin the bottle". The notes record the boys were injected with

paraldehyde and put to bed.[794] Another survivor's nursing notes state the main objective for heavily sedating him was to prevent him making advances on other boys in the villa.

357. Solitary confinement was another tactic often used to both keep boys caught engaging in sexual activity away from one another and punish survivors for behaviours that did not reflect traditional gender norms. The nursing notes of one survivor state he was "roomed for the duration of the day as he has been caught applying eye-liner to his eyebrows during school".[795]

358. Dr Leeks was not alone in his belief that homosexuality could be "cured". Dr Pugmire believed his own conversion practices were successful. He wrote in a letter in 1974, "For the past 10 years or so I have been putting all my Sexual Deviants and Homosexuals on Melleril,[796] usually at the rate of 25mg tds [three times daily]. Sometimes as much as 50mg tds. I've never seen a Schizoid case of homosexuality who continued the treatment for 12 months without ceasing to be a homosexual".[797]

359. Homophobia and transphobia also contributed to children and young people perceived to be homosexual being more at risk of unreported and unaddressed sexual abuse. In a file note, Dr Leeks wrote about how Mr CC, a unit patient, had previously been repeatedly sexually abused by a staff member at a State residence.[798] Instead of identifying this as sexual abuse and treating Mr CC as a survivor, Leeks referred to the incident as Mr CC having been "involved in homosexual behaviour with a temporary house-master".[799] This attitude placed the focus on the child's perceived sexual orientation, rather than the fact he was a vulnerable child who had been abused by an adult.

360. Survivor, Sharyn Shepherd, told us, "The staff member [who raped me] started to talk to me. He told me how pretty I was. By that time I was 14 years old and very feminine looking. He showed me the shock treatment machine and the electrodes, explaining how they attached to your head when ECT was administered. He then threatened me with shock treatment if I didn't co-operate".[800]

361. Homophobic and transphobic verbal abuse was also a normal occurrence in the unit. One survivor said he and another patient were called homophobic and transphobic slurs by staff and patients. Ms Shepherd told us that staff and patients "constantly ridiculed" her because of her intersex status.[801] Anne Helm, who witnessed the bullying of one survivor, told us he was "the subject of taunts from the other adolescents", adding that "he had bobbed shoulder length hair and being gay in that place at that time meant he really had no group or place that he belonged".[802]

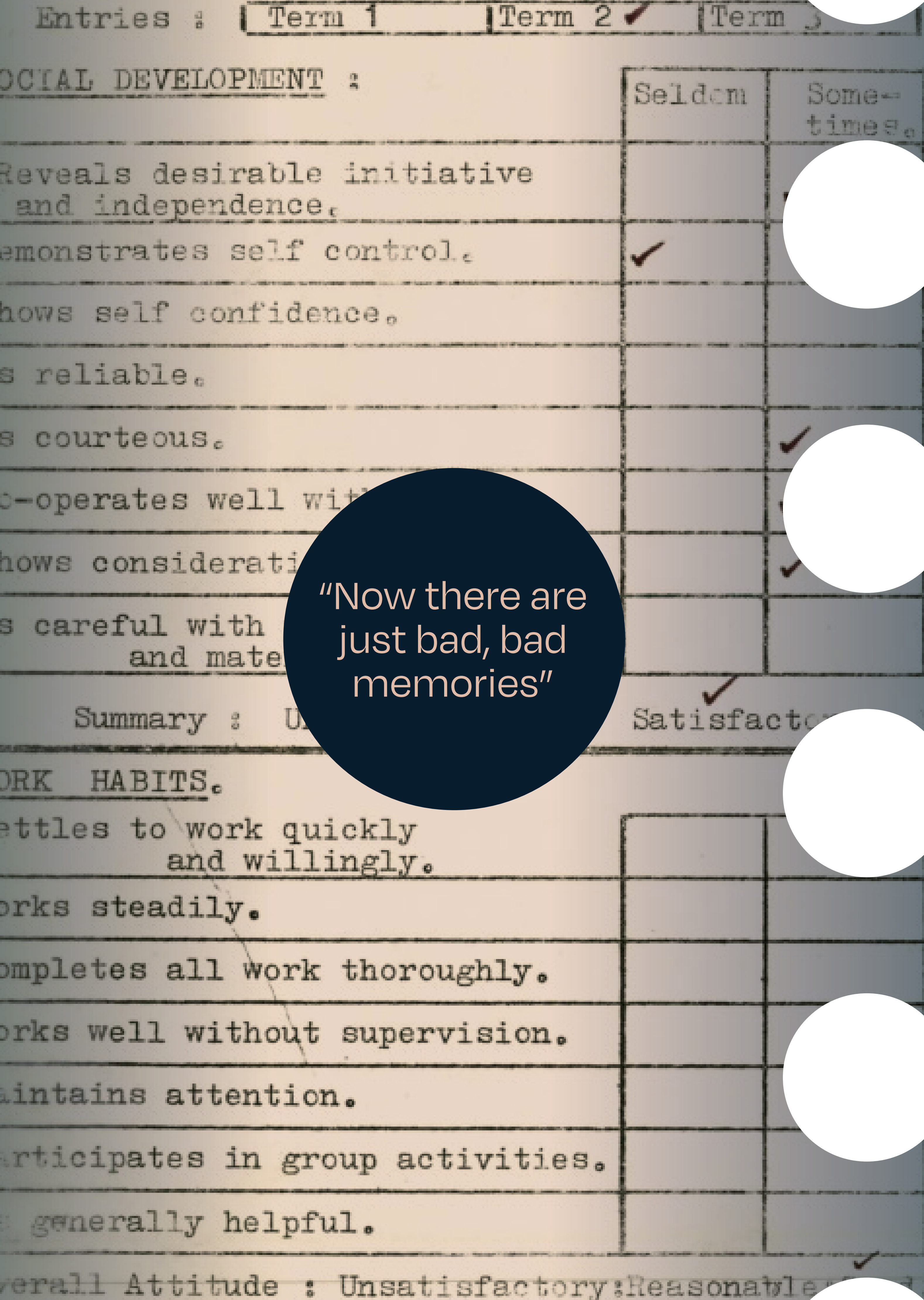
362. Homophobic and transphobic abuse in the unit had a profound impact, causing lasting harm to those targeted. This affected not only patients who identified with the Rainbow community, but also tamariki staff perceived as being homosexual or transgender or who had a gender expression that differed from traditional gender norms. In addition, this abuse caused psychological harm to the direct recipients of abuse and to any other children and young people in the unit who were questioning or uncertain about their sexuality or gender identity.

Ngā tūtohitanga – Summary of findings

Te āhua me te rangiwhāwhātanga o te mahi tūkino i te manga – Nature and extent of abuse at the unit

The Inquiry fiinds:

- Extensive tūkino – abuse, harm and trauma – at the unit included:
  - electric shocks as punishment, administered to various parts of the body, including the head, torso, legs and genitals
  - the injection of paraldehyde as punishment
  - physical and sexual abuse by staff and other patients
  - the misuse of solitary confinement
  - emotional and psychological abuse
  - exposing patients to unreasonable medical risks.
- Survivors experienced systemic racism, ableism and homophobia in the unit.
- The use of electric shocks and paraldehyde to punish met the definition of torture as outlined by the Solicitor-General.



Entries : | Term 1 | Term 2 ✓ | Term

OCIAL DEVELOPMENT :

	Seldom	Some- times.
Reveals desirable initiative and independence.		
emonstrates self control.	✓	
hows self confidence.		
s reliable.		
s courteous.		✓
o-operates well wit		
hows considerati		✓
s careful with and mate		

Summary : U Satisfacto ✓

ORK HABITS.

ettles to work quickly and willingly.		
orks steadily.		
ompletes all work thoroughly.		
orks well without supervision.		
aintains attention.		
rticipates in group activities.		
generally helpful.		

verall Attitude : Unsatisfactory:Reasonable ✓

“Now there are just bad, bad memories”

Name Mr DT

Age when entered care Seven

Age now 61

Hometown Lower North Island

Time in care 1971 – 1978

Type of care facility Special schools – Treadwell Park, Christopher Park; psychiatric hospital – Lake Alice; hostel – St John's Hostel.

Ethnicity Pākehā

Whānau background Parents, three siblings and a half-brother.

Currently Mr DT lives in New Plymouth with a flatmate.

Mr DT

> ***When I arrived at Lake Alice, I thought it was a nice place – at first. Now there are just bad, bad memories.***

It was 1975 and I was 13 years old. Like so many others, I wasn't told why I was going there and nor were my parents. My medical records state I was sent there for "perceived aggressive and sexual behaviour". I had been at Treadwell Park, a special school for intellectually handicapped children, since I was seven. It wasn't great.

I got in trouble there when someone ripped up a photo of my family, so I punched him in the nose. The matron made me go to an appointment with Dr Sydney Pugmire, the medical superintendent at Lake Alice, and next thing I knew, I was put straight into villa 7. It looked like a jail.

The staff thought I was stupid. One of the nurses wrote in my notes that I had "insufficient grey matter to learn by reward and punishment" so the only solution to curbing me was by a "revision of medication". That was code for administering paraldehyde as a punishment. My medical records

showed this happened at least seven times, once for being "disturbed and noisy".

> ***They gave me quite a lot of medication – packet after packet after packet – and it made me feel drowsy. They gave you medication as a punishment, too – I remember being put in the lock-up room and given the big needle. It was in my buttocks and very painful, with a bad smell.***

The other kids made me feel bad and called me a lot of names. I didn't cope with it well. One of the nurses noticed I had become the victim of the stirrers in the villa, and I felt intense frustration from struggling with their teasing. I would get told off quite a lot – they kept a diary for bad behaviour, and I was in there lots for hitting and lashing out. If I got told off, they would put me in the lock-up room for the day, and sometimes overnight. It was a lonely space.

I got electric shocks if I was in the diary for bad behaviour. It made me feel like my head was spinning around and buzzing. My heart would start to race, and it felt really bad. Afterwards I'd get a headache. There was no medication before the electric shocks, only after. They said if I had medication beforehand, it would make the electric shocks worse and I'd get sick.

My experiences with Dr Selwyn Leeks and Dr Pugmire weren't very pleasant – they treated me unfairly, like the other kids did. I try to forget about it now.

The male nurses hit me a lot, for not listening. They hit me all over, in the stomach, anywhere they were capable of. One time, five or six nurses hit me in the tummy using their fists. They gave me a count of 10 and I was down on both my knees. I think they hit me for swearing.

Someone called the police on my behalf because it was assault. I talked to the police and told them the male nurses were hitting patients. The police took them away. I didn't tell the police about the big needle or the electric shocks – they just wanted to hear about the assault.

Sometimes I got to go home for weekends, and that was a lot better than being at Lake Alice. I never wanted to go back after the weekend. I told Mum about the electric shocks and she said I should try to forget about it. But sometimes it's hard to forget.

My grandma tried to get me out of Lake Alice after she found out I was being put in the lock-up room, which made her disturbed and distressed. After I had been at Lake Alice for a year, an educational psychologist assessed me and wrote that it wasn't a suitable placement for me. Dr Pugmire didn't want me to leave, though – a letter showed he thought I was "pretty well institutionalised" and he was worried about a potential "flare up of publicity".

A year later, Dr Pugmire wrote a letter admitting I didn't fit in with the other boys because many of them were mentally ill and I wasn't. I was a fish out of water, he said.

Then my grandma's persistence paid off, and she got me out of Lake Alice about two weeks after the male nurses' assault on me. I had been in there for a total of three years and three months.

> ***I live in New Plymouth now, with a flatmate, and I like having company very much. Life here is good. Everything has improved since Lake Alice. I have a lot of freedom.***

References:

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Witness statement of Mr DT, EXT0017912.

School report of Mr DT, WHB0003336.

Psychological Service Report by DG Page, WHB0003328. Department of Education (3 June 1976).

Psychological Service Report by RT Blair, WHB0003324. Department of Education (26 January 1973).

Nursing notes of Mr DT, WHB0003315. Lake Alice Hospital (25 July 1976 to 24 August 1977).

Nursing notes of Mr DT, WHB0003314_00003. Lake Alice Hospital (30 June 1975 to 29 March 1976).

Letter from Mr DT's grandmother to Dr Sydney Pugmire, WHB0003238 (19 March 1977).

Letter from Dr Sydney Pugmire to Dr DJ Woods, WHB0003278 (10 January 1977).

Letter from Dr Sydney Pugmire to Mr DT's grandmother, CRL0124769 (24 March 1977).

Letter from Dr Selwyn Leeks to Dr Barbara Stone, WHB0003360 (3 October 1973).

2.1.6 Ngā amuamu tūkino ki ngā umanga tika – Complaints of abuse to responsible agencies

363. Complaints were made to the Department of Social Welfare from boys referred from Holdsworth and by Lake Alice school staff. Complaints were also made to the Department of Education.

Ngā amuamu a ngā tama i whakawhitia atu i Holdsworth - Complaints of boys referred from Holdsworth

364. Complaints were raised with the Department of Social Welfare about the unit from as early as 1973 and came from boys taken to Lake Alice from Holdsworth. The Department of Social Welfare's response to these and subsequent complaints showed a deferential attitude towards clinical decisions at the unit. As a result, complaints were generally not believed or acted on. The complaints process at the unit is discussed further in chapter 2.3.

365. We next discuss the earliest recorded complaint, from Mr EG, followed by complaints from Mr EK and other boys from Holdsworth. We then discuss the roles of Holdsworth staff, social workers and the Department of Social Welfare

Earliest complaint – Mr EG

366. The earliest recorded complaint relates to Mr EG. He was admitted to Lake Alice in November 1972 after absconding from Holdsworth and was discharged a month later.[803] He was given "three treatments of ECT" while at the unit.[804] Mr EG told his social worker, Mr Sumich, he had "been given 'shock treatment' as a punishment" while at Lake Alice.[805] He complained that he had received this as "unmodified shock treatment" and said the hospital was "not meant to give the treatment in an unmodified form".[806] On 19 January 1973, Mr Sumich sent a letter to Mr John Hills, the Department of Social Welfare's Christchurch director, describing Mr EG's complaint and recommending a report be obtained from Lake Alice on Mr EG's treatment.[807]

367. The social worker said Mr EG's behaviour had reportedly improved after the treatment and stated that he did not consider it likely that hospital authorities would use shock treatment as punishment, but,

> *"unfortunately [Mr EG] believes this to be so and has spread the belief to other inmates at Holdsworth School … I was informed by another inmate [survivor], that if you abscond from Holdsworth, you are punished by being given shock treatment at Lake Alice Hospital".[808]*

368. In response, Mr Hills wrote to Mr Powierza, the principal at Holdsworth, on 25 January 1973, copying in the Director-General of Social Welfare, saying that although "there was always some risk in accepting unconfirmed statements of boys", there was "some concern" with a boy making a statement regarding his treatment at Lake Alice.[809] Mr Hills' concern, however, was around the danger that such "distorted reports" might spread and "harm the professional reputation of staff who were working perhaps under difficult conditions, with difficult people to care for".[810] Rather than asking for a report about Mr EG's treatment from Lake Alice, as Mr Sumich had recommended, or otherwise investigating the complaint, Mr Hills suggested Mr Powierza have a discussion with the medical superintendent of Lake Alice, "so that he may be fully aware of the type of patient he has".[811] Mr Powierza replied to Mr Hills on 26 February 1973, copying in the acting Director-General of Social Welfare.

> *"I consider that it would be imprudent of me to suggest to the Medical Superintendent of Lake Alice that he is not aware of the sorts of patients that he has. I will, at some appropriate time, unofficially, make comment to Dr Leeks, the Consulting Psychiatrist, but this is all that I am prepared to do."*[812]

369. Further, Mr Powierza said Holdsworth had previously sent six children to Lake Alice, and others as outpatients to visit psychiatric nurses, and "none of [the] children have any exaggerated fears of going to Lake Alice".[813]

> *"The connotation that shock treatment is used as a punishment may in fact be real in its consequences; it may even be the intention of the medical specialists. Be that as it may, the results so far have been most rewarding and, if we are to use psychiatric facilities, then surely, we must accept the psychiatrists' modus apparatus."*[814]

370. Mr Powierza appeared unconcerned by the possibility that shock treatment was being given as punishment as he was generally pleased with the result this method was producing.[815] In a note on Mr EG's file from 22 November 1972, Mr Powierza noted that a report from Lake Alice indicated Mr EG's "anti-social behaviour, stealing, pathological lying, and aggressiveness are such that on the first day he transgressed the rules and was given E.C.T.".[816]

Mr EK

371. Mr Powierza's response to the Department of Social Welfare is not only surprising in its lack of concern about the methods being used at the unit, but also in its inaccurate account of the lack of fear of Lake Alice among other boys who had been admitted there. Only days before Mr Powierza received the letter from Mr Hills, he recorded an incident that

occurred at Holdsworth involving another boy, Mr EK,[817] who had been previously admitted to Lake Alice for several weeks in late 1972.[818]

372. On 24 January 1973, Mr Powierza made a file note about an incident at Holdsworth the previous evening. Mr EK and two other boys had been caught misbehaving. Mr Powierza said Mr EK had become "hysterical" and begged the housemaster not to send him back. He had become so distraught the housemaster eventually called Mr Powierza. Immediately on seeing Mr Powierza,

> *"[Mr EK] threw himself at me, pleading that he not be sent back to Lake Alice. After calming him I told him that if he continued with his persistent aggressive behaviour with the other children, or if he did behave in an inappropriate manner ... we would have to refer the incident to Dr Leeks, who would make the decision."*[819]

373. The next day, Mr Powierza recorded that Mr Hunt had spoken to Mr EK and he was still "distraught in his fear of being returned to Lake Alice".[820] Although Mr EK was not returned to Lake Alice, Holdsworth staff continued to threaten him with re-admission to the unit.[821]

374. Records from Mr EK's consultation with Department of Social Welfare physician, Dr Lovell Frost, in February 1974 show Mr EK said he had been at Lake Alice twice and given electric shocks three times as a "punitive measure".[822] Dr Frost wrote a question mark next to EK's claim of having received shock treatment. This inquiry found no evidence of any follow-up action.

375. In 1977, a Holdsworth teacher described Mr EK's behaviour as "disturbed for a long time" afterwards:

> *"All the boys in my classroom who had received ECT became worse after they had received it. They all became violent. The ECT seemed to have changed the personality for the worse in all the boys I have seen after ECT. Some of the boys told me that they were held down and then given ECT. They told me that this was an extremely painful experience."*[823]

Ngā wheako o ngā purapura ora nō Holdsworth - Experience of survivors from Holdsworth

376. On 17 March 1973, a social worker visited a boy from Holdsworth, Mr DS, who had been admitted to Lake Alice. The social worker recorded in a file note a week later that Mr Hunt, the charge nurse, had said there was a possibility Mr DS would receive "E.C.T. treatment" because he "tends to continue to do things which are not acceptable a short time after being warned".[824]

377. On 3 August 1973, an acting housemaster of Holdsworth took Mr Wickliffe to Lake Alice from Holdsworth for a brief stay to receive ECT treatment. The file note of 9 August 1973 from the housemaster records that Dr Leeks had warned Mr Wickliffe "should he continue to misbehave at Holdsworth, more treatment would follow".[825] Mr Wickliffe recalls that he was taken to Lake Alice from time to time for shock treatment and it was used as a "scare tactic and punishment".[826]

378. In 1973, Mr Watson, a Holdsworth housemaster, recalled becoming increasingly concerned at the reasons boys were being sent to Lake Alice. Most boys were referred by Mr John Drake, who became acting principal at Holdsworth after Mr Powierza resigned, for persistent absconding or aggressive behaviour.[827] Mr Watson considered the school could manage this sort of misbehaviour. He expressed concern to Mr Drake that he was "sending those boys to a psychiatric hospital as punishment for misbehaviour at Holdsworth".[828] Mr Drake never acted on Mr Watson's concerns.

379. At that time, Mr Watson said that he thought about raising concerns several times with the Department of Social Welfare head office, but such complaints needed to be in writing and go through Mr Drake as the acting principal and he would intercept them.[829]

380. Mr Watson, who was also studying psychology at Massey University at the time, said he became increasingly concerned about what was happening at Lake Alice. One day in 1973, Mr Watson said he drove to the hospital to check on the Holdsworth boys he was responsible for. He says he spoke with five boys that day, including Mr Marks who recalled the conversation with Mr Watson,[830] and asked them how they were doing.

> *"They appeared to be really scared and told me they had been administered electro-convulsive therapy (ECT) to their heads and electric shocks to their legs, without first receiving anaesthetic or muscle relaxant. They said they had been given these electric shocks as a form of punishment by Dr Leeks."*[831]

381. Mr Watson said he believed what the boys were telling him and contacted Dr Leeks.[832] He said Dr Leeks denied ECT had been given as punishment and said the boys were lying.[833] He recalled that Dr Leeks said something to him along the lines of "I'm the psychiatrist here, you're just a psychologist in training".[834] Mr Watson said he also later contacted the Department's head office about complaints of mistreatment at Lake Alice.[835] He did not recall the Department undertaking any investigation into his concerns about Lake Alice.[836]

382. Mr Marks repeated his complaint in 1976 to child psychiatrist Dr Jim Methven. He told Dr Methven he had ECT twice without injections, and that "all the boys were scared of [the electric shocks]".[837]

Te wāhi ki ngā kaimahi o Holdsworth i ngā whakawhitinga atu – The role of Holdsworth staff in referrals

383. Mr Drake played a key role in the referral of boys from Holdsworth to Lake Alice. Several Holdsworth survivors who were sent to Lake Alice by Mr Drake, including Mr EK, Mr Marks and Mr Wickliffe, also told us they were repeatedly sexually and physically abused by Mr Drake while at Holdsworth.[838] Mr Wickliffe said deputy principal Duncan McDonald and two other staff members at Holdsworth also sexually assaulted him.[839] This group of survivors said they told other staff about the abuse at the time, but were either disbelieved or ignored. Mr Wickliffe said he told everyone who would listen but was told he was lying.[840] The abuse at Holdsworth created a vicious circle. Boys would often react to the abuse by absconding or 'misbehaving', and their abusers would respond by sending them to Lake Alice for 'behavioural reasons'.[841] Mr EK said:

> *"Drake was a paedophile. He did it to me and I complained. I wasn't listened to. I tried to kill myself … and because of that, that's how I ended up in Lake Alice. You see what happens? They violate you; you complain, you get punished further – and nothing happens to the perpetrator. Silence is golden."*[842]

Tā ngā tauwhiro me te Tari Toko i Te Ora i mōhio ai - What social workers and the Department of Social Welfare knew

384. Holdsworth volunteer, Jill Winsor, and several former Department of Social Welfare employees, including social workers and teachers, gave evidence to the inquiry consistent with the accounts of survivors from Holdsworth who were sent to Lake Alice. Some social workers said the boys told them they were getting ECT as punishment and were fearful of ECT. They also said they themselves had heard social workers threaten to send boys to Lake Alice if they misbehaved.[843]

385. Social worker, Alan Cruise-Johnston, said he spoke to Lake Alice staff after boys told him about the use of ECT as punishment and was assured this was not the case.[844] Mr Cruise-Johnston told us the culture of the Department at the time was "not to inquire further".[845] "I wanted to accept it, unfortunately, as I couldn't bring myself to believe that such a thing could be happening."[846]

386. Field social worker Dal Janes said that if an individual had complained to him about mistreatment at Lake Alice, he would have made a complaint to the hospital staff and the Department's Whanganui director, Eric Medcalf. However, he believed Mr Medcalf would have "brushed off the complaint".[847] Mr Janes considered that Mr Medcalf would have "liked to stick to the rules and preferred to keep the affairs of [the Department] and the [unit] separate".[848]

"Drake was a paedophile. He did it to me and I complained. I wasn't listened to. I tried to kill myself … and because of that, that's how I ended up in Lake Alice. You see what happens? They violate you; you complain, you get punished further – and nothing happens to the perpetrator. Silence is golden."

- Mr EK

Mr Janes also recalls another male staff member at the Department "blowing the whistle on Dr Leeks and getting heavily reprimanded".[849]

387. This is consistent with the response that a youth aid officer, Tony Sutherland, got from Mr Medcalf.[850] Mr Sutherland also recalled raising concerns about referrals from Holdsworth to Lake Alice with Ray Wallace, second in charge of the Child Welfare Department in Whanganui. Mr Wallace shut him down and wouldn't allow the matter to be discussed at a Department meeting.[851] Mr Wallace told Mr Sutherland it was a matter for Holdsworth and not part of the agenda.[852] This shocked Mr Sutherland. He believes Mr Wallace had knowledge of the basis for referrals from Holdsworth to Lake Alice before Mr Sutherland raised the matter and that the Department in Whanganui was "motivated to keep the district squeaky clean".[853]

Ngā mānukanuka o ngā kaimahi o te kura o Lake Alice – Concerns from Lake Alice school staff

388. We received statements from six former Lake Alice school staff (two relieving principals, a principal and three teachers). These staff members were employed for various periods between 1973 and 1978. Many of them recalled hearing students and/or nursing staff talking about the use of electric shocks as punishment. One teacher who was at the Lake Alice school for a short time in 1973, said he "understood the [electric] shocks to be a disciplinary measure" and thinks one of the nurses may have told him this.[854] He considers the unit was using electric shocks as a form of corporal punishment in a similar way strapping was used in primary schools and caning in secondary schools during the 1970s.[855] However, he felt it "wasn't [his] place as a teacher to question the treatments that were being administered by medical professionals".[856]

389. The Lake Alice school's first teacher was appointed in May 1973. She told us she witnessed how fearful students were of electric shocks,[857] or the "zapper" as they called it, and saw nurses threaten its use.

> *"I'm pretty sure the 'zapper' was always talked about in terms of punishment because I remember the guards making threats to the kids in the classroom, such as watch yourself or you'll get the zapper. There may have been therapeutic reasons for it, but the kids didn't seem to see it that way. I guess I didn't see it as therapeutic either because it always seemed to be a threat for misbehaviour...there was a lot of fear at the same time. They were scared of the ECT. With respect to the fear the students had that I witnessed at Lake Alice, I have never encountered this fear in any other educational facility I have worked in".*[858]

390. She also said: "My reaction to ECT given to kids in Lake Alice was that it was clearly wrong", but "[e]ven if I had wanted to raise concerns about the treatment of kids, there wasn't anybody I knew to talk to. I had no idea of the hospital's hierarchy, no idea of the personnel and no idea of who was really interested in the education side of it either".[859]

391. Teachers also described how psychiatric staff had devised a behaviour modification system. Anna Natusch said teachers were required to grade students from A to D based on their behaviour. Normally getting a low grade would result in some minor loss of privileges:[860]

> *"At Lake Alice, however, I would be loath to give a D because I was aware of the dire consequences for the children. I was told upon being given the book that if a child had a small number of D ranks in a row, they would get electric shock treatment, without anaesthetic. It was appalling."*[861]

392. To protect her students, Ms Natusch said she manipulated their marks to spare them from punishment.[862]

393. Some of the teachers recalled the impact that medication had on their students' learning. Ms Natusch told us, "Effects of the drugs that I witnessed in the children included sedation, drowsiness, lethargy, difficulty in thinking, poor concentration, nightmares, emotional dullness, depression and despair".[863] A 1977 school inspector's report on Lake Alice confirmed the Department of Education was aware students were receiving treatments that "[could] affect their capacity to learn".[864]

394. Evidence of paraldehyde administered as punishment was also in school reports. One student's comment on her 1975 school report implied students were given a "needle" for misbehaving. She wrote: "I think I have done very good at school, and I have been a good girl at Lake Alice Hospital and I had the needle once."[865]

395. Another teacher, Mr Craig Collier, recalled an incident during a concert where nurses openly threatened the use of ECT. At one point, he said, a young adult patient was attempting a classical piano piece that was going badly and the audience became unruly.

> *"Two nurses … then rolled an ECT machine onto the stage, which quietened the patients down. One of the nurses called out "If you don't settle down, this is what you'll get." In my view, I would call this psychological abuse to which young adolescents should not have been exposed to."*[866]

396. Consistently, the teaching staff at Lake Alice school told us they did not act on concerns they had about the treatment of children and young people at the unit as they did not see it as their place to challenge the treatment decisions of medical staff. Even if they did want to complain, they told us they did not know who they could raise their concerns with.

Ngā amuamu ki te Department of Education – Complaints to the Department of Education

397. In addition to the teaching staff at Lake Alice, the inquiry also reviewed evidence from several educational psychologists who had visited the Lake Alice school or been involved in some other way with the school between 1972 and 1978. Psychologists would assess students' abilities and help teachers devise educational programmes. Most of these educational psychologists raised concerns with the Department of Education about what was going on at the school. They cited the use of ECT as punishment[867] and the exposure of students to adult patients who displayed dangerous behaviour.[868]

398. Two of the psychologists, Mr Craig Jackson and Mr Don Brown, raised serious concerns about the unit early on after it was established. Mr Jackson visited the school monthly in the early 1970s. In a media interview in 1999, Mr Jackson said he was made aware of concerns about the misuse of ECT at the unit by teachers at the Lake Alice school. He said he alerted his superiors within the Department of Education to these concerns and was assured that they would be passed on to Dr Mirams, the Director of Mental Health at the Department of Health.[869] Mr Jackson was initially hesitant to take the concerns further but over time the rumours became more persistent and he felt "an ethical duty to the boys to pass the information further up the hierarchy".[870] Despite assurances that the matter would be investigated, Mr Jackson said teachers at Lake Alice and other visiting psychologists continued to report similar concerns through until 1977.[871]

399. In September or October 1974, Mr Brown, the acting Chief Psychologist, called Mr Jackson to discuss allegations of improper use of ECT at the unit. Mr Jackson stressed he had no direct knowledge of this but was aware from discussions with the principal at Lake Alice school that electric shock treatment was seemingly being used in a punitive fashion.[872] Mr Jackson also raised the matter with an inspector supervising special education at the Wanganui Education Board.[873]

400. In November 1974, Mr Brown visited Lake Alice where a staff member told him children and young people were given "aversion stimuli" such as paraldehyde injections in the buttocks and electric shocks to the legs.[874] Based on this information, Mr Brown said he confronted Dr Pugmire and said:

> *"I was very, very concerned that it looked to me as though I was being told openly there were practices being used which apart from whether or not some degree of punishment was justified these were totally unacceptable forms of punishment."*[875]

401. Mr Brown asked Dr Pugmire for assurance that those sorts of things were not happening in the unit.[876] Dr Pugmire did not give Mr Brown that assurance.[877]

402. Soon after Mr Brown's visit, Dr Pugmire wrote to him saying he had reviewed Lake Alice's various "therapeutic techniques" and found "nothing in the slightest degree disturbing or out of the ordinary".[878] Dr Pugmire told Mr Brown he could inform his staff that their "anxieties were completely unfounded".[879] Despite having asserted everything was in order, Dr Pugmire told Mr Brown that he and Dr Leeks had agreed to discontinue use of "Electrotonis [sic] and to always give an anaesthetic before ECT treatment".[880] Dr Pugmire also said the unit would "refuse all patients who require any form of aversion therapy and thus completely eliminate one source of mythology".[881] In addition, Dr Pugmire said he had "completely changed the nursing staff on the boys' villa, including the Charge Nurse".[882]Unconvinced, Mr Brown said he wrote a report to the Department head office saying treatment at the unit was not satisfactory and referrals from the educational psychologists of children and young people to Lake Alice were stopped.[883] We found no other evidence of action taken by the Department in response to these concerns.

403. Dr Pugmire also replaced the staff in the unit, including the charge nurse,[884] Mr Hunt was replaced by Mr Corkran. While Dr Pugmire told Mr Brown he had secured Dr Leeks' agreement to stop giving aversion therapy and ECT without anaesthetic, we located nursing notes and received numerous accounts to show that unmodified ECT and aversion therapy continued being administered at the unit after 1974.

2.1.7 Ngā tātātanga ā-waho me te katinga o te manga – External scrutiny and closure of the unit

404. The Citizens Commission on Human Rights (CCHR) and the Auckland Committee on Racism and Discrimination (ACORD) both played a significant role in bringing the public's attention to allegations of abuse at the unit. Their work played a key part in the series of events that led to Dr Leeks' departure and the unit's eventual closure. In this section, we outline the main sequence of events through to Dr Leeks' departure. In chapter 2.4 we analyse the Commission of Inquiry into the Case of a Niuean Boy and the Ombudsman's investigation in more depth.

405. CCHR describes itself as a non-profit mental health watchdog. It was co-founded by the Church of Scientology and an emeritus professor of psychiatry named Dr Thomas Szasz.[885] Its tour of Lake Alice on 21 January 1976, generated several media articles raising concerns about the appropriateness of the placement or treatment of children and young people at Lake Alice. For example, an article published in the Wanganui Chronicle referred to allegations that the hospital had become a dumping ground for unwanted children who were being treated with drug therapy and electric shock treatment.[886] It detailed specific complaints CCHR said it had received, including that injections were given too freely and for punishment and that one boy was locked up for four days for misbehaviour.[887] Dr Pugmire is quoted in the article saying, although he did not know if those instances had occurred, there were general directives to keep electric shock treatment to a minimum and children should not be detained for more than 20 minutes.[888] CCHR has remained involved in advocating for survivors of the unit and bringing attention to what went on there.

406. Dr Oliver Sutherland said ACORD was founded in 1973 to respond to a challenge from Māori and Pacific activists for Pākehā to see it as their job to research and expose institutional racism.[889] ACORD became aware of the unit on 1 December 1976 when Ms Lyn Fry, a Department of Education psychologist, shared her concerns about Mr Halo's treatment in the unit.[890] ACORD's involvement in the case of Mr Halo, which led to its calling for a full inquiry,[891] is discussed in more detail later in this chapter.

Te whakatewhatewhatanga a Te Tari o te Kaitiaki Mana Tangata o 1976 – The 1976 Ombudsman's inquiry

407. In July 1976, the parents of Mr CD complained to the Ombudsman's office that various decisions and actions of the Departments of Social Welfare and Health had been unreasonable and unlawful.

Takenga – Background

408. Mr CD entered the unit in April 1976 after getting into trouble at school and with police.[892] Mr CD's parents were concerned about his behaviour and contacted his school principal and social worker.[893] There is some suggestion that Mr CD required psychological help and his father wished to show the authorities that, although his son had behavioural problems, he was not mentally disordered.[894] It was on this basis his father requested that Mr CD be received into Lake Alice and assessed.[895]

409. The family's general practitioner assessed Mr CD and formed the opinion he should be placed in the hospital for investigation and treatment.[896] Dr Leeks then assessed Mr CD, diagnosed him with a "paranoid schizophrenic condition" and said he was "a danger to society".[897] On 26 April 1976 a reception order was made, based on these opinions.[898]

410. Mr CD's parents understood their son was being admitted to Lake Alice as a voluntary patient.[899] On 28 April 1976, they sought to remove him from the unit.[900] They were informed by staff he was a committed patient and they were unable to do so. The Ombudsman was later satisfied that Mr CD's father was not fully aware that by applying for his son to be received at Lake Alice he had applied for a formal reception order.[901] The Ombudsman considered the fact the form applying for a reception order was filled in by someone else but signed by Mr CD's father supported that view.[902]

411. In subsequent interviews with Dr Leeks, the parents expressed their strong desire for their son to be returned home.[903] From May, Mr CD was granted trial home leave for the weekends.[904] On one of these weekends his parents called the unit and informed them Mr CD would not be returning.[905] A staff member, accompanied by a police officer, went to Mr CD's household and explained the legal implications of the reception order. Mr CD's father then allowed him to be escorted back to the hospital.[906]

412. After this incident, Dr Leeks issued instructions that Mr CD not be granted home leave without permission from himself or the charge nurse.[907] Mr CD remained in the unit and expressed fears about his home environment and the Lake Alice environment to his social worker.[908] He said on the one hand he was afraid of his father when he became angry, but on the other hand he preferred home to the institutional life in the unit.[909]

413. In July, Mr CD's parents were upset to learn Mr CD had been convicted and sentenced in the Children and Young Persons Court without the hospital informing them of the charges.[910] Mr CD's parents then contacted their solicitor and made a complaint to the Ombudsman about their son's detention at Lake Alice.

414. During the course of the Ombudsman's enquiries to the Department of Health, it was discovered Mr CD's committal papers were defective.[911] The Director of Mental Health asked Dr Pugmire for an explanation.[912] On 29 July, Dr Pugmire responded that the intention had been to admit Mr CD formally, but they had discovered they hadn't fulfilled the requirements of the Mental Health Act 1969.[913] He said now they were aware of the issue with his committal papers they had changed Mr CD's status to that of an informal patient.[914] They did not inform Mr CD's parents of the change to his status.[915]

415. Mr CD's parents remained concerned about his detention at Lake Alice and visited their general practitioner on 20 August to discuss their concerns.[916] They then visited Mr CD in the unit and expressed their concern about his continued stay in the hospital.[917] After they left, a senior staff member told Mr CD about his change in status.[918] On 23 August, Dr Pugmire met with Mr CD's parents and attempted to persuade them to allow him to remain in the hospital for treatment.[919] Against Dr Pugmire's advice, they decided to take their son home.[920]

416. Notes by unit staff indicate Mr CD's reaction was "I want to go home but am not ready to go yet. What will happen when Dad hits me and I hit him back".[921] Mr CD ran back to the villa that same afternoon.[922] Dr Leeks' notes said Mr CD had requested to be re-admitted and that he was afraid of his father but also what he might do to his father.[923] Dr Leeks then contacted NZ Police and the Department of Social Welfare to seek some authority to re-admit Mr CD against his parents' wishes, given he was not considered "mentally disordered".[924]

417. Mr CD was brought before the Children and Young Persons Court on 27 August, where a direction was made placing him in the custody of the hospital, pending a hearing in September.[925] In September, the Children and Young Persons Court made an order placing Mr CD under the guardianship of the Department of Social Welfare, which admitted him to the unit as an informal patient.[926]

418. During this second admission, Dr Leeks decided to start Mr CD on a course of ECT, because nursing staff found him difficult to control.[927] On the first two occasions, Dr Leeks gave him unmodified ECT, but in subsequent sessions it was modified.[928] Dr Leeks neither informed or sought consent from Mr CD's parents or the Department of Social Welfare before giving ECT.[929]

Te pūrongo a Te Tari o te Kaitiaki Mana Tangata – Report of the Ombudsman

419. In April 1977, the Ombudsman, Sir Guy Powles, released his report. He was critical of how the Departments of Health and Social Welfare had treated Mr CD. He upheld the parents' complaint and said the Departments' actions had caused Mr CD "a grave injustice".[930] In particular, he noted that

several aspects of the case fell short of the minimum requirements of the Mental Health Act 1969 and criticised the Department of Health for:

- having "inadequate regard" for the requirements of the Act, as a result of which Mr CD's detention at Lake Alice was at times "contrary to law"
- keeping Mr CD at Lake Alice against his and his parents' wishes when Dr Leeks stated that he was not "certifiable" under the Act
- "finding some authority" to hold Mr CD in hospital by becoming involved in a negotiation with social welfare authorities
- failing to keep Mr CD's parents adequately informed about his detention and treatment
- giving Mr CD ECT without his consent, his parents' consent or the consent of the Department of Social Welfare
- the way in which ECT was administered to Mr CD.[931]

420. The Ombudsman suggested the Department of Health review the administration of ECT in institutions under its responsibility in light of three observations:

    (a) The use of unmodified ECT for children and young people detained under the Act should be discontinued.

    (b) The use of ECT treatment on children and young people in psychiatric hospitals should be discouraged in all but exceptional circumstances and where the principles of consent have been fully met.

    (c) Consideration should be given to instituting legislative change to give effect to points (a) and (b).[932]

421. He also criticised the Department of Social Welfare for not paying sufficient attention to Mr CD's status during his detention at Lake Alice.[933] He said the Department was careless in its appreciation and understanding of the legal authority by which Mr CD's placement was made.[934] The Ombudsman's opinion was that the law did not allow the Department to consent to the admission of children and young people under its guardianship to psychiatric hospitals as informal patients, and that the correct route was to formally commit such children and young people.[935] He further considered that the Department failed to pay sufficient attention to Mr CD's welfare while at Lake Alice.[936]

422. The Ombudsman recommended:

    - the Director-General of Social Welfare should discharge the guardianship order made in respect of Mr CD
    - the Department of Health should adopt and apply specified standards in relation to consent in psychiatric hospitals, regardless of the patient's age

- steps be taken to alert the appropriate personnel of the Departments of Health and Social Welfare to the absolute necessity to strictly follow statutory requirements for safeguarding patients' liberty
- the practice of the Department of Social Welfare in placing children and young people subject to its guardianship in hospitals without recourse to the formal committal procedures should be stopped
- the Department of Health should ensure the medical superintendent of Lake Alice has closer control over and final responsibility for the administration and operation of the unit.[937]

Te whakatewhatewhatanga o te take a Mr Hake Halo – Commission of Inquiry into Mr Hake Halo's case

423. The *Commission of Inquiry into the Case of a Niuean Boy* was established in response to media coverage of the way the Department of Social Welfare had handled the case of Mr Hake Halo. As described in more detail below, the commission of inquiry led by Magistrate William (Bill) Mitchell was set up quickly, the terms of reference were narrow in scope and the inquiry was given only four weeks to investigate and report.

424. The inquiry came about as follows. In December 1974, Ms Fry, an educational psychologist, recommended Mr Halo, then aged 14, be sent to Hokio Beach School.[938] Ms Fry later learned the Department of Social Welfare sent Mr Halo instead to the Lake Alice unit on the advice of a local medical officer of health. Ms Fry was appalled because she did not consider he had a psychiatric problem and "never would have supported such a referral".[939]

425. In August 1976, Ms Fry learned the Department planned to send him back to Niue. She contacted advocate Dr Sutherland from ACORD and gave him Mr Halo's file to copy. Ms Fry said, "I knew what I was doing was not legally acceptable, but I felt a strong moral obligation to act on what I knew".[940] ACORD subsequently helped Mr Halo conduct an interview with a reporter from the New Zealand Herald, which published a story on 15 December 1976 about his experiences at Lake Alice.[941] The story described how Mr Halo was given electric shocks without his parents' knowledge or consent. The story sparked public interest in the treatment of children and young people at the unit, and the inquiry officially began a month later.

426. The Minister of Social Welfare, Mr Bert Walker, made it clear when he announced the inquiry that it was "in no way" was a response to ACORD's calls for an investigation and it had been established at the request of the Department of Social Welfare.[942] What he did not say was that the Department had told him its social workers considered an inquiry was necessary to

restore public confidence in the Department.[943] The Department also said it couldn't respond to ACORD's criticisms in the media without revealing confidential details of Mr Halo's medical and personal history.[944]

427. Mr Walker seemed confident the inquiry would find no departmental wrongdoing. When he announced the inquiry, he said the Department had his full confidence.[945] In December 1976, Dr Werry, professor of psychiatry at the University of Auckland medical school, wrote to Mr Walker expressing support for Dr Leeks and offering his assistance at the inquiry.[946] A similar letter of support was also sent to Mr Walker from Dr John Dobson, chair of the Australian and New Zealand College of Psychiatrists.[947] Mr Walker said Dr Dobson had offered the assistance of the college, which was "concerned that skilfully used psychiatric treatment may be brought into disrepute by the ACORD criticisms".[948] He replied to Dr Werry saying "it was very heartening" to receive this letter and he was "satisfied that the Social Workers involved acted properly at all times in the interests of the boy".[949] Dr Werry told this inquiry that he now regretted writing the letter: "had I known then what I know now, I would never have offered my support to Dr Leeks".[950]

Ngā hui tōmua me te whakawātanga a te whakatewhatewhatanga – Commission of inquiry preliminaries and hearing

428. In January 1977, the Government appointed Magistrate Bill Mitchell to look into how the Director-General of the Department of Social Welfare and other departmental staff discharged their powers, duties and responsibilities towards Mr Halo, his parents and his maternal grandmother.[951]

429. Mr Mitchell convened the inquiry in mid-February 1977 and heard evidence over seven days. Witnesses included representatives from the Departments of Social Welfare and Health, ACORD, the New Zealand Psychological Society and CCHR. He interviewed Mr Halo and members of his family, visited Lake Alice and met Dr Pugmire. He submitted his report on 18 March 1977.[952]

Tā te whakatewhatewhatanga i ngā tūhura ai, me ngā tūtohu - Commission of inquiry findings and recommendations

430. In relation to CCHR's concerns, Mr Mitchell did not accept that ECT was given as punishment, he considered children and young people who were suffering from psychotic depression were likely to behave in unruly ways, so ECT may have followed this behaviour but was not a consequence of it.[953] He queried the reports of children and young people having an intense fear of ECT, as he did not consider this squared with

Mr Halo saying he disliked the injections more and that he reportedly went back to the hospital cheerfully after the Christmas holiday.[954]

431. Mr Mitchell considered that authority for Mr Halo's treatment during his two admissions could be implied from the conduct of his family and the Department of Social Welfare, based on their trust in Dr Becroft (the school medical officer).[955] He found neither the hospital nor Dr Becroft discussed the specifics of Mr Halo's treatment, including ECT, with his family or the Department before or during his first admission.[956] However, he was firmly of the view that by the time Mr Halo went back to Lake Alice in February, his family and the Department must have known about the treatment he had received, including ECT, and they did not seem worried about this treatment continuing.[957]

432. Mr Mitchell recommended that the Children and Young Persons' Court be given the power to obtain a psychiatric report before it disposed of a complaint.[958] He considered this should include permitting treatment of a patient held in the hospital for that purpose, provided the patient or their parent or guardian consented.[959]

433. Mr Mitchell considered that by the time Mr Halo returned to the hospital in February, clippings from media coverage of CCHR's visit had been hung on the hospital notice board and everyone was talking about it.[960] He was satisfied Mr Halo's letter to his mother about receiving shocks was sparked by this talk around the hospital.[961]

434. However, Mr Mitchell considered the system needed to be examined as dialogue was lacking between medical practitioners and social workers, which could let down other children and young people.[962] He recommended processes to ensure that when a child under the Department's guardianship needed medical treatment, their medical practitioner spoke to someone about the treatment, preferably their family.[963] He also considered that the laws should be passed to define the positions of parents and the Department for the purposes of consent to treatment.[964]

435. Mr Mitchell found that ECT for Mr Halo was warranted and accepted medical practice in psychiatric hospitals in New Zealand, including in unmodified form without anaesthetic or relaxant.[965] He accepted the evidence medical practitioners presented that loss of consciousness was instant and patients could not remember receiving the treatment.[966] He was certain ECT was not used at Lake Alice as a punishment.[967]

436. Mr Mitchell did not accept ACORD's allegations that social welfare officers had acted negligently.[968] We discuss those allegations further in chapter 2.3.

Ngā amuamu ōrite i whārikihia mō te manga - Similar complaints had been laid about the unit

437. The Department of Social Welfare received complaints about the unit from as early as 1973. One complaint in 1976 that reached head office came from head office-based child psychiatrist Dr Frazer. In a letter to the manager of Epuni Boys' Home, he offered advice about a 15-year-old boy who had been admitted to the unit twice for a period of 10 months. Dr Frazer said the boy had "some very disturbing information" about the unit that was similar to "other reports" the Department held about the unit. Dr Frazer said these reports related to the misuse of drugs, the use of ECT and sexual deviation. Dr Frazer noted the boy's difficult background and personal shortcomings, but said he was "not inclined to believe that [the boy] has distorted the facts too much".[969] To our knowledge, the Department did not investigate these matters.

438. The last complaint to reach the Department's head office before the inquiry got under way arrived on 24 January 1977 and also involved the use of electric shocks as punishment. Mr Nicol's mother complained to a social worker that her son had been admitted to the unit from Holdsworth without her knowledge. She asked whether her son had received ECT and, if so, how often and why. She also wanted to know whether the Department knew her son had a history of concussion before his admission to the unit. She said her son had told her he had been given ECT as punishment.[970]

439. Mr Nicol's nursing notes record that ECT could be given for aversion therapy reasons such as passing wind, being "anti-social", being picky about his food, "being in a world of his own", "showing off in front of the girls in class", "annoying others during work periods" and being "argumentative".[971] He was even given "ECT introductory to Unit", as though electric shocks were part of the induction process at the unit.

Ngā āhuatanga i whai ake i te whakatewhatewhatanga - The aftermath of the commission of inquiry

440. Following the inquiry, Dr Mirams told media it had shown there had been no impropriety on the part of Department of Health staff.[972] Dr Leeks was not employed by the Department. A New Zealand Herald story the next day pointed out that the inquiry's finding that ECT caused an instant loss of consciousness was "not entirely consistent with the statements made by children" it had interviewed, "especially when it was given without anaesthetic", which it said one child had likened to being "hit on the head with a sledgehammer".[973]

441. Mr Jackson went to opposition health spokesman Jonathon Hunt about the unethical use of ECT, and, in May 1977, Mr Hunt issued a press release alleging the unit was using ECT to punish children.[974] Dr Leeks dismissed the claim as "arrant rubbish",[975] and Acting Minister of Health, Bob Templeton, said it was certainly not Department of Health policy that ECT should be used as punishment.[976] He denied any attempted cover-up by the Department or Mr Walker,[977] although it is unlikely he knew what evidence the departments had withheld.

Te wehenga o Dr Leeks i te manga – Dr Leeks' departure from the unit

442. Shortly after the reports from the commission of inquiry and the Ombudsman were released, Dr Leeks wrote to another doctor saying the running of the unit was "changing hands".[978] According to Dr Leeks, he had been told he had to give up his post.[979]

443. In an interview with The Dominion in July 1977, Dr Leeks made it clear his superiors removed him from his position in charge of the unit. The newspaper reported, "Dr Leeks has been told he must give up his post as psychiatrist in charge of the adolescent unit at Lake Alice by the end of [August 1977]. He has been allowed to carry on there till his patients are either discharged or under other care."[980] By this point, Dr Leeks was under investigation by NZ Police, and he told The Dominion he felt he had been made a "scapegoat".[981]

444. Only days before this interview, Dr Mirams learned from NZ Police that Dr Leeks was aware that nursing staff at the unit had been carrying out aversion therapy despite Dr Leeks denying this in a letter he wrote to Dr Mirams on 16 May 1977.[982] We consider it likely that this influenced Dr Mirams' decision to remove Dr Leeks. In an interview with the Wanganui Herald, Dr Pugmire said Dr Leeks' removal was 'sensible' and designed to ensure "similar allegations on ECT could not be made again".[983]

445. In late July 1977, Dr Leeks informed the Department of Social Welfare that ECT was no longer being carried out at the unit.[984] The last known time Dr Leeks used ECT in New Zealand was in September 1977 at the Manawaroa health clinic. He gave modified ECT to a boy from Lake Alice, but only after having obtained approval from Dr Siriwardena.[985]

446. Following the allegations of abuse and the 1977 inquiries, which he described as "a witch hunt",[986] Dr Leeks left New Zealand for Australia at the end of 1977.[987] In 1978, he started practice as a consultant child psychiatrist in Melbourne, where he continued practising until 2006, apart from two years he spent working in Canada.[988]

447. In the 2000s, several of the Lake Alice survivors complained to the Medical Practitioners Board of Victoria about Dr Leeks.[989] The board investigated Dr Leeks' conduct and scheduled a hearing for 19 July 2006.[990] However, Dr Leeks surrendered his practising certificate before that date, which meant the hearing was cancelled.[991] At the time of the inquiry public hearing in June 2021, he was in his 90s and still living in Melbourne. He was unable to give evidence because his cognitive impairment meant he did not have the capacity to do so.[992]

448. On 6 January 2022, Dr Leeks died in Australia.

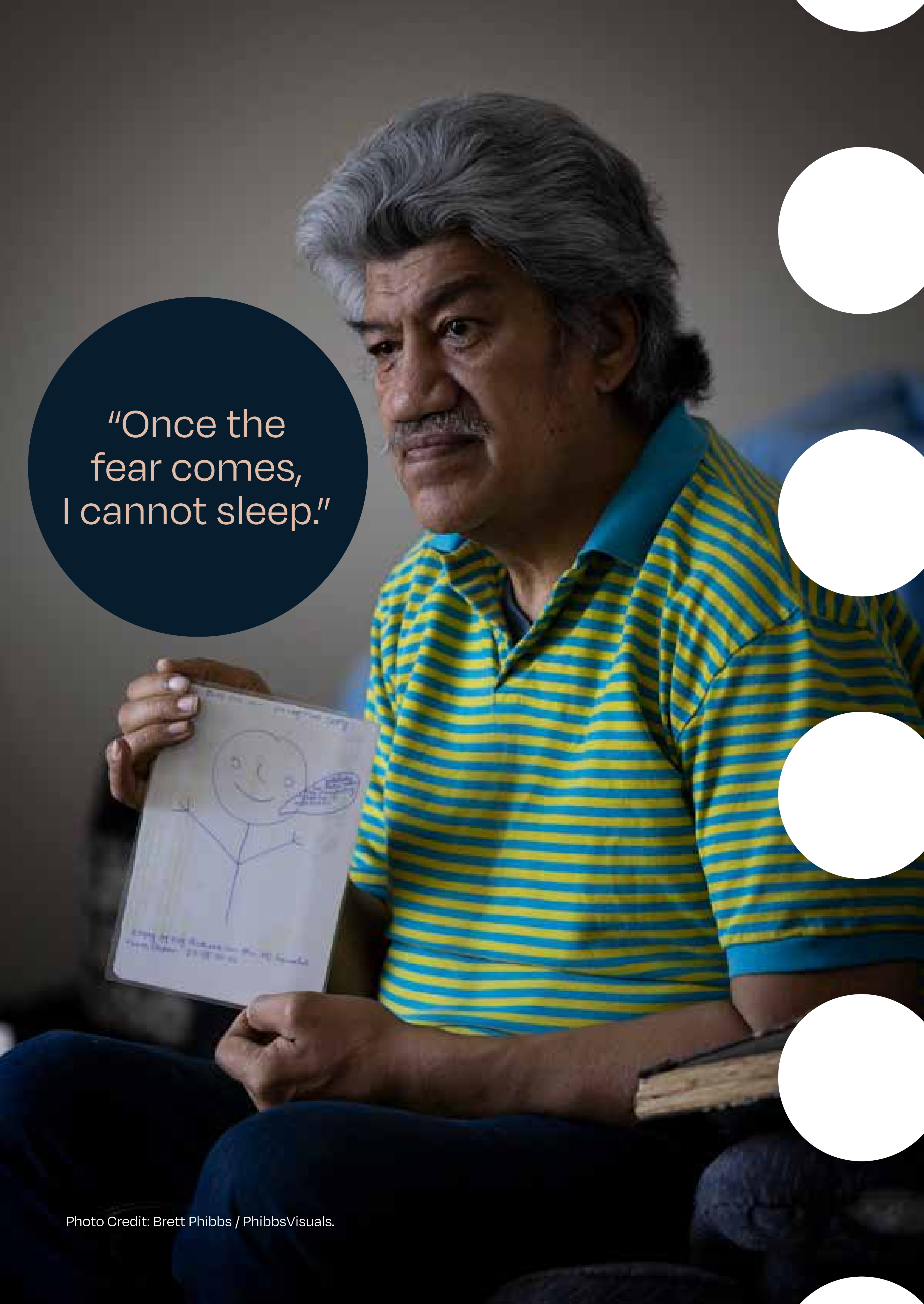

Photo Credit: Brett Phibbs / PhibbsVisuals.

Name: Hake Halo

Age when entered care: 13

Age now: 60

Hometown: Niue

Time in care: 1971-1972; 1975-1977

Type of care facility: Psychiatric hospitals, boys' home

Psychiatric hospitals – St Johns Psychiatric Hospital, Lake Alice, Carrington Hospital; boys' home – Ōwairaka Boys' Home.

Ethnicity: Pasifika (Niuean)

Whānau background: Niuean family, came to New Zealand when Hake was six.

Hake Halo

They'd read your mail, at Lake Alice, and if you wrote home telling your parents what was happening – the drugs, the electric shocks – they wouldn't send the letter. So I figured out a way around that, to let my parents know what they were doing to us.

We had to write our letters in English, so I would do that saying everything is alright, but I would add drawings of stick figures looking happy, with speech bubbles in Niuean: "Fakasoka he faoa au, mo huki au, mamahi, tagi au" – "Mum, the people are giving me electric shocks and injections, it's painful, I'm crying". But because the stick figures looked happy, they didn't take any notice, and they let the letters go. I had to do this about six times before she got the message.

My mother tried to get them to stop, but she felt powerless, and the language barrier was always a problem – not just for her, but for me, too – that's how I ended up in Lake Alice in the first place.

I was born in Niue and raised by my grandparents, which is normal in my Niuean culture. I was six when I came to New Zealand and I didn't speak a word of English. My father knew more English than my mother, but not much. At school I didn't understand anything, and because I didn't speak in class, they thought I was intellectually disabled and I was put in a special class. One day I was being a nuisance and the relief teacher that day dragged me out of the classroom and locked me into a dark room. I was upset and angry, and I tried to push on the door to open it. My hand accidentally went through the glass door and I cut my hand badly.

> ***I was perceived as being violent because of this and was admitted to a psychiatric hospital in Auckland. My parents weren't happy about it and with the help of a Niuean reverend they got me out.***

My dad died, and I started playing up and getting into trouble. I went to Ōwairaka Boys' Home, and from there a doctor decided I should go to Lake Alice. My parents weren't told it was a mental hospital, and there were no Niuean interpreters to help. She only signed the papers because they said they were taking me to a school.

I thought Lake Alice looked like a prison, not a school. I was given medicine immediately, and they didn't say what it was for – but from my notes I know I was given five different drugs.

Then I met Dr Selwyn Leeks, who gave me electric shocks. I had a funny feeling something was not right. They didn't explain anything or ask me questions, they just put me on the bed. He put a mouthguard in my mouth. You would end up biting your tongue off if it wasn't for that mouthguard.

I felt like I was being whacked with a sledgehammer at full speed. My memory is that Dr Leeks turns it on and it hurts, and your body is forced into a sitting-up position because of the pain, then he turns it off and you fall back onto the bed. My body bounced on the table and I was crying. It was like two huge knives being driven into my head, and I was very afraid. Afterwards, I would have headaches, memory loss, anger and fear.

I would beg Dr Leeks not to do it again but he didn't care. He was a man full of hatred.

We always knew if someone was getting electric shocks because we'd heard the screams coming from upstairs. Even the workers who were there, they were doing their jobs and crying at the same time because they knew what was going on.

I also got paraldehyde injections, which they gave you for bad behaviour. I was given it every week, and once just for laughing too loudly. You would have to pull your pants down and they would give the injection above your buttocks. Then it felt like having a burning steel bar up your backside. Afterwards you would be crying and walking as slow as a tortoise, and the other boys knew you'd had paraldehyde. It made your breath smell straight away and you couldn't sit down because of the pain.

> ***It was like getting a hiding. Instead of staff using their hands, they would use paraldehyde to protect themselves from allegations of assault. That is how clever they were.***

I was allowed to go home for Christmas but then something terrible happened. I was asleep in my bedroom and my sister was murdered by her boyfriend in the room next door. I was the first person to her room and I found her dead. She was holding her baby at the time he murdered her, and the knife was lying on her chest. I had no support and no-one to speak to. I got upset and got into more trouble, ending up in Youth Court.

There were no interpreters there and I was placed under guardianship. The social worker misunderstood my mother – she asked him to please look after me, while I was in care, but they thought she was saying to take me and make me a State ward. If a Niuean interpreter had been there, it would've changed a lot of things for me.

I was returned to Lake Alice. I was angry and not coping. But there was a staff member there, Anna, who helped a lot. She thought I was 'bad', not 'mad', and gave me counselling, advice and encouragement. Her way of helping was way better than drugs and electric shocks.

I was 14 when I got out of Lake Alice, and it was a relief to be away from the shock treatment.

I would've had a normal life if I hadn't gone to Lake Alice. It's been hard to hold down a job. I suffer from anger, fear, forgetfulness, hearing voices, stress, confusion and much more. I had had epilepsy as a baby and the electric shocks made it come back, plus I had developed a big problem with my temper. I have nightmares a lot about the torture and I don't feel safe sleeping by myself in my own bed. Lying on my back makes me think about getting ready to have electric shocks and once the fear comes, I cannot sleep.

Dr Leeks said that I was like an 'uncontrollable animal'. I would say that he is the uncontrollable animal to have done this to me and hundreds of other children.

> ***I am speaking up now as I am doing it for the others who cannot speak for themselves. I would like people to acknowledge what happened at Lake Alice, because I feel people do not believe me.***

One of my brothers got me into his church where they support people with healing prayers. I've been going to that church since 1978 and I'm now an elder there. My faith has really helped me in trying to move on from what happened. Just like in the Bible, in Philippians 4:13: "I can do all things through Christ who strengthens me."

References:

Witness statement of Hakeagapuletama Halo, WITN0363001 (25 March 2020).

Transcript of evidence of Hake Halo, TRN0000364.

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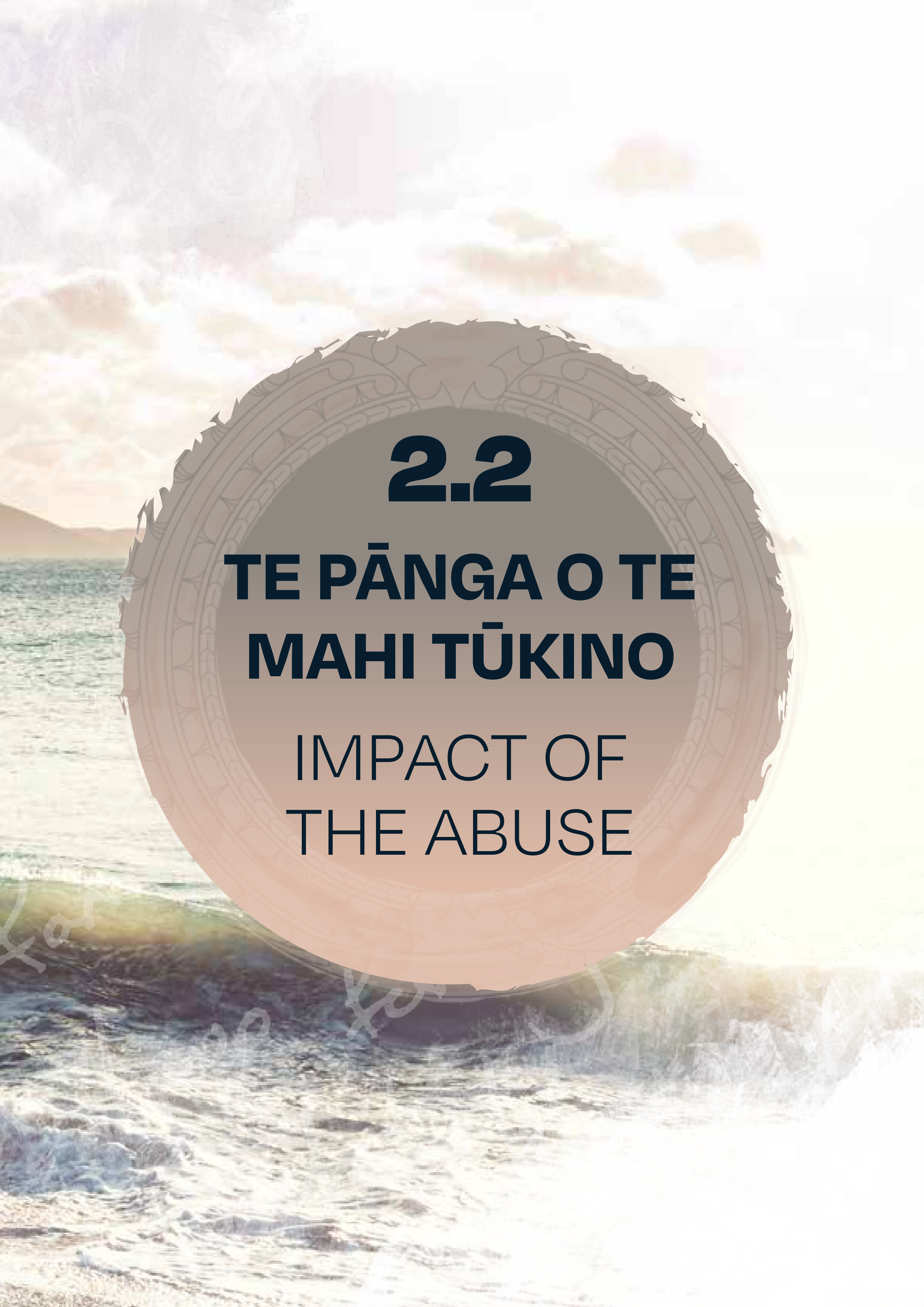


2.2

TE PĀNGA O TE MAHI TŪKINO

IMPACT OF THE ABUSE

2.2 Te pānga o te mahi tūkino – Impact of the abuse

2.2.1 Whakatakinga – Introduction

449. Life at Lake Alice was abusive and unsafe. Survivors described being in a constant state of *"terror and misery every minute of the day"*.[993] In this chapter, we discuss how the abuse and neglect affected survivors, as well as their families and communities. As survivor Alan Hendricks observed, it made no difference *"how long you were in Lake Alice or what happened to you when you were in there – just being in that place will cause you harm. And that trauma will stay with you for life"*.[994] Marty Brandt was at Lake Alice under three weeks but, as he said, "that was enough time to do a lifetime's worth of damage".[995]

450. The trauma affected survivors' physical, mental, emotional, cultural and spiritual health and wellbeing. It affected educational and employment opportunities, financial security and relationships, whether with intimate partners, whānau, friends or acquaintances. These effects were caused, and made worse, by the failures of institutions such as the Departments of Social Welfare, Health, Education and Justice to keep the children and young people at Lake Alice safe, to ensure they were heard and to support them to heal from the abuse they had experienced.

451. Overall, survivors felt most keenly a sense that they had missed out on opportunities that would never come their way again and that the quality of their lives had been irreparably damaged. Leota Scanlon told us he had "struggled with a lot of challenges" throughout his life, but they had all started on the day he was put in Lake Alice.[996]

2.2.2 Te pānga o te mahi tūkino ki ngā wāhanga katoa o ngā purapura ora – Impacts of abuse on every aspect of survivors' lives

452. In He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui, we explained the impact of abuse on survivors.[997] Survivors described to us the impacts of abuse in holistic terms – abuse has affected everything about their lives.

> *"[Abuse] has harmed their physical health, their psychological and emotional wellbeing, their education and economic prospects, their relationships with family and others, their cultural and spiritual lives, and much more, leaving a legacy of harm that has spanned generations."*[998]

453. We know that aspects of health, oranga and wellbeing are intrinsically linked and interact with each other. Within te ao Māori, several health frameworks or models conceptualise the interconnectedness of wellbeing. These models include Te Whare Tapa Whā, Te Wheke and Te Pae Mahutonga. Pacific peoples also have holistic models to describe the different aspects of wellbeing. In this chapter, we focus on Te Whare Tapa Whā, a Māori hauora model, and the Fonofale model, a Pacific health model, to illustrate the impact the tūkino at Lake Alice has had on every aspect of survivors' lives. Both models reflect cultural perspectives that value relational and holistic philosophies and acknowledge that differing domains of health are interdependent. Although no universal framework of health and wellbeing exists that is specific to disability or to mental health, below we discuss the generally accepted principles on health and wellbeing for disability and mental health.

454. The report from Ngā Wairiki and Ngāti Apa pointed out that, for many of their whānau, the experience at Lake Alice was a trauma in a chain of traumatic experiences before and after their experiences at the hospital.

> *"[He] had been put in the system as a child [aged 14], you know, he's close to 60-years old now ... He would have gone from the adolescent part all the way through. Probably could imagine how much abuse that he would have had as a kid growing up there, and he already would have endured abuse at home (Whānau)."*[999]

Ngā tauira o te hauora me te oranga – Models of health and wellbeing

455. In He Purapura Ora, he Māra Tipu we refer to several indigenous cultural models of wellbeing. Te Whare Tapa Whā model draws on four basic dimensions of life: taha tinana, or physical health, taha wairua, spiritual wellbeing, taha hinengaro, cognitive and mental health, and taha whānau, wellbeing of the whānau.[1000] This whare, or house, sits on top of the whenua (land), which forms the foundation for the other four dimensions.[1001] The model emphasises balance and interconnection between all the dimensions and acknowledges that should one dimension of health be missing, neglected or damaged in some way, the person and their collective or group may become unbalanced and unwell.[1002]

456. The Fonofale model adopts the metaphor of a Samoan fale or house and includes elements from many Pacific nations, including the Cook Islands, Niue, Fiji, Tokelau and Tonga. The foundation of the fale is family, providing support for the entire fale structure. The roof represents cultural values and beliefs and acts as a shelter. Between the roof and the foundation are four pou or pillars, representing spiritual, physical, mental and other health ('other' health relates to education, social class, age, employment, gender and sexual orientation). The fale sits in a cocoon that contains three further elements that influence wellbeing – the environment, time and context.[1003] This model emphasises that each pou and each element is important in maintaining stability and wellbeing of people and promotes the philosophy of holism and continuity. The model reflects that "distress in one realm leads to the loss of balance in the others. Healing and recovery from mental illness succeeds only if all are addressed".[1004]

457. Commonly identified principles for health and wellbeing specific to disability and mental health value equity of access, active participation and decision making, and respect for a person's dignity and autonomy.

458. For disability, the emphasis is on active involvement and consultation with disabled people, barrier-free and inclusive access to high-quality health services (both mainstream services and those specific to disabled people),[1005] and being supported and valued. As well, the right to live with family[1006] and to live independently – the right to choose where to live and with whom in the community – and full enjoyment, inclusion and participation in community and public life are highlighted. A consistent overarching principle is that disabled people are involved in decision-making that affects them.[1007]

459. For mental health, emphasis is placed on the need for care and support approaches to be holistic – taking a whole-of-person approach, not a diagnosis focus – and for support to be provided in the community.[1008] Key principles include social inclusion, dismantling discriminatory structural factors, and ensuring immediate social, psychosocial and

material needs are met.[1009] From the 1970s, an international movement of psychiatric survivors "called for an end to forced treatment, the dominance of psychiatry and institutionalisation".[1010] For tāngata whaiora, the importance of services taking a cultural, as well as a clinical approach, and emphasising ties to whānau, hapū and iwi are highlighted.[1011]

460. While many of the survivors suffered similar abuse, each survivor's experiences are unique. Factors such as sexism, racism and ableism shaped survivors' experiences of abuse and its impacts. For example, some Māori and Pacific survivors experienced racist abuse, which affected many dimensions of wellbeing – emotional, psychological and cultural wellbeing.[1012]

461. In the next sections, we examine the immediate and long-term effects on survivors' physical, mental and emotional wellbeing, financial security, educational and employment experiences, and interactions with the criminal justice system.

2.2.3 Te taha wairua: Effects on spiritual wellbeing

462. Te taha wairua in Te Whare Tapa Whā and the spiritual pou in the Fonofale model both represent the spiritual dimension of wellbeing. In Te Whare Tapa Whā to know yourself and to establish and maintain a connection to your wairua, soul or spirit, is the starting point of spiritual health.[1013] Te taha wairua also includes a person's mauri or life force.[1014] Spirituality relates to all aspects of life – how a person connects with their mauri but also how that connection is affected by others and the environment.[1015] In the Fonofale model, the spiritual pou is defined as a sense of wellbeing that stems from a belief system, which may be a religious belief system, a traditional spirituality relating to nature, spirits, language, beliefs, ancestors and history, or a combination of both.[1016]

463. Survivors' spirituality and identity were not provided for at Lake Alice and for some this deeply affected their understanding of who they are and their sense of belonging in the world. For example, Ms Debbie Dickson said:

> *"I always feel like I'm always intruding in situations that I'm not supposed to be in. I avoid work functions and socialising. I think this stems from Lake Alice and being forced to isolate to keep safe. I don't know where I belong."*[1017]

464. Some survivors told us part of their healing later in life was learning to accept who they were and what had happened to them in the child and adolescent unit at Lake Alice. For example, Mr CC said that by working with a counsellor he had been able to start to come to terms with the abuse he had suffered at Lake Alice (and elsewhere) and the abuse he had perpetrated on others.

> *"Over the time I spent in prison I was able to look back over my life and relationships and I went through a process of forgiveness and became quite accepting of what had happened and who I was. I really accepted who I am, what I had had to go through and what I wanted to do from now on ... When I was released from Paremoremo [a prison] in 1990 I was approached by a Māori elder to see if I could operate a programme under the Māori Mental Health Services. In prison I had learnt the skill of being able to make a cane basket and so I was employed ... to set up this programme at [a hospital]. I spent three years there as a craft instructor."*[1018]

465. Some survivors told us their faith had helped them to recover from what happened at Lake Alice. For example, Mr Hake Halo said, "My faith has really helped me move on from what happened to me and continues to help me".[1019] Mr Walton Mathieson-Ngatai said support from his church helped him to address his addictions. "I like socialising with my friends at Church. My faith has helped me to give up drugs and alcohol. I was drinking too much, and I had to give up."[1020]

466. In its Hauora report, the Waitangi Tribunal said that under the principle of options, the Crown had a duty under the Treaty of Waitangi to support health services that offered meaningful choices to Māori, including by ensuring those services accommodated and incorporated tikanga Māori.[1021] Māori spirituality was "important to wellbeing and healing", but was not incorporated into mental health perspectives and care at Lake Alice.[1022]

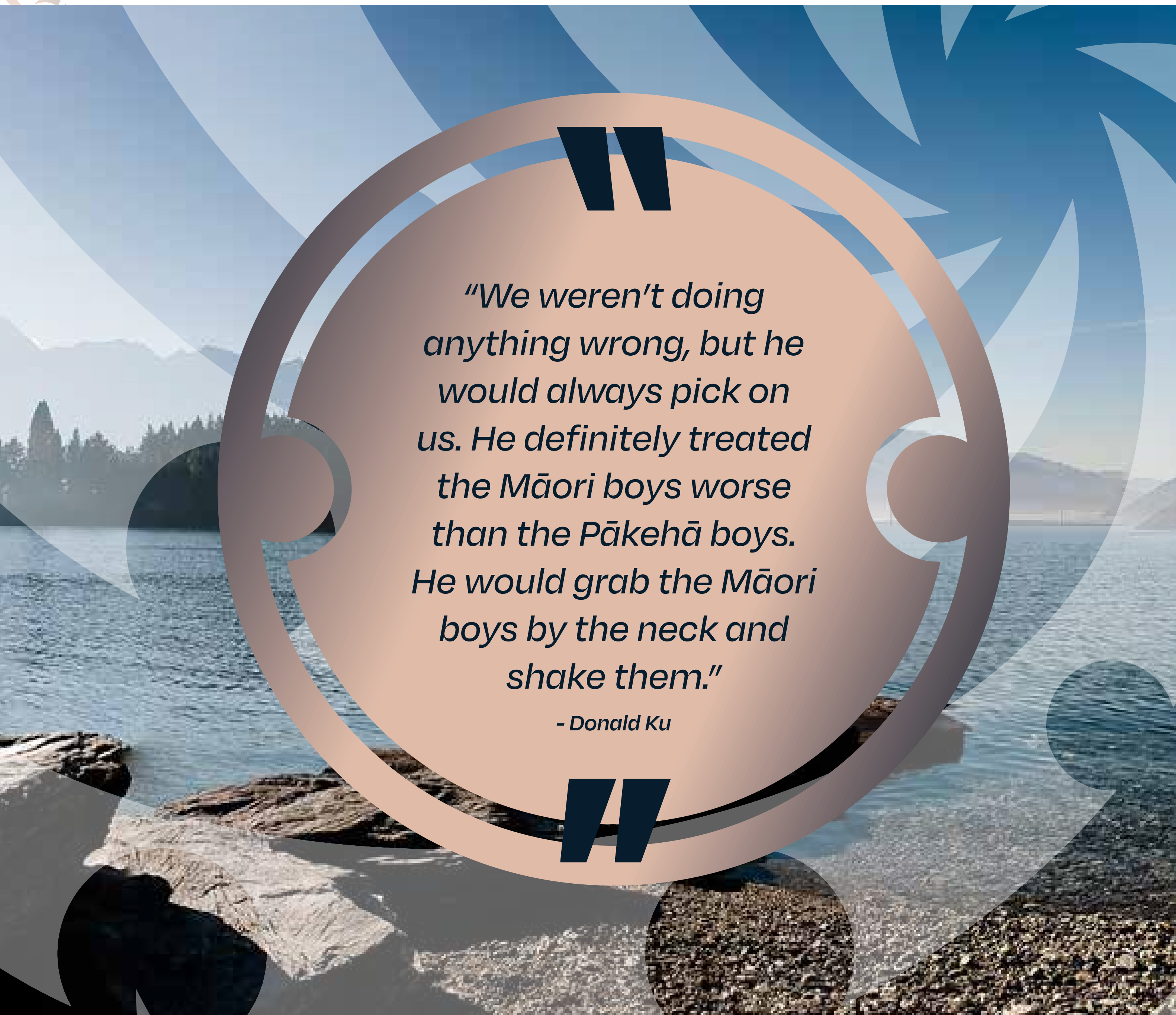
> *"In te ao Māori there are the spiritual aspects, the wairua aspects, making sure that those are incorporated. When I look back I think there's a loss of that as well for our whānau, a big loss. Because for me it's not just about, well if we know whakapapa is a part of it but it's that connection to te ao Māori, that connection to our ancestors and their spirituality and the mauri they hold and the mana they hold, and all of those."*[1023]

467. Ngā Wairiki and Ngāti Apa reported that the lack of knowledge and inclusion of taha wairua in mental health treatment at Lake Alice led to survivors being over-medicated, labelled evil and sick, and further punished. One whānau of matakite noted how their whānau member stopped talking to his medical team about what he saw and experienced at the hospital as it only led to further punishment.[1024] Matakite is a Māori term for an experience of heightened intuition.[1025] Matakite can include seeing, hearing, smelling, tasting and feeling things that cannot be perceived by others.[1026] The tribunal noted how survivors, as well as whānau and community members, "internalised" Western perspectives of mental health and "started viewing Lake Alice as the 'looney bin', which increased the isolation of tangata whaiora, and judgement upon them and their whānau".[1027]

> *"He went through every possible church that he could go to 'cause he believed that he must be evil because they used to use that term on him too if I recall, from what my brother used to say. I said, "So why do you say you're evil?" "Oh, 'cause I am. I'm evil. I'm evil and I'm crazy."*[1028]

468. Whānau of survivors and former Lake Alice staff noted the stories of the abuse occurring at Lake Alice would have potentially discouraged others from seeking support that might have resulted in a stay at the hospital.[1029] They also reported that the impact of the hospital, and what occurred there, is compounded by the fact people from across the country, Māori and non-Māori, were harmed at a location in their rohe.[1030] This raised significant concerns for them about the difficulty of healing the whenua.[1031] Tāngata whaiora, their whānau and staff spoke about the unhealthy wairua of the buildings at Lake Alice, describing the hospital as dark, filled with unhealthy energy and spirits.[1032]

> *"Mm. And when I went there I could feel that, that spiritual mamae what kids went through and I could feel there was something in Lake Alice ... just something that I could pick up."[1033]*



2.2.4 Te taha hinengaro: Effects on cognitive and mental health

469. Te taha hinengaro in Te Whare Tapa Whā and the mental health pou in the Fonofale model both represent mental and emotional aspects of a person's wellbeing. Here, we consider impacts on survivors' cognitive and mental health. Cognitive health is an umbrella term for brain health and includes brain development and function (the ability to think, learn, remember and manage inhibition), emotional responses, social functioning and motor skills.[1034] Mental health is "a state of mental well-being that enables people to cope with the stresses of life, realise their abilities, learn well and work well, and contribute to their community".[1035] The two are interconnected and greatly shaped by social and environmental factors.[1036]

470. Most survivors said experiencing and witnessing abuse in the unit had a severe and on-going impact on their mental health. Many survivors who told us they had no mental illness before their time in the unit have since been diagnosed with a mental health condition, which they attribute to their experiences in the unit. Most survivors shared long-term symptoms common to survivors of severe trauma, including shame,[1037] anxiety,[1038] guilt,[1039] low self-esteem,[1040] depression,[1041] memory loss,[1042] suicidal thoughts, dissociation, intrusive thoughts,[1043] insomnia,[1044] difficulty with relationships and attachment to others,[1045] and extreme reactivity to stress.[1046]

471. Survivors described a variety of emotions during their time at the unit in response to the abuse. Stress, anxiety, shame, guilt, fear and sorrow were commonly felt, as was anger. Ms Sharyn Collis said she and others "thought about running away, but we just couldn't escape. We would get so angry – we would end up tearing our clothes and crying ourselves to sleep".[1047] Mr Charles Symes said he was told he was given electro-convulsive therapy (ECT) to stop his violent outbursts "but every time I got ECT it just made my anger worse. I got more and more violent. I hated it".[1048] Mr Pete Rose's recurring emotion was fear, and he described the atmosphere at the unit as "fear-filled" and other patients' attitude to Dr Leeks as "fearful".[1049]

472. These emotions often did not fade with time and all could affect survivors' interpersonal relationships. For many, these emotions persist strongly to the present day. Some survivors described uncontrollable outbursts of anger. One survivor said he had no partner or tamariki, and he put this down to his fear that he might repeat the cycle of violence and abuse: "I'm angry in my head, so I don't want to repeat any cycle of any

violence of any kind and I just refuse to because I can fly off … And it's not like a build-up, it's just bang like that, so I don't trust myself."[1050]

473. Survivors also described an intense, persistent fear of being sent back to Lake Alice, even though they knew the hospital had closed. For example, Mr Hendricks said the fear didn't go away just because he had been released. "I have done my best to battle against that fear, but it comes back and haunts me every now and then." He described how he would simply withdraw into himself and not communicate with anybody. He said he would, "become a robot, doing what people tell me to do, being where I am supposed to be and saying what I'm supposed to say because that's how I had to survive in Lake Alice".[1051]

474. Mr Bryon Nicol said he was still haunted by the trauma of Lake Alice.

> *"I live it in my mind and body daily. In particular, the memories of being raped, of the mentally disabled boy being injected in his penis, the sight and smell of urine and faeces swelling up in our pants and dripping down while waiting for ECT, and of begging for help from being sexually abused but being called a liar and being punished for it. These are the worse memories. They flash up daily."*[1052]

475. Survivors were aware the abuse had influenced their behaviour while at the unit and continued to do so in their adult life in the form of substance abuse and dependency, difficulty in regulating aggression and hypervigilance. One described how she was always hypervigilant. "If someone does a really loud laugh, then I freeze."[1053] Another, Mr Andrew Jane, described a trigger that prevented him from doing such an everyday thing as catching a bus. "I can't even go on public transport because, if I see anyone with a beard, I just want to attack them. A man with a beard sexually and physically abused me in State care."[1054]

476. Many survivors reported becoming dependent on alcohol and other drugs, sometimes from a young age, to numb the emotional pain and block out traumatic memories. Mr Scanlon had a succinct explanation for his dependency, which was typical. *"I drank alcohol to try and kill all the bad memories I had of Lake Alice."*[1055] Some told us they had taken overdoses.[1056] Some ended up in the criminal justice system because of substance dependency, often for drink-driving[1057] and cannabis-related offences.[1058]

477. In their report, Ngā Wairiki and Ngāti Apa pointed out that for many tangata whaiora, their time at Lake Alice was a turning point for the worse.[1059] Some young men never returned to their whānau, many developed alcohol and other drug problems, many lacked the support to develop basic life skills, and many went to live on the streets in different cities near and far from their whānau.[1060] This institutionalisation stripped the mana and very essence of their people. The report noted that this institutionalisation increased the vulnerability of tāngata

whaiora and, for many, increased the risk they would become part of the criminal justice system or would take their lives.[1061] As one whānau member said:

> *"When he did leave, he went to Epuni Boys Home; he lived on the streets, he was a bit of a free spirit. He said to me, "I do not want anyone to control my life ever again." So that's why he lived on the streets, he did what he wanted to do. He gave everything to street people. He would busk and he would not worry about himself, feed himself, he had to feed everyone else. He was quite hard into the drugs though because that was the only thing obviously that would numb all the pain."*[1062]

478. Another whānau member said:

> *"They took away his rights to be a normal human being really, Māori man. They took away everything, they stripped him of everything so all he knew was trauma, he didn't know anything else. So, obviously fear, there was so much fear about; what does that real world look like? He didn't know what a real world was because he'd been abused from such a young age and he's committed and then institutionalised … All he was interested in was surviving and how he could survive and what was the best way for him to survive."*[1063]

479. Most often survivors told us they lived with anxiety disorders, particularly post-traumatic stress disorder, and depression. Survivors, including those who had not been diagnosed with mental health conditions, often described symptoms such as memory loss, insomnia and hypervigilance. Depression, memory loss, mental confusion and stress affected survivors' ability to work, as well as their personal relationships. Mr Kevin Banks said the quality of his life had suffered greatly, and he struggled to "be a good father and find happiness in everyday things".[1064] Mr Malcolm Richards described his memory as a "nightmare" for him.

> *"I lose my train of thought a lot and it is hard to keep a conversation or to concentrate on what I'm doing. I struggle every day. I can't remember sometimes where my daughter lives and she is just down the street. Sometimes I drive and don't remember how I ended up there. I run into people in the street that talk to me and I have no clue who they are."*[1065]

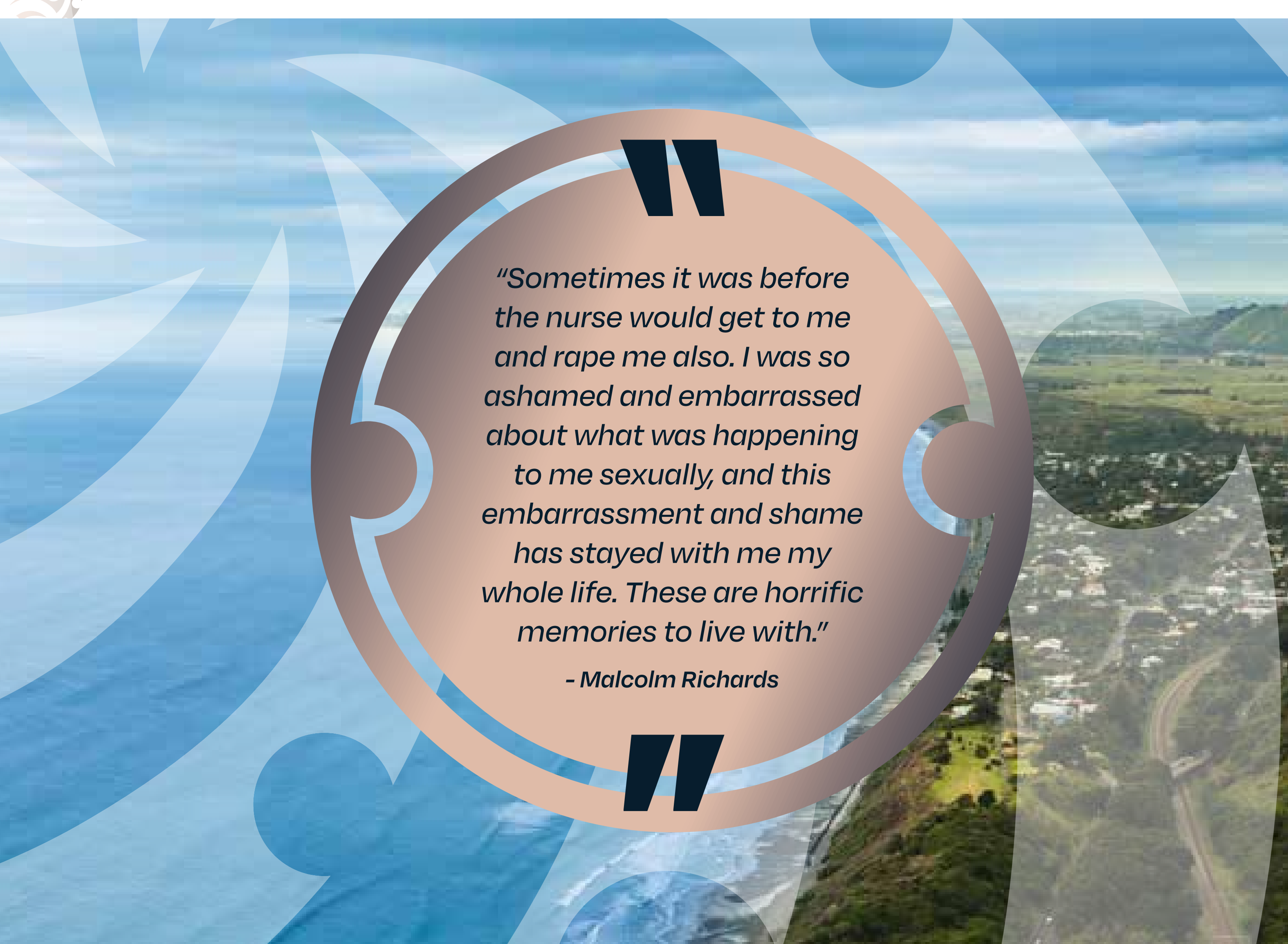
480. Insomnia was a common problem for survivors. Nightmares were another. Survivors reported waking up screaming, crying and in cold

sweats. As a result, they feared sleep. Mr Banks, who suffered from these problems, said he was "always too tired to enjoy" his life.[1066]

481. Some survivors went into other State psychiatric institutions soon after their discharge from Lake Alice, while others did so later in life. Some remain in such settings today. The abuse has driven some survivors to harm themselves or to attempt suicide. Ms Robyn Dandy said she had "heard that a lot of the children who were in Lake Alice committed suicide in years after. I understand why they did this – the memories are so hard to live with".[1067]

482. One survivor took his own life after his discharge from Lake Alice, and his parent and sibling told us about the days leading up to his death. They said he greatly feared being readmitted to the unit.

> *"[He] had been out of Lake Alice for just a few weeks when he killed himself. He killed himself on 16 August 1976. He had not been settled, and it was decided he needed more treatment. I was driving home to tell him that he was going to go to Manawaroa [health clinic] and be under the care of Dr Durie. When I got home, I found [him] in the shed."[1068]*



2.2.5 Te taha tinana: Physical health

483. Te taha tinana in Te Whare Tapa Whā and the physical health pou in the Fonofale model both represent physical aspects of a person's wellbeing. The physical and sexual assaults described earlier, as well as the electric shocks and paraldehyde injections, resulted in a variety of physical injuries and ailments for unit survivors. Survivors have told us electric shocks caused headaches and sometimes left burn marks where the electrodes had been placed. One patient, who had a pre-existing heart condition, was taken to hospital after receiving electric shocks because he was experiencing heart and breathing difficulties. He remained in hospital on a respirator for around 10 days.[1069] As an adult, a surgeon told him his heart condition meant he should never have been given ECT and that he was "lucky to be alive".[1070]

484. The medications, often given as punishment, caused side effects survivors described as sometimes debilitating and "always humiliating and embarrassing".[1071] These included drooling, rolling eyes, weight gain,[1072] body shakes, lactation,[1073] nausea and vomiting.[1074] Young patients were rarely offered anything to reduce these side effects.[1075]

485. Survivors told us the medical abuse they experienced at the unit caused long-term physical health problems, including migraines,[1076] seizures,[1077] damaged reproductive health[1078] and severe body pain.[1079] Mr Nicol described "terrible pins and needles" in his feet that, over the years, had gone up into his legs. "My muscles are all knotted up – they started knotting up in Lake Alice and have not stopped."[1080] Mr Symes had electric shocks delivered on his genitals, and he believed this was the reason he had never been able to have children." I had two wives and neither of them could have children."[1081] Mr Scanlon attributed his hip problems to the paraldehyde injections at Lake Alice. "To this day, I still have marks on my buttocks from the injections. I am currently recovering from my second hip replacement."[1082]

486. Mr Paul Zentveld told us he had been taking high doses of pain tablets every day to deal with migraines and headaches, which he put down to the electric shocks he received.[1083] He said these felt like "explosions in my head – like a hand grenade going off. This can happen daytime or night time, and happens when I am being asked or trying to remember things about Lake Alice".[1084]

487. Many survivors told us about long-term impacts they experienced as a result of sexual abuse at the unit. One survivor said she was raped and became pregnant while at the unit.[1085] She also recalled other girls who were pregnant in the unit while she was there.[1086]

488. Other survivors said that the sexual abuse had caused specific health problems, some of them debilitating. Mr Brandt said his bowels were permanently damaged by sexual abuse. At 18, he had surgery for a prolapsed bowel, but he said it was not done correctly and he had lived with serious bowel problems ever since. He was now on a disability benefit and said he was often incapacitated for a day at a time because of his bowel problems.[1087] Mr Banks said he bled when he went to the toilet, and the pain was so excruciating it reduced him to tears. "I cannot get relief from the medication and I cannot sit upright properly. It brings back memories and emotions from sexual abuse at Lake Alice and Epuni [Boys' Home]."[1088]

489. Medical neglect compounded the effects of physical and sexual abuse. Some survivors said inadequate medical care contributed to subsequent health problems. For example, Ms Amy-Sheree Weterman told us her mother complained of severe back pain while at the unit following ECT, but staff did not refer her to a doctor.[1089] In her early 20s, her mother woke up one morning unable to move.[1090] Her doctor sent her off for x-rays.[1091] The results showed she had disc lesions and fluid in the disc had seeped into her spine.[1092] Her mother was not able to tell the doctor how it had happened, as she hadn't fallen or twisted her back, but she had intermittent back pain from the time she was at the unit.[1093]

490. Unsurprisingly, survivors were often deeply distrustful of medical staff and feared hospital settings. This made them reluctant to seek medical help when they needed it. Several survivors said medical professionals discriminated against them because they had been at Lake Alice.

2.2.6 Te taha whānau: Whānau health

491. Te taha whānau in Whare Tapa Whā and the foundation of the Fonofale both represent whānau and aiga, or family, and wellbeing. We discuss these models in He Purapura Ora, he Māra Tipu. In this section, we also look at how tūkino affects survivors' social and cultural wellbeing. And we examine how the impact of abuse is felt beyond individual survivors. The people closest to survivors – parents, children, grandchildren, partners, friends, whānau, hapū, iwi, hapori and aiga – also suffer.

Ngā pānga ki ngā hononga o ngā purapura ora – Effects on survivors' relationships

492. Tūkino has eroded many survivors' ability to trust people around them, and unable to build healthy, long-term relationships with partners, friends and family members. Many survivors said they withdrew from others and preferred to be alone. They also felt like an outsider in social settings and were unable to open up to others. Others felt a deep distrust of other people, particularly those in authority. Some said they had struggled to adjust to life after their time in care. Mr Jane said he had been unable to maintain relationships because he simply didn't trust anyone. "I have problems with my emotions and opening up to people. I don't want to be hurt or hurt others because of how messed up I am. I'm not married. If I was balanced enough, I think I would have been in a long-term relationship."[1094] Another said, "I don't know what it is to be loved, because I don't let anybody close".[1095]

493. Going into Lake Alice weakened some individuals' bonds with parents and siblings. Some saw their admission to Lake Alice as a principal cause of estrangement from their families. One survivor said his admission caused the breakdown of his relationship with his family.

> *"I think my sister got admitted to the girls' unit there as well, but I don't know. When I got admitted to Lake Alice, it was the last time I saw her. I have spoken on the telephone with her, but that's it. Although I cannot hold Lake Alice solely responsible, our confinement there definitely contributed to the breakdown of our family life."*[1096]

494. Some survivors did not learn until later that family members had tried to visit them. Staff turned them away saying their child was not well enough for a visit. Sometimes patients were heavily medicated during family visits and did not really know their family were there.

495. One survivor said the electric shocks erased many childhood memories which, in turn, affected her relationships with her parents and family. She said the shocks left her feeling like a stranger around her own family.

> *"I only had one or two real memories. I had to fill in the gaps. That's quite a hard thing because it took years to build a relationship back up ... I felt like a stranger with my mum. My mum and dad, they'd say, 'Do you remember when...' and I'd go, 'Yes' but I didn't. I just didn't know how to say, I can't remember."*[1097]

496. Survivors also struggled with the fact their family members had sent them to Lake Alice and allowed them to remain there. Some had not spoken to their families for decades.

497. Some joined gangs while in other State care residences or after leaving care. Gang membership provided a sense of belonging and support. The Waitangi Tribunal estimated that between 80 percent and 90 percent of Mongrel Mob and Black Power gang members had been State wards and that 80 percent of prisoners had spent time in State care.[1098]

498. Many survivors described difficulties with intimate relationships. Several felt that meeting their partner represented a significant turning point in their lives, giving them strength and support to carry on, but many described how such relationships had gone wrong, turned violent and ended in breakdown and divorce. A few female survivors said their experiences in Lake Alice had influenced who they gravitated towards in relationships. Ms Collis said, "I was controlled in Lake Alice and I think I sought that out in my relationships with men. My partners I had were all abusive, physically and psychologically".[1099]

499. One survivor described how he found it hard to be compassionate.[1100] Others described how they felt they ultimately ran out of emotions and feelings. Yet others said they pushed aside feelings, preferring to bottle them up and not show them as they don't want to be hurt or hurt others as a result.[1101]

500. Survivors often described struggling with physical intimacy with a long-term partner because of the physical and sexual abuse they suffered. Some never even talked about their time at Lake Alice with their long-term partner, preferring to keep their experiences and emotions hidden.[1102] Difficulties in trusting others were at the core of some survivors' struggle to be vulnerable and open with another person.

501. In their report, Ngā Wairiki and Ngāti Apa found that most whānau spoke about being disconnected from their loved ones when they were sent to Lake Alice.[1103] Whānau members noted that they could not visit tamariki and rangatahi they were related to at the unit, and often did not understand

what was happening to them.[1104] Many whānau members fought hard to protect their loved ones.[1105] Other whānau, including siblings and cousins of survivors, reported repeated attempts to gain information from Lake Alice while their whānau members were residents, but being turned away.[1106] This left them feeling frustrated, helpless and upset.

> *"She was in agony going to visit him and of course he didn't want to be in there. She could see the trauma and the change and just everything about his demeanour. She felt helpless, she was saying to me, "I just felt so helpless, I couldn't get him out. I tried".[1107]*

Te pānga ā-reanga ki ngā whānau o ngā purapura ora – Intergenerational impact on survivors' whānau

502. Survivors and their whānau members told us about the intergenerational impact the abuse at Lake Alice had. Ms Leoni McInroe said she had a constant fear that she was mentally ill after having been at Lake Alice, and her children had been forced to live around a mother who felt that way about herself. She feared she was not capable of succeeding in any career or higher education and was capable of only menial employment. "I am upset, more than anything, that they had to endure this. I am angry at what this trauma has stolen from my life and therefore theirs."[1108] Mr Nicol said he couldn't cope with his children's needs or his own because he was trying to cope with the trauma of his abuse at Lake Alice.

> *"Because I was taught that telling the truth was wrong and I was punished with ECT for it, I have gone through life lying to those I love. Because [the government] taught me to lie, I have unknowingly taught my children to lie and they have done the same to their children."[1109]*

503. Many survivors had told their children about their abuse, but others had not. One survivor said, "They just think I'm a mean, grumpy old man. I am."[1110] Mr George Siebelink, a child of a survivor, told us he and his siblings had had a traumatic upbringing because of his mother's abuse. "I blamed Mum a lot for my own childhood, but now that I am older, I believe Mum had such a traumatic childhood herself that she wasn't able to do any better as a parent."[1111]

504. Some survivors' children were taken into State care themselves. Mr Donald Ku said his child "ended up being in 33 different social worker homes while he was young". He said he had suffered in many ways as a result of being at Lake Alice, but the greatest of these – and the one that hurt him every day – was having had his tamariki taken away from him.[1112] He also lamented the fact the State, in removing them from his care, denied them the opportunity to know their Māori culture.[1113]

505. We also heard from survivors who said their partners and families had been part of their healing process. Ms Dickson said she promised herself she would "make the choice to change and break the cycle of the environment I was exposed to as a young child".[1114] Mr Hendricks said he made a commitment when his son was born that he would love him and treat him like a father should. "[N]ot like the way my father treated me. The cycle needed to be broken, and I'm happy to say that we have a loving relationship."[1115]

506. Ms Weterman said her mother "always said she wanted to give us the life she had never had. We were raised knowing we were loved and cared for".[1116] Mr Sieblink whose mother was in the unit told us, "I'm proud that none of my children have been wards of the State and that I have stopped the cycle."[1117]

507. In their report, Ngā Wairiki and Ngāti Apa discussed the impact whānau member's tamariki being at Lake Alice had on their mental health.

> *"...it had left us traumatised in a way. When the second time happened in Lake Alice I can remember going to a counsellor fella about myself and about my daughter. I said, "Please could you help me to help my daughter. I don't know what to do." He listened to me and he said, "That's her journey. What do you want for yourself?" I didn't hear him, because I'm focussing on my daughter. He must have just listened and said, "What do you want for yourself?" It clicked. It's like the dripping tap and broken record thing. I heard it and I burst into tears. I said, "I don't know what I want for myself." He said, "You've got lots of time. You think about it because you need to decide what you're going to do for yourself. You can't do anything for your girl. You've done everything you can. It's her journey."*

Ngā pānga ki te ahurea o te purapura ora – Impacts on survivors' culture

508. As we explained in He Purapura Ora, he Māra Tipu, State care in Aotearoa New Zealand must be discussed in the wider colonial context.[1118] The impacts of Lake Alice are part of a long history of intentional cultural disruption by State institutions. Secure cultural identity is crucial for health and wellbeing. For Māori, the oranga of wairua, hinengaro and tinana are intrinsically tied to the oranga of whānau and land. To be disconnected from culture, whānau and land affects all other aspects of wellbeing.

509. We heard from Māori and Pacific survivors about the cultural and spiritual effects of abuse at Lake Alice, in particular about loss of connection to cultural practices, language, community, family histories, genealogies and sense of belonging. Māori survivors' cultural beliefs and values were

"disregarded" and this contributed to a feeling of not belonging anywhere. In addition, some abuses experienced at Lake Alice, such as receiving electric shocks to the head, may have had a particular cultural significance for Māori given that in Te Ao Māori he tapu te upoko, the head is sacred.[1119] One survivor explained how Lake Alice disregarded his Māori culture.

> *"I did not have access to any Māori cultural learning as a patient there. Cultural values and beliefs are very important to me and having none of that when I was growing up had a detrimental effect on my wellbeing. I felt like I didn't belong anywhere ... The longer I stayed in Lake Alice and in the Social Welfare system, the more disconnected I became from my Māori culture and more disconnected from my identity. I had a feeling that I didn't belong anywhere. Where I really belonged was with my mum and dad – with my whānau. When I was removed from that environment, they took me away from my Māori culture. I wish they had given me to my grandmother. I think my life would have been very different if they had."*[1120]

510. Another survivor described how he missed out on a connection to whānau and iwi after he was adopted and put in various institutions, including Lake Alice. He said his life would look very different today if he had stayed with his whānau.

> *"Absolutely. My whole life ... if I was with my original birth mother, there's no way I would have ended up in an institution because Māori, the particular Māori family that I've got are very close. And I've spoken to my Uncle [GRO-B], who is my birth mother's brother, and he's just so nice and so lovely. And just the way that he spoke about the area that they're in and different responsibilities that they've got and how they look after their whānau, is totally different than the way that I was brought up. There's no way I would have been institutionalised if I had stayed with my original birth mother and family. And I'd be in a better place now too probably."*[1121]

511. Māori survivors also described their continuing difficulties in trying to reconnect to their culture and whānau. One said he didn't even want to mention Lake Alice or what happened to him. "I want to go back and be welcomed back into my whānau as a normal person."[1122] Mr Mathieson-Ngatai said he was trying to reconnect with his whānau and learn te reo Māori, but his time in Lake Alice continued to affect those relationships and his ability to learn. "I do not like to talk about it with them or have them bring it up."[1123]

512. Pacific survivors' cultural needs were also disregarded at Lake Alice, and this affected their connection to aiga, language, personal and cultural identity, and sense of belonging. For Pacific peoples, mental, physical and spiritual wellbeing are intrinsically tied to the wellbeing of the family. Psychiatrist, Leota Dr Lisi Kalisi Petaia, told us, "the foundation of the fale ... is the family. It represents the foundation of life for Pacific people".[1124]

513. Pacific survivor Mr Scanlon said his aunt would have taken him out of Lake Alice if she had known what was going on. He might then have got a decent education, which was denied to him at the unit.[1125]

514. Cultural misunderstanding and unconscious bias have contributed to Pacific health disparities.[1126] Leota Dr Petaia told us culture is "fundamental to the causes, course and care of individuals with mental illness" and a skilled workforce competent in both cultural and clinical aspects is vital.[1127] She said minimal emphasis on cultural training, resulted in poor interaction with patients and their families and poor health outcomes for patients.[1128]

515. We heard from Mr Scanlon about the positive impact of having an understanding staff member who organised kapa haka and waiata lessons at the unit.

> *"I remember one nurse at Lake Alice who was really comforting. She ran Kapa Haka classes and waiata lessons at the school, which I enjoyed. These lessons were run in one of the classrooms at the school during the weekend. It reminded me of home. I always dreaded going back to the dormitory afterwards because of the punishments."*[1129]

516. Healing from a Pacific peoples' perspective requires restoration of the balance between all domains of mental wellbeing – mental health, physical health, spiritual, social and family relationships – said Leota Dr Petaia. Families usually wanted to be involved in decision making and care plans. Using Pacific models of care and engagement of patients and families in a Pacific way, for example, through use of the patient's native language and acknowledging the spiritual dimension by saying prayers, was crucial.[1130] Pacific people expect mental health services to be culturally safe by way of acknowledging their belief systems and reflecting a holistic approach to wellness.[1131] This did not occur at the Lake Alice unit.

517. Niuean survivor Mr Hake Halo, on the other hand, personified the benefits of individuals staying connected to their culture. He told us his Niuean culture had enabled him to alert his family to the abuse in his own language, without the knowledge of the authorities. His faith also remained intact, despite his experiences, and this also helped him to move on from what had happened.[1132]

"On one of those 'walks' he told me to hold his penis while he pissed. I refused to do that, and he threw me on the ground and pissed on me. When we got back to the villas, he told people I had wet myself, and when I denied it, he got angry and dragged me down the stairs. He gave me to some security men who put me in maximum security. I stayed there for two days."
- Donald Ku
There comes a
No room for distrust
Open up your heart

2.2.7 Te hua ki te mātauranga me te whiwhi mahi – Effects on education and employment

518. Most survivors received little or no education while at the unit, which harmed their later education, employment prospects and financial security. Survivors said their schooling at the unit was limited, and many could not remember receiving any education. Some did not know the hospital even had a school.[1133] Many of those who did remember attending the school said they did not recall learning anything there. They said their reading, writing and numeric skills suffered.

519. Mr JJ said, "I am very upset that I never got to learn to read and write properly and never got any schooling at Lake Alice. It never made sense to me why I was taken away just to be assaulted and sexually abused and to get ECT, all just because I could not learn".[1134] Mr Tyrone Marks said he had to educate himself from reading newspapers. He learned to spell in the same way. "It took me years to do what I should have been rightfully taught when I was very, very young."[1135] One survivor said he could not say definitively whether the teachers were really interested in students' education. "All I remember was doing a bit of drawing, passing the time playing games and sport and stuff like that. I regret not having a proper education."[1136]

520. Some survivors said the electric shocks and other trauma resulted in lifelong damage to their ability to concentrate, learn and remember. Later schooling was severely affected. The disruption of moving between institutions, the lack of support once released, and the ridicule they experienced in new schools had a compounding effect on their education. An inadequate education, coupled with the social stigma of having been in a mental health institution, meant survivors struggled to get or hold on to jobs. They often found themselves having to take low-paid work, with the result that their financial security – and that of their families – suffered.

521. Some survivors explained that their experiences at Lake Alice led to difficulties with their behaviour and attitudes, including towards authority figures, which affected their ability to hold down jobs. One survivor said he had always worked, but his attitude had prevented him from keeping jobs for very long. He attributed this to the effects of being in and out of boys' homes and Lake Alice. "I always wanted to work, but my attitude got in the way … I was sacked from half of them and just threw the other jobs in because of my attitude problems."[1137] Mr Rose said he walked out of jobs "innumerable times" never to return, not even to pick up his wages, because of "supervisors and managers acting in an authoritarian and dictatorial manner. I have

walked out of initial interviews for employment for the same reasons. My view is all of this has a lot to do with how I was treated while in care of the State".[1138] One survivor had to leave his job because the sound of workplace machinery triggered memories of the ECT machine Dr Leeks used.[1139]

522. Several survivors told us they could not work. For example, Mr Jane said he has suffered from post-traumatic stress disorder due to his experiences in State care.[1140] He said his disorder affects every part of his life, including employment.

> *"I have always found it hard to keep a job because I struggle with authority, trust, time management because of my memory issues etc. So, it was easier for me to keep with my life of crime ... I have been in and out of jail all of my life, mainly for theft and motor vehicle offences."*[1141]

523. Some said they had been unable to work for many years. For example, Mr Richards told us ECT-induced memory problems made working very difficult and because of this he had walked out of his last job.

> *"I was meant to drive a truck in one direction and ended up about 30 kilometres away. When they rung me to ask where I was, I pretended I had been delayed and that I was on my way. Incidents like these happened a lot. I would always try to cover the memory gaps."*[1142]

524. He told us that he hasn't worked for the last 10 years because he struggled with the stress. "I was always getting yelled at for making small mistakes. [Or] being bullied because I couldn't remember what to do at work."[1143]

525. Many survivors told us they had lost opportunities and missed income potential. One said he had been unable to find a job for most of his life: "No one would take me on after they asked about my education and found out I couldn't read or write. Also, I have just not been well enough to work for most of my life. I believe I lost the chance to earn a living because of Lake Alice and Cherry Farm".[1144] Others struggled to have confidence in themselves in employment. For example, when Ms McInroe described the impacts on her children she said, "They lived with a mother who feared she was not capable of succeeding in any career or higher education and was only capable of menial employment".[1145]

2.2.8 Te whai wāhitanga ki te pūnaha kōti – Interaction with the criminal justice system

526. Many survivors of State care, including some Lake Alice survivors, ended up in the youth and criminal justice systems – what is sometimes referred to as the 'care-to-custody pipeline'.[1146] The causes are often related to substance abuse, lack of supports and financial security, and unresolved anger and aggression.[1147] We heard of several survivors who, soon after their release, committed crimes, usually theft, to survive. One survivor said he struggled to live with the memories of what happened in Lake Alice, started to misbehave at school, which he saw as the start of turning to gangs for security.[1148] He said, "I turned to gangs and crime. This was the easiest way to make money because I couldn't hold down a nine-to-five job due to the emotional trauma I was constantly battling".[1149]

527. As we noted in our care to custody research report, there are clear links – for Māori and non-Māori – between experiences in State care and later imprisonment.[1150] The research found that one in five and, sometimes, as many as one in three children and young people who had been in State residential care went on to serve a criminal custodial sentence later in life. The proportion of Māori who had been in State residential care and subsequently received a custodial sentence was much higher than for non-Māori.[1151] This is a much higher rate than that of people who had not been in State care.[1152]

528. Some survivors went on to spend a large portion of their lives in prison – some for serious offending and others for a succession of minor offences. Some recognised they had become institutionalised and felt more comfortable inside prison than outside. As Mr Rangi Wickliffe told us:

> *"I was diagnosed with terminal cancer while I was in prison, and that was one of the reasons they let me out in October 2017. That was actually hard for me because that was the only life I have known. It was my home. The Department of Corrections just cut the cord. That felt like more of the abandonment that I had previously suffered from my mother and my family ... I wanted to go back to jail; that's how hard it was for me ... I cannot cope in everyday society because of the extreme pain, fear, and suffering I endured at Lake Alice ... I cannot handle it on the outside. It is why I think I have spent so long in prison – because I can handle it on the inside, because it is where I can hide from what has happened to me. In jail, I am fine; on the outside, I do not cope."*[1153]

“Many survivors of State care, including some Lake Alice survivors, ended up in the youth and criminal justice systems – what is sometimes referred to as the ‘care-to-custody pipeline’. The causes are often related to substance abuse, lack of supports and financial security, and unresolved anger and aggression.”

2.2.9 Te taunutanga o Lake Alice me te pānga ki te mana – Stigma of Lake Alice and impact on mana

529. Discriminatory attitudes towards those with learning, sensory, mental or physical impairments is a form of ableism. It gives rise to the stigma, or mark of disgrace, associated with a particular circumstance, place or person. Survivors told us they felt the stigma of being placed in Lake Alice and labelled with a mental illness.

530. As we noted in He Purapura Ora, he Māra Tipu, when tūkino, has occurred, mana is affected.[1154] Words we use to convey mana include authority, control, influence, prestige, power, psychic force.[1155] Te Aka Māori Dictionary explains that mana is a supernatural force in a person, place or object.

> *"Mana goes hand in hand with tapu, one affecting the other. The more prestigious the event, person or object, the more it is surrounded by tapu and mana ... Almost every activity has a link with the maintenance and enhancement of mana and tapu."*[1156]

531. Conversely, the more atrocious the event, the more it will impact negatively on mana. Mana can be understood to have three aspects: mana atua – god-given power; mana tūpuna – power from the ancestors; and mana tangata – authority derived from personal attributes.[1157] Everyone is born with and possesses mana, reflecting their actual or potential place in and contribution to their world. This is mana tūpuna – mana inherited from parents and ancestors. Mana tangata is acquired through personal achievement and can rise and fall. The mana of tamariki in traditional Māori society and the great care and affection for tamariki means any action that harms a child or fails to respect the child's mana is significant.

532. Tā Hirini Mead explains that personal and group relationships are always facilitated and guided by the high value placed on mana. "Mana has to do with the place of the individual in the social group. Some individuals are regarded as having a high level of mana and others have varying levels."[1158] The Waitangi Tribunal has said rangatiratanga and mana, "are really inseparable ... 'rangatiratanga' denotes 'authority'. 'Mana' denotes the same thing but personalises the authority and ties it to status and dignity".[1159]

533. Being separated from their whānau and the abuse survivors suffered were horrific enough, but the subsequent stigma from having been at Lake Alice and the lack of any accountability or redress from the Crown compounded the effect of that abuse, continuing the assault on survivors' dignity and mana.

534. Ms McInroe said the label of being at Lake Alice would forever be with her.

> *"No matter what, I will always have the stigma, the shame, the trauma, the battle to overcome [Dr Leeks'] abuse, as well as the abuse from the Crown, and the ongoing impact and lasting consequences of being held unlawfully in a mental hospital. That is my reality. I cannot undo that."*[1160]

535. Mr Peter Henaghan said the stigma of Lake Alice had stayed with him his entire adult life. "All I have to say is that I was at Lake Alice and people treat you a different way. They treated you horribly."[1161] Mr Hendricks said he felt embarrassed about his time in Lake Alice and worried people might judge him. He told us he had never had a mental illness, but "people don't know that, and they don't know my story. All they see is that I was in Lake Alice for seven months".[1162]

536. Survivors recounted their experiences of being ridiculed or humiliated by others for having been at Lake Alice. They experienced this humiliation from people close to them, such as family, friends and partners, as well as from colleagues, employers and medical professionals.

537. In the report by Ngā Wairiki and Ngāti Apa, whānau talked about the stigma of mental illness, how it was often misunderstood by whānau and, in turn, not talked about.[1163] Whānau reported how this, at times, was disempowering, and, at other times, this lack of knowledge and stigma led to criticism of the whānau or tāngata whaiora.[1164]

> *"Mental health wasn't the thing that you really talked about. My father was actually afraid of it. We went on a journey with my brother but when he ended up in Lake Alice – oh wow. Now that in itself was a journey for all of us, and although I wasn't living at home Mum would discuss it with us all 'cause she felt that we needed to understand mental health. Not the nonsense that everybody said, "You're a bit cray cray," you know? That was the 60s, 70s, and even the 80s. You know … If you had anything different. I thought, what the hell was normal anyway?".*[1165]

Photo Credit: Dean Zilwood
"The little boy inside me has spoken."

Name Rangi Wickliffe

Age when entered care Six

Age now 61

Hometown Te Puke

Time in care 1967 - 1976

Type of care facility Family Home – Papatoetoe Family Home; boys' homes – Holdsworth School, Ōwairaka Boys' Home, Hokio Beach School, Kohitere; hostels – Arohanui Hostel, Onehunga Māori Boys' Hostel; psychiatric hospital – Lake Alice; borstal.

Ethnicity Māori

Whānau background Rangi has half-siblings from both parents – two sons and two daughters on his mother's side and two sons and two daughters his father's side. Rangi was the only child to go into care.

Currently Rangi has one son and four grandsons. Rangi is very close with his mum; his dad is deceased. Rangi has a very supportive partner.

Rangi Wickliffe

When they told me I was going to Lake Alice, I thought I was going to a lake to go canoeing and fishing – I didn't know I was being taken to a psychiatric unit. Nobody told me what was happening. I was only 10 years old.

My name is Rangi Wickliffe. I have been raped and sodomised and tortured.

I went into State care when I was six and I moved around 13 different foster homes, then to Ōwairaka Boys' Home and Holdsworth School. In most places I was abused and raped.

When I arrived at Lake Alice they asked me if I wanted something to drink, and they gave me a cup of sweet tasting liquid. I found out later it's called Largactil, which is used to treat behavioural disturbances, among other things. It knocked me out.

When I woke up I was in a villa with people asleep or lying on beds all around me. At that time Lake Alice didn't have an adolescent unit so I was put into a villa with adults as well as other kids. Some of the adults were criminally insane. And that's where the horror began.

On my first night in the villa I felt a heavy weight on my body. My pyjamas were ripped off and I was raped. I couldn't see who did it to me because I was lying face down with my head held into the pillow while they raped me. They did it repeatedly for months. I complained to staff and I was given electric shocks as a punishment.

The electric shocks were pure and simple terror. You had up to seven children in a day room. Some were crying, screaming, scratching, banging their heads against the wall, urinating and defecating like little animals, whimpering, calling out to their mums and dads, and screaming. But some children just sat back on the chairs in total shock.

> ***The pain from electricity surging through your head is indescribable, and so is the scream that comes out of your mouth. The terror was so intense that you lost all bowel control. I thought, if I bite harder on this rubber it won't hurt so much; if I scream louder, they might stop – but it didn't work like that.***

Dr Selwyn Leeks asked me, while he was electrocuting me, "How do you feel?" Of course, being a young child with a rubber stopper in your mouth, you can't answer. So he moved the electrodes from my temple to my jaw and said, "Yes, I think that's the spot. I think I can make you scream louder". And he did.

Once I escaped and ran away with another boy. We told the police they were hurting us, electrocuting us. They took us back and we got electric shocks as a punishment. Dr Leeks said to me, "I'm going to knock you out and this is how I'm going to do it, Rangi. See this little silver knob? That's going to clean you out, you're not going to feel a thing. Watch this". He banged a button, and I was out.

I woke up and I was lying face-down on the bed, tied down with leather strops. Another patient was there, so I asked him what happened – why was I tied up? He untied me, and some other patients told me I had been gang raped by up to eight adults who were criminally insane.

In the villa where I was placed, they had seclusion rooms – just a locked cell door with a tiny glass window on the front. You're there, all alone, in a solitary confinement cell on a mattress with no water, no food, no light and nobody else. I was put into seclusion as punishment for kicking a ball next to a window, even though I didn't break the window. I was in there for four days. Keep in mind that this was done to a 10-year-old child.

I got electric shocks frequently as a punishment – for getting a D in maths, for failing to eat my vegetables. This was a sustained attack on a small child while immersing him in rape. Blasting a child's brain with high voltage enough to just about break your bones and expecting that child to have a normal life afterwards? That's not going to happen.

The impact of Lake Alice was horrendous. Part of that impact is the spiralling behaviour of an emotionally disturbed young child as his problems spin out of control and into institutionalisation and incarceration. I've spent 10 years of my adolescent life in State care and 36 years of my adult life in prison. I have suffered severely from poor decision-making while I've been in the mindset of revenge for what has happened to me. The hate, the fury, and a burning desire for vengeance from a young teenager through to an adult – that has consequences.

My life is hell. I am constantly reminded of what happened to me. Every time I use the toilet I feel the scarring. Every time I have a shower I see the white marks and squiggly lines that come with unmodified 'ECT'. When I hear children squealing in play, I am terrified. I try to make sense of why children scream like that when they're happy. In my world, in Lake Alice children only screamed like that when they were being tortured.

I am triggered by noise, sound and smells, and I have to lock myself away from people. It is a huge burden to carry. I am 61 years old and I've lived a life of nightmares. I will suffer for the rest of my life. I will suffer because I don't want my great grandchildren to suffer.

By telling my story I know I risk a lot – I am retraumatising myself. I was terrified of going to a hearing and saying what happened. Every part of me said no, don't do it. But I have to. I have to for my family and for the men who find it very hard to describe and articulate what happened to them. Not all of us came out of this switched on, or so to speak.

> ***My name is Rangi Wickliffe. I have been raped, I have been sodomised, I have been tortured. But the little boy inside me has spoken.***

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Ngā pānga ki te āhua o tā ngā purapura ora noho ki ō rātou wāhi mahi – Impacts on the way survivors interact in their workplaces

538. Survivors described how they always felt compelled to "go the extra mile" to prove their worth in the workplace so others would not think their past was an impediment to their performance and, therefore, would not look down condescendingly on them. They described feeling no let-up in this need to prove their worth. Ms Dickson said she had to "fight every day" in an effort to prove herself. "Once my employers would find out that I had been to Lake Alice, they would start to treat me differently."

539. Mr Banks said he found it impossible to convince colleagues and bosses he was up to the job, and his efforts to do so were ridiculed. "Everyone there knew I had been in Lake Alice and made fun of me. I was very insecure and so desperate to prove myself that I was rushing about working about double what the others were, and they made fun of that, too."[1166] Mr Marks said he was, "always afraid that if people hear that you were in Lake Alice, they will treat you differently".[1167]

Ngā pānga ki ngā wheako purapura ora ki te whai rongoā – Impacts on survivors' experiences with the medical treatment

540. Some survivors have experienced discrimination by medical professionals based on their mental health history. Ms Sunny Webster told us:

> *"I've been totally and utterly judged and treated differently because of my scars and my psychiatric history. This is particularly the case with medical professionals. It doesn't matter what's wrong with me physically, they'll always put it down to mental conditions … Patient confidentiality doesn't extend to ex-psychiatric patients. That attitude is what I've lived with my whole life."*[1168]

541. Many survivors told us they now distrust health professionals. Some survivors have told us that because of medical professionals' attitudes and the different treatments they received, they avoid seeking medical assistance. Some survivors who require mental health support are also in this position. A 2018 mental health and addiction report, He Ara Oranga, explains that the legacy of shame and stigma that has surrounded mental health remains a barrier to seeking help.[1169]

542. Some survivors told us their treatment by medical professionals had prompted them to ask for the removal of their Lake Alice history from their medical records.

Te anamata o ngā purapura ora – Effects on survivors' relationships

543. The social stigma attached to mental illness, and to Lake Alice in particular, at the time, had damaging effects on survivors' relationships. This damage began at the time of survivors' admission. Some parents kept their child's admission secret from the wider family and even chose not to visit Lake Alice, which deepened the individual's feeling of shame at being in the unit and reinforced a sense of disconnection from family members. Ms Dickson said no one came to see her while she was at Lake Alice.

> *"I know it was because of the shame that the Lake Alice name had. Our whole community knew about Lake Alice and that if you went there, you were crazy. So even though my parents put me in there, they were embarrassed that I was there. They didn't tell my grandparents or my cousins. They told no one that I was in Lake Alice, and so no one came to see me."*[1170]

544. The stigma of Lake Alice also harmed later relationships. Some survivors chose not to disclose their past to those closest to them out of fear about how the news might be perceived. Ms Dickson said she told no one about Lake Alice once she got out because of the stigma and shame of having been at such a place. "As soon as people found out I went there, they behaved as though I was mentally ill, so I just kept it a secret."[1171]

> *"I never told anyone I had been in Lake Alice because there is so much stigma attached to anyone who is thought to have a mental illness ... [O]ne night when we had a few drinks I told my best friend Linda and at the time she said that was horrendous what ... happened to me but then later she treated me differently and would make comments such as "you're a nutter end of". I stopped that friendship because I couldn't take the comments and I never told anyone else again."*[1172]

545. One survivor, Mr JJ, described how revealing his time at Lake Alice to his wife contributed to the demise of his marriage.[1173] He said he told his wife about how he had been sexually abused and given electric shocks at Lake Alice and later she began, "getting suspicious of me especially when I was cuddling and embracing the children".[1174] He told her he had endured so much at Lake Alice and had no intention of causing any harm to his own children: "I was angry, but her family were suspicious of me. In the end she left me in 1997 and took the children and moved back to her family ... That was very hard for me to lose the children."[1175] He said his relationships with his children soured afterwards, although he was still in touch with his youngest daughter: "I told them some

things about my experience as a State ward but not everything as the full story is just too scary."[1176]

Te anamata o ngā purapura ora – The future for survivors

546. All of these impacts must have healing and restoration. The concept of te mana tāngata talks about respect for, and restoring the inherent power, dignity and standing of, people affected by tūkino. Accompanying this concept is the process of utua kia ea – a process to account for tūkino and restore mana to achieve a state of restoration and balance.

547. This process means recognising and acknowledging the tūkino suffered, providing the right support and resources for survivors to restore their mana and mauri and connect or reconnect with their whānau and whakapapa. In other words, supporting a mana-enhancing system that would enable the transformation of the lives of survivors and their whānau.

548. We describe survivors' attempts at redress for the abuse experienced at Lake Alice in chapter 2.4. The legal process they went through to achieve redress was protracted and flawed. While many Lake Alice survivors did eventually receive some financial redress, most considered it to be inadequate to compensate them for the impacts caused by the abuse. An improved process is outlined in our redress report, He Purapura Ora, he Māra Tipu.[1177]

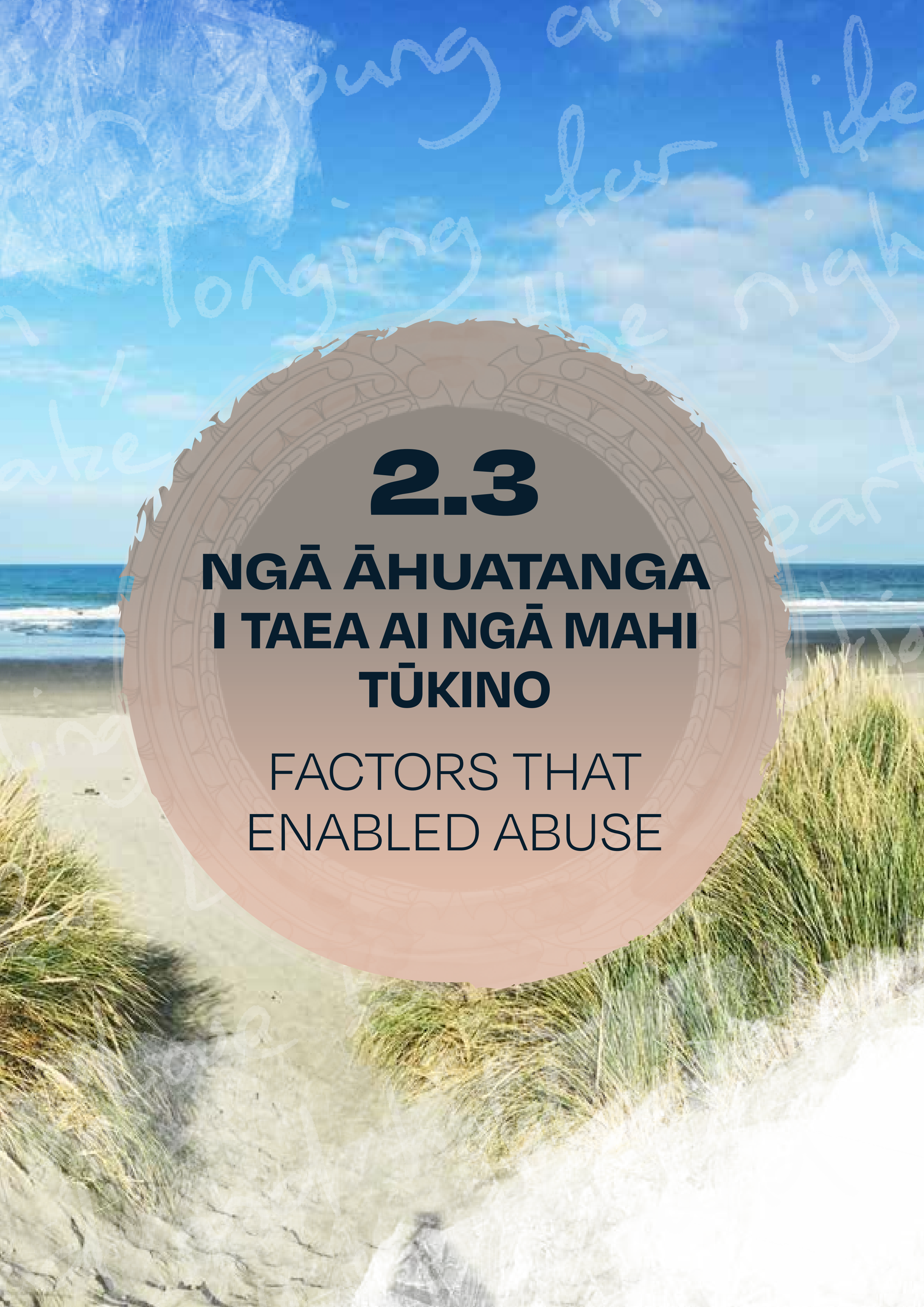
Ngā tūtohitanga – Summary of findings

Ngā pānga o te mahi tūkino – Impacts of abuse

The Inquiry finds:

- The abuse in the unit harmed survivors' physical and mental health, their psychological, emotional, cultural and spiritual wellbeing, and their educational and economic prospects.
- Many survivors turned to crime and were imprisoned.
- The harm to survivors has been transferred over generations.

Beautiful children
Worldly people



2.3

NGĀ ĀHUATANGA I TAEA AI NGĀ MAHI TŪKINO

FACTORS THAT ENABLED ABUSE

2.3 Ngā āhuatanga i taea ai ngā mahi tūkino – Factors that enabled abuse

2.3.1 Whakatakinga: Te mārama ki ngā mahi tūkino ā-pūnaha ki Lake Alice – Introduction: Understanding systemic abuse at Lake Alice

549. Abuse occurred at Lake Alice for many reasons. One obvious reason is the personal decisions made by clinical staff, especially Dr Leeks, who was responsible for much of the abuse survivors experienced. However, Dr Leeks operated Lake Alice within a State-run social welfare and health care system that allowed such abuse to occur and continue.

550. In this chapter, we look at both the wider social welfare and health system and the institutional system of Lake Alice.

551. First, we look at the wider social system that formed the backdrop that led to the removal of children and young people from their whānau and placed them in the 'care' of Lake Alice.[1178] This system arose in the context of colonisation, and its enduring effects, that excluded whānau, hapū and iwi from decision making and led to policies and practices that replaced tikanga Māori views of hauora or wellbeing. Underpinning the system was a variety of factors, including negative social attitudes about race, gender, disability, mental health, poverty, and the place of tamariki, Deaf people and disabled people. The system also arose from ableist attitudes and practices that dismissed the voices of disabled people and deferred to psychiatrists and other professionals. These attitudes justified the creation of institutions as models of care for disabled people, including for those who had or were perceived to have mental illnesses or challenging behaviour.

552. We then describe the legal requirements for admission and consent to treatment before looking at the institutional system of Lake Alice. We find abuse was inherent in this system due to multiple failings, including the significant power imbalance between staff and the children and young people, staff acting outside the legal requirements for admission and consent to treatment, and the normalisation of abusive practices and punishments. Inadequate oversight and monitoring and poor complaints processes meant abuse was able to occur and continue, often unchecked.

553. During our inquiry, government officials acknowledged systemic failures by the State to prevent the abuse of children and young people at Lake Alice.[1179]

2.3.2 Pūnaha whānui – ki te whakarautanga – Wider system – towards institutionalisation

554. In this section, we consider how the wider social welfare and health system was shaped in the context of the ongoing impacts of colonisation; attitudes towards tamariki; systemic ableism, disablism and psychiatry; institutional racism; homophobia and transphobia; and power dynamics and trust in health care systems.

Ngā pānga mauroa o te tāmitanga – Ongoing impacts of colonisation

555. The experiences of children and young people at Lake Alice must be seen within the wider context of Aotearoa New Zealand's history as a settled colony and the enduring effects of colonisation. As we explained in He Purapura Ora, he Māra Tipu, over many generations the Government has pursued colonial and assimilationist policies to break down Māori authority and social structures and assert government control over Māori, their land and resources.[1180]

556. This colonial history, as well as ongoing structural racism, has led to high rates of poverty among Māori. The Crown's failure to honour te Tiriti o Waitangi and, in particular, tino rangatiratanga, has undermined hapū and whānau structures and contributed to a disproportionate number of tamariki Māori and rangatahi Māori in care. The impact of this continues through multiple generations, and Māori are still over-represented in care today. Numerous reports, in particular Te Puao-te-Ata-Tu, have noted the State's failure to involve Māori in developing and implementing care systems for tamariki.[1181]

557. Colonisation introduced a variety of Western beliefs and racist practices that devalued tamariki and justified their removal from their whānau, resulting in disproportionate harm to Māori. Our final report will examine this fully. For this case study, we note that these imported beliefs often understood wellbeing in terms of only physical health, with minimal focus on wider cultural, spiritual or social factors. Mental health was simply seen as a biological issue that required medical treatment. Māori, on the other hand, tend to view health in a holistic sense, encompassing cultural, spiritual, mental, emotional and physical dimensions.[1182] In addition, the wellbeing of tāngata whaiora should be considered in the context of the health of whānau.

558. Until about the 1970s, the dominant view was that psychiatric care should be delivered within institutions, which served to both remove tāngata whaiora

from the community and place them where they could receive 'necessary' treatment.[1183] Lake Alice Psychiatric Hospital was a product of this colonial mindset. In particular, the reasons often given to place children and young people at Lake Alice were based on colonial views and prejudices.

Ngā waiaro ki ngā tamariki me ngā rangatahi – Attitudes towards children and young people

559. The placement of children and young people at Lake Alice was often based on misconceptions or prejudice arising from harmful societal views of the time, including unacceptable attitudes towards children and young people, racism, ableism, homophobia and transphobia. These prejudices were used to justify placing children and young people at Lake Alice. It led to the abusive treatment they received there and devaluation of their lives and experiences.[1184]

560. During the 1970s, a widespread societal concern existed about rising rates of perceived youth 'delinquency'.[1185] Children and young people who 'misbehaved' or were thought to be 'out of control', were often seen as having moral, cognitive or character flaws. Authorities viewed State wards particularly negatively. Survivors told us about how they felt they were treated while in care and at the unit. For example, Mr Bryon Nicol said, "Being in care made me feel I was just a piece of shit to staff and authorities; there was never any caring environment, and I never felt cared for or that anyone valued me".[1186] These views were often further compounded by racist attitudes towards Māori and Pacific children and young people.

561. Many of those at the unit came from already disadvantaged or marginalised parts of the community, and most children and young people were placed at Lake Alice for behavioural reasons. Often, this behaviour was the result of abuse or other challenges at home or at school. Sometimes, it came from a lack of appropriate support for the unique needs of an individual, such as those of neurodiverse children and young people as well as Māori and Pacific peoples. The root cause of the perceived 'challenging behaviour' was rarely examined or understood, and little professional support was provided.

562. A report by Ngā Wairiki and Ngāti Apa found that many people sent to Lake Alice were quite young and showed a variety of behaviours that were difficult to understand or manage such as speech problems, developmental problems and trauma-oriented coping styles (acting out).[1187] However, these were not necessarily symptoms of an acute mental illness requiring hospitalisation.[1188]

563. By the time children and young people were placed at Lake Alice, the perception was that they lacked self-worth and potential. Many of the children and young people had been involved with other institutions or State authorities and were viewed as 'problems' to be dealt with. When

questioned by police, Dr Leeks described the children and adolescents in the unit as "bottom-of-the-barrel kids" (as discussed in chapter 2.4). Some staff shared this view. For example, a social worker, Mr Brian Hollis told us:

> *"There was a feeling I picked up about the Charge Nurse of the Adolescent Unit, Steve Hunt. He would make sarcastic comments such as 'Social Welfare, you can't control your kids, so you send them here, and we straighten them out'".*[1189]

564. Survivors also told us they felt they had been placed in the unit because they had misbehaved in their previous placement or there was nowhere else for them to go. Mr Walton Mathieson-Ngatai told us that children and young people from Kimberley who got up to mischief were dropped off at Lake Alice (as discussed in chapter 2.1).[1190] A note on Mr JJ's file confirms his second placement at Lake Alice was only because of a lack of other placement options.

> *"An earlier report suggests that [Mr JJ] was diagnosed as schizophrenic, but in fact this is not correct. This was a tentative diagnosis and had not been confirmed by Lake Alice … [Mr JJ] was re-admitted largely because of a lack of suitable alternatives."*[1191]

565. The perception that the children and young people had no other options appears to have contributed to the approach to treatment in the unit. An interview with Dr Leeks describes his view that, "He had an open hand to do what he could with them because they were too much for Social Welfare institutions and too destructive for the Education Department".[1192]

566. Such views justified State actions to control and 'correct' behaviour. Where children or young people were considered 'difficult' or 'unmanageable', they were often criminalised or medically diagnosed. This then justified their placement within institutions, and the use of abusive practices as behavioural control such as electric shocks, paraldehyde, seclusion and restraint.

Te whakatoihara hauā, te whakahāwea hauā me te mātai mate hinengaro – Systemic ableism, disablism and psychiatry

567. The perception that children and young people needed 'correcting' was supported by the ableist practices at Lake Alice. Ableist and disablist views consider people with mental health conditions are disadvantaged, leading to stigma, discrimination and exclusion (as discussed in Part 1). In particular, ableism and disablism view mental health conditions as something to be 'fixed' or 'erased'.

568. These views have influenced societal attitudes, laws and policies in Aotearoa New Zealand. The Ministry of Health has acknowledged that,

"institutional and societal ableism in legislation, policy and systems has contributed to the abuse of disabled people and people with mental health conditions in health and disability care settings".[1193] The ministry also acknowledged that between 1950 and 1999, health and disability care settings were ableist. These settings did not always meet the needs of disabled people and people with mental health conditions.[1194]

569. At the inquiry's contextual hearing, former Mental Health Commissioner and leader of the Global Network of Survivors of Psychiatry, Mary O'Hagan, said:

> *"Abuse and neglect have been a part of New Zealand's mental health system since it was established in the 1840s. Much of the abuse was not due to the ethical lapses or incompetence of a few but to the routine practices of many".*[1195]

570. A long history of ableism and disablism exists in psychiatry specifically. The United Nations Special Rapporteur has said mental health care has often been used as a form of social control of people exhibiting 'socially unacceptable behaviour' and that the biomedical model has commonly been used to justify the State intervening in ways that limit an individual's dignity, liberty or autonomy.[1196]

571. Although Lake Alice existed and operated at the tail-end of institutional psychiatric care in Aotearoa New Zealand, ableism was still evident in its systems and practices. The practice of institutionalisation within mental health care removes those with actual or perceived disability from society, rather than supporting them in their whānau and communities. Institutionalisation may result from discriminatory attitudes[1197] and a desire for social control of undesirable behaviour.

572. Dr Leeks and other medical professionals assessed and diagnosed the children and young people placed at Lake Alice with psychiatric and behavioural conditions. We have discussed how many of these children and young people were misdiagnosed and did not self-identify as being disabled or having a mental health condition. The medical diagnosis then provided a 'justification' for removing children and young people with perceived challenging behaviour from their whānau and communities or other State placements. This was considered necessary and desirable to allow such perceived psychiatric or behavioural conditions to be 'fixed'.

573. This approach to disabled people and people with mental health conditions views them as 'unproductive' members of society.[1198] Ableist assumptions see people as having value if they can actively contribute to society and the economy in a socially acceptable way. Dr Leeks noted that this was a contributing factor behind his 'treatment'. In an interview in 1976, he said,

"If you want to get people back as economic units in society, then you get on with treating them – you don't play therapeutic games with them".[1199]

574. Disabled children and young people further experienced ableist and disablist views. We discussed previously how disabled children and young people were at greater risk of abuse and neglect within the unit, and experienced greater barriers to reporting abuse.

575. The combination of the need to 'fix' both delinquent behaviour and perceived psychiatric and behavioural conditions provided a rationale for placement at Lake Alice. Rather than addressing the underlying trauma, abuse, cultural or other unique needs of the children and young people, Dr Leeks and medical professionals sought to diagnose, treat and 'correct' their perceived deficiencies.

576. Lake Alice has closed, but this relationship between individual and whānau needs, behaviour and inappropriate responses is an issue that persists today and will be discussed in more depth in our final report.

Te kaikiri torowhare puta noa i te kāwanatanga – Institutional racism across government

577. For Māori survivors, racist and discriminatory attitudes and policies contributed to them being placed in Lake Alice and the treatment they received there. Then, when children and young people Māori arrived in the institutions, they were disconnected from their whānau and experienced cultural neglect and racism. A staff member at Lake Alice, who was also a whānau member of Ngā Wairiki and Ngāti Apa, explained how Lake Alice was a State institution based on Western values.

> *"It's a hospital; its government, they just move on in. They wouldn't have done their research on what Māori thought it was, they would have just recreated a whole community. It was centralised and centred around a European/English way of psychiatry. It was set up to exclude, and put them out to pasture, in places out of public eye."*[1200]

578. Dr Moana Jackson told us how colonial ideas of European superiority underpinned the view that indigenous tamariki needed to be removed from their whānau to be 'saved', 'civilised' and 'protected' from themselves.[1201]

579. Institutional racism led to the disproportionate representation of children and young people Māori in the court system and State residences, both of which were significant referral pathways into psychiatric care facilities such as Lake Alice. Research shows NZ Police in the 1970s were more likely to apprehend and prosecute Māori children and young people than their Pākehā counterparts for similar offences.[1202]

580. Research the Crown commissioned in response to our inquiry concluded young Māori were more likely to be brought to the attention of the State, more likely to be criminalised, more likely to be taken into State care, more likely to be placed in a harsher environment, and less likely to receive intensive support while in care than their Pākehā counterparts.[1203] For the children and young people at Lake Alice, racism would have further strengthened the rationale of State intervention and institutionalisation at Lake Alice.

581. The Ministry of Health has acknowledged that institutional racism has contributed to the tūkino of Māori within psychiatric settings.[1204] Systemic racism within Lake Alice, at both institutional and interpersonal levels, enabled the tūkino survivors experienced. Institutional and interpersonal racism led to Pacific children and young people being admitted to the unit and affected how they were treated while there. Cultural neglect was significant for Pacific survivors too. We heard Pacific survivors experienced both immediate and ongoing impacts on their connection to aiga or family, language, personal and cultural identity, and sense of belonging.

Ngā pānga o te mae takatāpui me te mae irawhiti – Impacts of homophobia and transphobia

582. Despite the sexual revolution of the 1960s and 1970s, behaviour that reflected diversity of sexuality, gender identity or gender expression was still regarded as being outside acceptable societal norms in Aotearoa New Zealand in the 1970s. It was seen by some as a mental illness.

583. The attitudes of those responsible for the treatment at Lake Alice showed prejudice against the Rainbow communities. The hospital's medical superintendent, Dr Sydney Pugmire, viewed homosexuality as a 'mild schizoid' form of schizophrenia; a thought disorder he felt could be reversed with early treatment.[1205] Dr Pugmire produced a list for teachers of teenage behaviour that warranted a referral to a doctor.[1206] For example, "The pupil who engages in homosexual activity, theft of female underclothing, indecent exposure or other obviously sexually deviant behaviour."[1207]

584. In a submission to the select committee considering the Crimes Amendment Bill 1974, Dr Pugmire expanded on his personal beliefs on homosexuality saying, "Homosexual behaviour is not a normal part of the normal development of normal human beings and Freudian teaching on this subject is pathetic nonsense".[1208] He went on to say, "Homosexuality is but one of a great variety of bizarre thought disorders which can occur".[1209] These perceptions were not uncommon in society, but in the unit, clinical staff could use the language, tools and status of psychiatry to condemn and punish sexual and gender diversity.

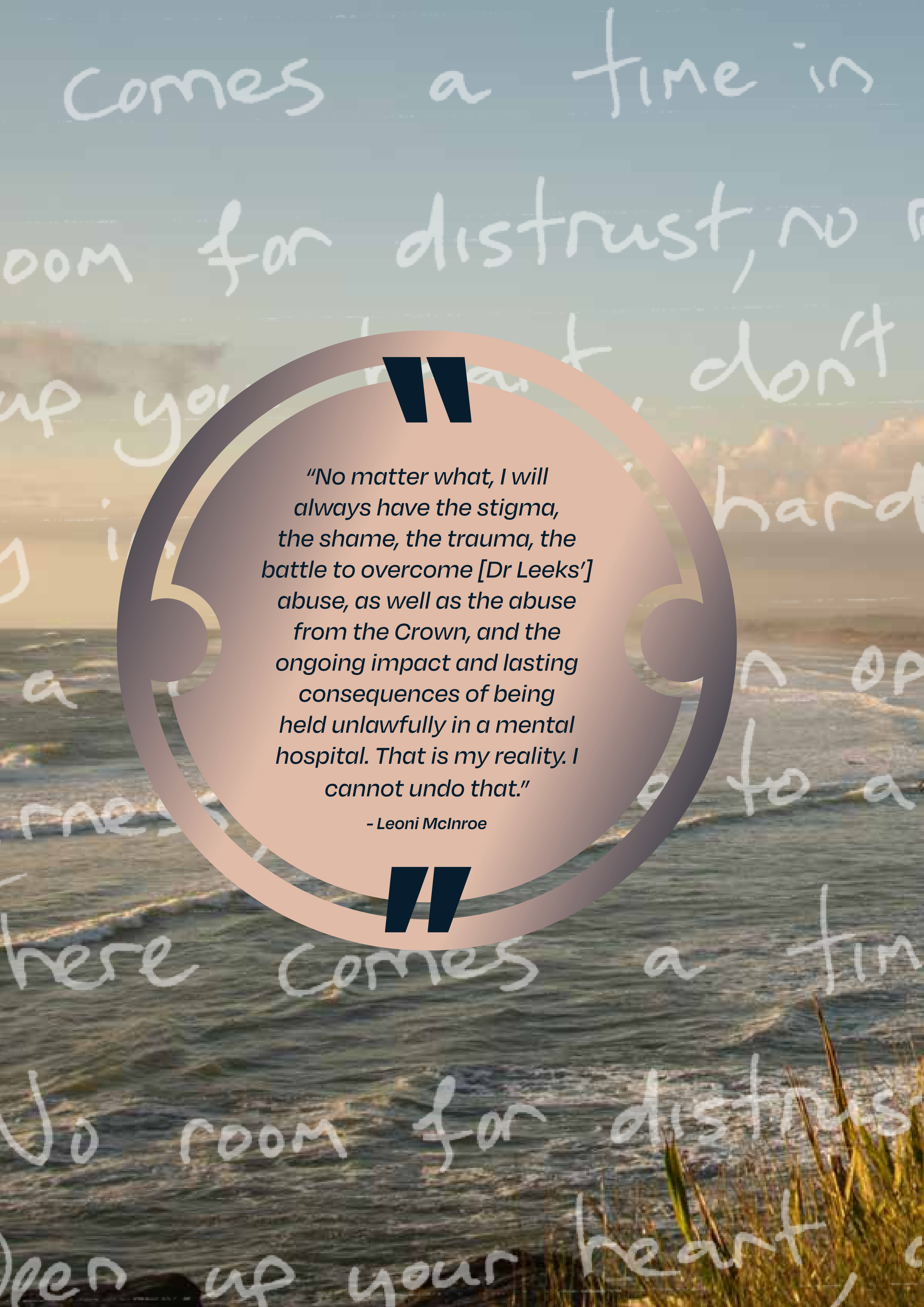
Ngā āhuatanga mana me te whakapono ki ngā pūnaha hauora – Power dynamics and trust in health care systems

585. The voices of some groups in society have been marginalised, but others exert far more influence, control and authority. In the 1970s, and today, doctors maintain positional power in society because of their medical expertise.[1210] The tension created by this power and control dynamic is discussed further below. We found it a compelling factor that enabled abuse to occur at Lake Alice, allowed abuse to continue undetected, and resulted in a failure of accountability for the significant harm caused.

586. The doctor–patient relationship involves a high level of trust and faith in the goodwill of the medical provider. At Lake Alice this relationship was paternalistic in nature with the children and young people seen as passive recipients of expert medical care. The dynamic was due, in part, to the biomedical view of health and the ableist underpinnings of psychiatry that saw patients as needing to be 'fixed'. Consent was rarely sought or documented from patients or their guardians, nor was it always considered necessary. Doctors and clinical staff were positioned as authority figures and experts who knew what was best for their patients. This created an inherent power imbalance, not only between the medical professionals and their patients, but between the medical professionals and parents, guardians and responsible agencies.

587. This dynamic influenced the judgement of those responsible for the safety and protection of the children and young people at the unit. It meant children and young people making disclosures of abuse at Lake Alice were often not believed, especially by doctors and other medical staff. It also contributed to the inaction of responsible agencies.

588. At Lake Alice, children and young people experienced violence justified as therapy and harsh discipline rationalised as a legitimate form of behavioural control. The fact these children and young people were housed in a psychiatric hospital meant a variety of medical tools were used to abuse them. The medical setting at Lake Alice is a compelling factor that contributed to the abuse.


"No matter what, I will always have the stigma, the shame, the trauma, the battle to overcome [Dr Leeks'] abuse, as well as the abuse from the Crown, and the ongoing impact and lasting consequences of being held unlawfully in a mental hospital. That is my reality. I cannot undo that."
- Leoni McInroe

2.3.3 Ngā herenga ā-ture mō te whakauru me te rongoā – Legal requirements for admission and treatment

589. Our analysis reveals that the Departments of Health and Social Welfare and staff at the unit did not have proper processes in place to ensure the admission, treatment and detention of children and young people in the unit were lawful. Under the Mental Health Act 1969, three categories of patient could be admitted and treated in a psychiatric hospital: special,[1211] committed[1212] and informal.[1213]

590. Courts placed special patients in hospitals following criminal offending. No special patients were at the unit. A committed patient was admitted following a formal legal process that certified they were 'mentally disordered' and needed to be detained in hospital, without their consent, for their own good or in the public interest.

591. Most children and young people admitted to the unit were informal patients. Informal patients did not need to be 'mentally disordered'. A hospital superintendent could arrange for the person to be admitted to hospital for treatment without a reception order as long as they considered the person would "benefit from psychiatric care and treatment".[1214]

592. Informal patients in psychiatric hospitals had the same legal status as patients in non-psychiatric hospitals. An informal patient could not be admitted, detained or treated unless they or their guardian consented to the treatment. They could decline treatment and, unlike committed patients, they could not be detained in hospital. They could leave if they wanted to, unless the formal process of the Mental Health Act 1969 was invoked. In practice the decision to admit children and young people to Lake Alice was almost invariably made by their guardians, whether their parents or the Department of Social Welfare.[1215] These decisions were often made in the face of the objections of the child or young person concerned, so we have looked closely at how those decisions were made.

Te whakauru a te Director-General o Social Welfare – Admission by the Director-General of Social Welfare

593. There are differing positions about whether the Director-General of Social Welfare had lawful authority to place children and young people under his guardianship in psychiatric hospitals as informal patients before 1977.[1216] The Ombudsman considered this issue in 1977.[1217] At the time, the Departments of Health and Social Welfare were of the view the Director-General had the same powers to act as any other legal guardian, including the power to consent to the informal admission of a child or young person under their care to a psychiatric hospital.[1218]

594. The Ombudsman disagreed. He found that nothing in the Children and Young Persons Act 1974 or the Mental Health Act 1969 Act gave the Director-General of Social Welfare lawful authority to place a child under the age of 16 in Lake Alice on an informal basis or gave the superintendent of Lake Alice authority to detain them there informally.[1219] The Ombudsman found the only way the Director-General could lawfully place a child in Lake Alice was through the formal committal processes of the Mental Health Act 1969.

595. The Ombudsman's decision had an immediate impact. In a report to the Minister of Social Welfare in September 1977, the Director-General of Social Welfare said hospital superintendents were becoming increasingly reluctant to admit State wards to psychiatric hospitals and had been discharging those already admitted on the ground there was no legislative authority to place them there.[1220]

596. The Director-General acknowledged there was 'some substance' to the hospital superintendents' position.[1221] He said the Department of Social Welfare's own assessment had concluded the only legal way to admit a State ward to a psychiatric hospital was through a formal committal.[1222] Therefore, the Department acknowledged privately it had no statutory power to informally admit any of the children or young people admitted to the unit.

597. In late 1977, Parliament amended the Children and Young Persons Act 1974 to explicitly give the Director-General authority to informally admit a State ward to a psychiatric hospital. Nonetheless, the Crown continues to take the view, as it did in 1977, that the Director-General had the same powers to act as any other legal guardian, including consenting to the admission of a child or young person to a psychiatric hospital.[1223]

598. We find the Department of Social Welfare paid insufficient attention to whether it had lawful authority to consent to the informal admission of children and young people. Even if the Director-General did have the power to enter into agreements to place children and young people in the unit informally (which is at least open to doubt) or believed it had that power, the Department routinely breached its obligation as guardian, which was to exercise that power in the best interests of the child and for their benefit. The Department failed to make informed decisions about whether admission to the unit was in the best interests of the children and young people and about the nature, purpose and therapeutic justification for the 'treatments' administered to the children and young people in its care.

Superintendent me te Director-General o Social Welfare – ngā herenga me ngā haepapa o te kaitiakitanga – Superintendent and Director-General of Social Welfare – obligations and responsibilities of guardianship

599. Guardianship in the 1970s reflected the dual aspects of care and protection on one hand, and control on the other. A guardian had the right of custody of a child or young person, and guardianship included all rights, powers and duties in respect of the child or young person and their upbringing.[1224] Rights and powers were given to a guardian so they had the power to uphold their duties towards the child, which they could not do without the necessary means of control.

600. Where the State was the de facto or legal guardian, the hospital superintendent and Director-General of Social Welfare were under an obligation of protection towards children and young people.

601. The obligations and responsibilities of guardianship were wide-ranging, whether held by the State or a child's parents. They included ensuring the child was enrolled and regularly attending school, had access to appropriate health care and was protected from foreseeable risks to their health and safety. The obligations and responsibilities continued regardless of where a child was living.

602. The guardian was required to exercise their powers generally for the benefit of the child or young person, consistent with the objects of the relevant child welfare legislation.[1225] The State has always had a duty to ensure tamariki in State-run institutions are safe and cared for,[1226] are cared for to the standard expected of parents[1227] and "[enjoy] an environment which is more suited to [their] needs than the home from which [they were] was removed".[1228] As the applicable social work manual put it, the obligation was to do "what a wise parent would want to do in like circumstances".[1229]

603. A child or young person could be placed under the control and supervision of the Director-General by order of the court or with the agreement of a parent or guardian. Where an order was made, the Director-General became the legal guardian of the child "to the exclusion of all other persons". When a child or young person was placed under the control of the Director-General by agreement with the parents, the Director-General did not formally become their legal guardian but had the same powers and responsibilities as if the child or young person had been made the subject of a guardianship order. In practical terms, agreements of this type created a de facto guardianship in which the Department could make day-to-day decisions about a child or young person's care. This included placing them into and transferring them between social welfare institutions or residences.

604. The Ombudsman found, arguably, that the legislation did not give the Department the power to decide to place a child in an inpatient psychiatric unit on an informal basis. Even if the Department did have that power, it was still under an obligation to ensure it was exercising its power for the right reasons and in the best interests of the child concerned.

Kaitiakitanga me ngā whakaurunga ōpaki - Guardianship and informal admissions

605. Authority was provided in the Mental Health Act 1969 for an informal patient to be detained in the unit or for an informal patient to be treated without consent.[1230] They remained at the unit under an agreement with the superintendent for psychiatric care and treatment.[1231] Admission for other purposes, including punishment, was not lawful.

606. Because treatment could be given to an informal patient only by consent,[1232] the Director-General (or their delegate) would first need to be satisfied that treatment would be in the best interests of the child or young person. To properly decide whether to give consent, the Director-General (or their delegate) would need to be properly informed about the nature and purpose of the treatment and its likely effects. They would need to revisit those issues throughout the time the child or young person was informally admitted at the unit. If they knew or ought to have known that those requirements were not being met, they had an obligation to remove the child or young person from the unit.

607. The Department routinely failed to properly evaluate whether the environment in the unit was appropriate for the children and young people admitted and whether admission was in their best interests. It failed to ask what psychiatric care and treatment was proposed or what benefit was on offer. It failed to continually review the circumstances of detention of each child informally admitted to the unit. And, when there were no longer good grounds for believing that it was in the best interests of the child or young person to remain in the unit, it failed to bring an end to the informal arrangements and have the child or young person leave the hospital.

608. The right to free, prior and informed consent is now an established human right in international law for indigenous peoples. It is referred to several times in the United Nations Declaration on the Rights of Indigenous Peoples and was included because of the long history of indigenous peoples being subjected to decisions about them without consultation or informed consent, including the taking of lands. Therefore, the placement of tamariki and rangatahi Māori in Lake Alice and their treatment without the consent of whānau is a particular grievance for Māori.

Te ngoikoretanga o ngā umanga tika ki te whakaputa i ngā whakatau mātau - Failure by responsible agencies to make informed decisions

609. The Department of Social Welfare well understood, in theory, the need to make informed decisions. The social workers manual set out a process for admitting a State ward to a psychiatric hospital on an informal basis. This included preparing a case history, arranging psychological and psychiatric examinations, consulting the medical superintendent of the relevant psychiatric hospital, arranging a medical examination, and providing the relevant case history and professional reports to the medical superintendent.[1233]

610. These steps were intended to identify whether a genuine need existed for admission and treatment at a psychiatric facility and to ensure care providers received all relevant information.[1234] The evidence suggests the Department failed to consistently apply its own process.

611. In practice, the Department routinely deferred to the judgement of clinical staff without properly considering its own obligations to the tamariki in its care.

Te wāhi ki te rata ki te tono whakaaetanga i te tamaiti, rangatahi rānei, me tōna kaitiaki rānei – Role of the clinician in obtaining consent from child, young person or their guardian

612. Dr Stanley Mirams, the Department of Health's Director of Mental Health, considered it necessary to get consent from the parent or guardian for the treatment of children and young people and that it was not appropriate for clinicians to seek a blanket form of consent. He wrote about this to Dr Pugmire in December 1976:

> *"In general, the consent of the parent or guardian should be obtained before any major medical or surgical treatment is carried out on a young person. Desirably, the consent should be a specific one and not just a general blanket agreement to 'treatment as prescribed by the doctors'. Again, the desirable thing is for this to be an informed consent arrived at as a result of some discussion with an explanation by professional staff, (not necessarily the psychiatrist), as to the need for treatment, its nature, its likely outcome and any special factors, including hazards, relevant to the particular case. It is appreciated that in some emergencies such a course is impractical."*[1235]

613. Dr Mirams stated that consent for treatment should also be sought from the child, even if the child was in care and even if the child's view did not decide whether the treatment was provided. He wrote again to Dr Pugmire:

"Where possible the consent of a child should be obtained and it should not be assumed that merely because the child is in care, his own participation in the decision-making process is unnecessary. I probably do not need to add that the preceding comments are not intended to imply that treatment must be withheld if a child does not consent."[1236]

614. Although the Director expressed that view, the Department provided no guidance about how to obtain and record consent to admit and treat an individual. It did not provide consent forms for staff to use and the evidence shows, despite the Director's view, obtaining consent was not part of Lake Alice staff culture. As the 1977 commission of inquiry report noted, "Lake Alice Hospital does not use written consent forms."[1237]

615. Dr Leeks wrote to the commission of inquiry into Mr Hake Halo's case in 1977, stating he always sought consent:

"I have always received permission to treat children in the Unit from parents or guardians and in the case of State Wards request this or receive it from the Social Welfare Department in Wanganui."[1238]

616. However, that is not supported by other evidence. In one example from April 1972, a survivor was referred to Lake Alice by his general practitioner and by Mr Michael Doolan who was then the assistant principal at Hokio Beach School.[1239] Dr Leeks requested the young person come with "permission from Child Welfare Department that he will probably have electrical treatment whilst in here".[1240] The file contains a written form entitled "Permission for Electrical Treatment" provided "the nature and implications of this (the treatment) have been explained to me". However, it was not signed by the Department but by Dr Leeks on the Department's behalf.[1241]

617. When it came to the treatment of children and young people under the guardianship of the Director-General of Social Welfare, Dr Pugmire considered there was no need to obtain informed consent, contrary to the view of Dr Mirams. Dr Pugmire assumed the Director-General was implicitly relying on the psychiatrist in charge to use their expertise appropriately. He expressed this view in a 1976 letter to the Director-General of Health (copying in Dr Mirams):

"We have had a number of patients in the Unit for Disturbed Children who have been transferred to the care of the Superintendent of Child Welfare for various reasons. In these cases the rights of the parent have been transferred to the Director of Child Welfare and we have always assumed that the Director would expect the Consultant Child Psychiatrist to use his own expert judgement as to the need for treatment, and to proceed with what was beneficial to the child. In

these cases no special request for consent for treatment was made to the Director of Child Welfare, nor does it seem to me reasonable."[1242]

618. That view was echoed in a Department of Health memorandum about the Ombudsman's investigation. The Deputy Director-General of Health, Dr Ron Barker, said the fact the Department of Social Welfare had arranged to admit the patient was itself a consent to treatment that the medical superintendent considered appropriate.[1243] His colleagues in the Department of Social Welfare had the same approach. Mr Fountain, the Director of Social Work for the Department, is reported to have told the 1977 commission of inquiry that:

> *"The Department's attitude was that if the boy who was under the Department's care was sent to a hospital for treatment, the type of treatment used was the responsibility of the medical authorities."*[1244]

619. Dr Barker's memorandum also noted, "[t]his is not to say that the Department believes that relations between its officers and the parents or guardians should be restricted to the letter of the law. The Department encourages the fullest possible consultation in each particular case."[1245] However, the evidence from social workers is that consultation was not the norm and Dr Pugmire's approach was typical. Another social worker said, "The social welfare policy regarding treatment was that it was left entirely to the medical experts."[1246]

620. Leaving treatment entirely to medical experts was not the law or policy. Social workers had delegated guardianship powers and responsibilities. They should have given or refused consent to treatment proposed for children and young people at the unit, having exercised their judgement in the circumstances relevant to any given child or young person. In practice this did not occur. Lake Alice staff frequently treated children and young people at the unit without obtaining consent from anyone, and the evidence points to a pattern of staff not telling parents or guardians admitting tamariki about the treatments given at the unit.

621. After the Ombudsman released his report in 1977, Dr Pugmire began to show some concern about the lack of documented consent for children and young people under 16, and circulated a memo to his staff.

> *"I have been looking at the Mental Health Act 1969 regarding informal patients Section 15(1) and it appears to me that the Superintendent does not have authority to admit a child under the age of 16 as an Informal patient unless he has a letter of request or consent from the parent or guardian … As a safeguard I think we should routinely send out a consent to treatment request form to the parent or guardian and if both exist I think it should be sent to both the legal guardian and the natural parent of every child under 16 for completion."*[1247]

622. When Dr Pugmire introduced consent forms for staff to use, he wrote that the forms "caused howls of objection" by nurses and their union representative.[1248]

623. On a broader level, free, prior and informed consent is a significant issue for indigenous peoples including Māori, who have a long history of being subjected to decisions without their consent or even consultation.

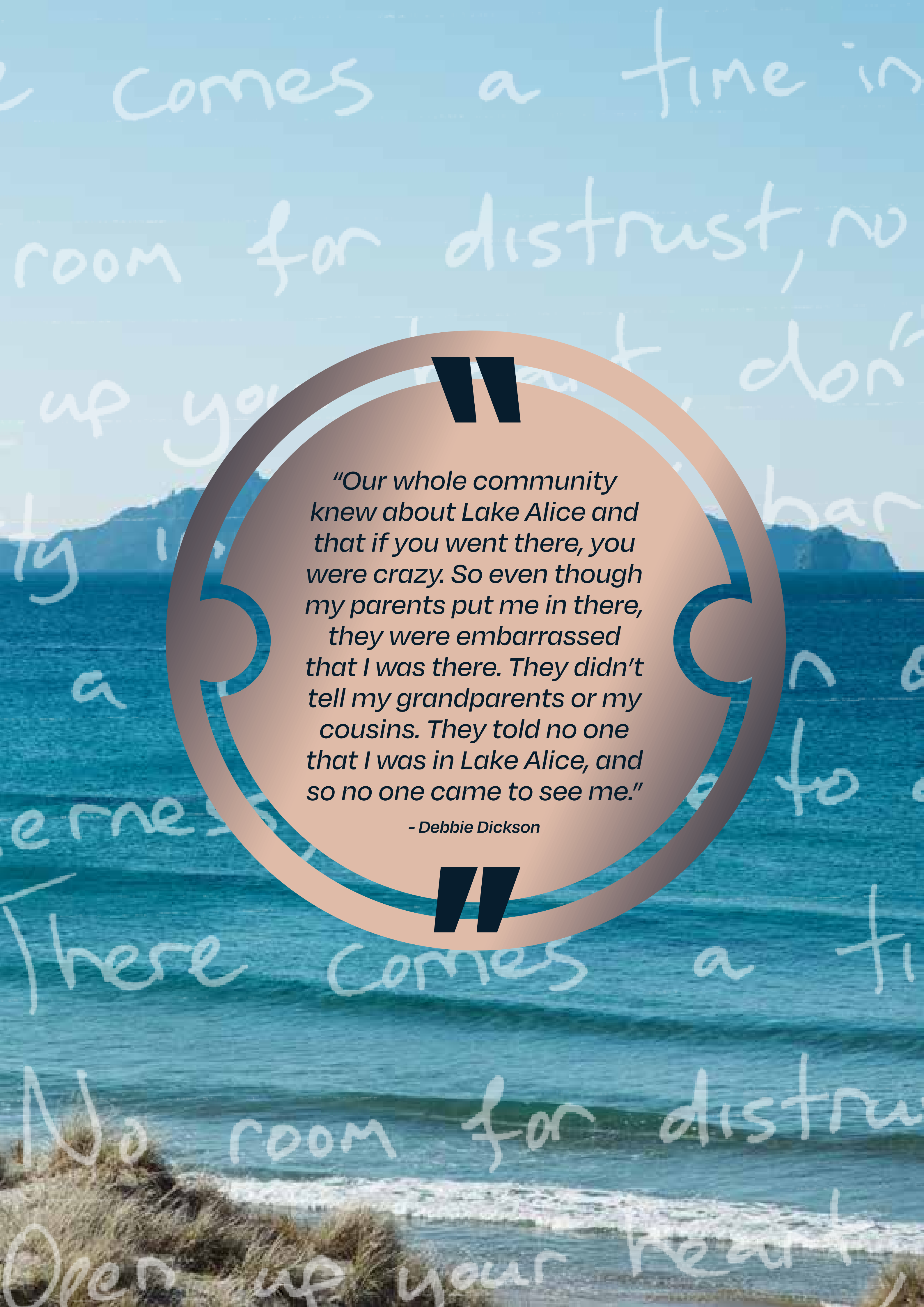
Kāore i whakamōhiohia ngā mātua – Parents were not kept informed

624. The social workers manual made it clear that, regardless of whether guardianship arose out of an order or de facto by an agreement, social workers should consult or inform parents about any actions affecting their child or young person aged under 16.[1249] However, we found limited evidence the Department consulted or informed parents about their child being admitted to Lake Alice.

625. In his 1977 report, Ombudsman, Sir Guy Powles, was critical of the failure of Lake Alice hospital authorities to keep social welfare officers as fully informed about Mr CD as was desirable. As a result, they were unable to keep a closer watch over Mr CD's welfare.[1250] The report also stated that despite a child welfare officer visiting the unit weekly, the Department of Social Welfare did not know at the time that Mr CD was receiving ECT treatment.[1251] This is consistent with the other accounts we received of a lack of transparency and openness with social workers.

626. Parents didn't have it any better with clinical staff. In some cases, parents of children and young people in the care of the Department contacted the unit to find out what was happening to their child, only to be denied information and treated with hostility. For example, when writing to Dr Mirams about a complaint from a parent, Dr Pugmire accepted that the "intensity of hostility towards parents was very high", particularly in the early years in the unit. The parent had complained that when they asked whether their son was a patient at Lake Alice, they had been told he was "a State Ward, it is none of your business".[1252] Dr Mirams subsequently wrote to the parent confirming that as a parent she was "entitled to all reasonable information about [her child's] clinical state and care".[1253]

627. Some survivors whose parents admitted them to Lake Alice said their parents were unaware of the treatments administered to them. In some cases, parents who did not speak English were given no help to understand the significance of forms they signed or the agreements they made. In other cases, staff didn't tell parents about the treatments.


"Our whole community knew about Lake Alice and that if you went there, you were crazy. So even though my parents put me in there, they were embarrassed that I was there. They didn't tell my grandparents or my cousins. They told no one that I was in Lake Alice, and so no one came to see me."
- Debbie Dickson

2.3.4 Ngā mahi tūkino ā-pūnaha ki Lake Alice – Systemic abuse at Lake Alice

Whakatakinga – Introduction

628. The concept of institutional or systemic abuse describes how violence and abuse is not only experienced by individuals but can be "violence inherent in a system".[1254] The system in which the unit functioned was one where keeping the order of the unit was most important. There was an imbalance of power. The children and young people there were not valued. Abusive practices and punishments were normal and relied on Western models of medical treatment. The wider social system placed these children and young people away from the rest of the community at Lake Alice.

629. During our inquiry, the Ministry of Health acknowledged the growing body of literature suggesting an "inherent likelihood of deviation from acceptable social norms in the psychiatric institutions and other institutions as they previously operated".[1255] In relation to Lake Alice, the ministry acknowledged the State's clear systemic failure that contributed to the abuse at Lake Alice and that anyone under the age of 17 who had been at the unit should be treated as a survivor for the purpose of seeking redress.[1256]

630. We similarly find that abuse was inherent in the institutional system of Lake Alice. Several factors contributed to this environment, including the power imbalance between children and young people and the staff at Lake Alice, the normalisation of abusive practices and punishments and reliance on exclusively western models of medical treatment.

"I hua ake ngā mahi tūkino i te horopaki o te tōrite o te mana" "Abuse occurred in the context of power inequities"[1257]

631. The admission of children and young people to Lake Alice was often because of the trust placed in medical professionals, including Dr Leeks. In addition to those placed there by the Department of Social Welfare, we heard the whānau of children and young people agreed to their being admitted to Lake Alice on the basis of medical advice. We have described the inherent power imbalance in health care settings, particularly for Māori, Pacific peoples and disabled people. We heard about the many barriers these groups and their whānau faced when reporting or objecting to abuse, including not wanting to challenge people in positions of authority and ableist attitudes.

632. Children and young people admitted to Lake Alice then faced more disadvantages. The imbalance in power relations between these children and young people and the staff and doctors was huge. They were children and

young people, not adults. They were held in the unit against their will, they were separated and isolated from families both legally and geographically. They were experiencing mental distress and were labelled and discriminated against for being seen to be mentally ill. Research shows an increased risk of abuse in relationships where others have power over a person and are the decision makers about the way relationships are conducted and managed.[1258]

633. The power imbalance existed not only between the medical professionals and the children and young people, but also between the medical professionals and parents, guardians and responsible agencies. Because of this authority held over the children and young people, doctors and clinical staff would only rarely seek consent from the children and young people or their guardians.

634. Children and young people at Lake Alice were subject to many negative beliefs that devalued their self-worth and potential. They had little self-determination and largely depended on the staff to provide care. Their voices were often ignored at Lake Alice. They were not involved in decision making on their admission to the unit or treatment while there. Barriers to communication were not appreciated, including for those with English as a second language, cultural barriers or disabilities. Whānau were largely kept in the dark about what was happening at the unit and their views about the appropriateness of treatments were often not sought or generally dismissed.

635. The inequitable dynamic between the medical staff and the children and young people created an environment where abusive practices and punishments could happen, often without question. We also heard about a perception among some staff that the children and young people in the unit were dangerous or out of control and had to be disciplined.

636. Retired child psychiatrist, Mr Alan Mawdsley, described the exercise of power as reflecting prison conditions.

> *"ECT should never be used as a punishment or to modify behaviour. Its alleged use at Lake Alice Child and Adolescent Unit seems to me to be symptomatic of a prison guard mentality. It portrays a kind of power imbalance which is not appropriate for therapy. One where you have a position of power and you have some means of exerting power over the people that are under your control. You're exerting that power not because it's beneficial to the patient, but because it enhances your power and authority. It's not even appropriate, in my opinion, within the prison system. The health care system shouldn't have anything to do with coercive practices."*[1259]

637. The power imbalance at Lake Alice meant children and young people making disclosures of abuse, especially by doctors or other medical staff, were not believed and the responsible agencies took no action. This was especially the case for Māori, Pacific peoples and disabled people.

638. One clinical psychologist working at the unit said, "I recall that the nurses generally thought of the psychiatrists as gods. It was not normal for the nurses to question the psychiatrists' instructions."[1260] Mr Hollis, a social worker who worked with children and young people in the unit said:

> *"I believe Dr Leeks was in the unique position of being the only qualified child and adolescent psychiatrist at the time. Therefore, I don't think anyone wanted to question him too much. He was a very powerful figure."*[1261]

Te taiao ā-tinana ki Lake Alice – The physical environment at Lake Alice

639. Lake Alice was a secure psychiatric institution in an isolated location. Security measures made it difficult for people to visit or for patients to leave. The unit's remote location meant it was often difficult for Māori to maintain links with whanau. It was also difficult for tamariki Māori and Rangatahi Māori to maintain a connection with their culture and language.

640. Academic, Ms Kate Prebble, noted in her study of psychiatric nursing in Aotearoa New Zealand during this period the staff at rural psychiatric hospitals formed close-knit communities – since staff lived, worked and socialised together in a remote, self-contained setting.[1262] She suggested these tight social and professional links could have deterred staff from reporting the poor practice of their co-workers.[1263]

641. Several survivors described the facilities at Lake Alice as intimidating and prison-like (as discussed in section 2.1.5). Some staff members shared this view. For example, Ms Anna Natusch, a teacher, said the hospital focused on the block that housed the criminally insane, which, "was grey concrete, clanging doors and iron bars. Cameras watched every move of the person. The most they saw of the outside world was the sky above in the concrete surrounded exercise yard. It was dehumanising."[1264] She said she "could feel the vibrations of fear" as she entered one of the villas where young girls were housed with adults.[1265]

642. Facilities were known to be inadequate. For instance, the superintendent of Lake Alice described general overcrowding and cramped conditions in villa 7 (which housed the boys in the unit) as numbers being admitted to the unit increased.[1266] A 1977 clinical services report said admissions tended to exceed transfers, discharges and deaths. "Consequently, there

is some overcrowding and some of the facilities are not being used for the purpose for which they were designed."[1267] The report also noted that one villa, which accommodated patients aged 14 to over 65, who were considered particularly very difficult to manage, was "grossly overcrowded and is unsuited for the purpose for which it is being used".[1268]

643. Mr Craig McDonald, who worked as a hospital aid in the wider hospital while he was training as a psychologist, told us the unit was isolated from the rest of the hospital and secretive:

> *"As I was still learning at the time, I was interested to learn what therapies were used in the unit. In 1977, I decided to visit the Unit to ask about their treatments. Upon entering I was confronted by the charge nurse, and told I was trespassing by being in the unit. He warned me that if I entered the Unit again a formal trespass notice would be put on my personnel file."* [1269]

Te āhua noho ā-whakarau ki Lake Alice – The institutional culture at Lake Alice

644. The institutional culture at Lake Alice enabled abuse to occur. Institutional culture is much better understood now than it was in the 1970s,[1270] but even allowing for the benefit of hindsight problematic aspects of the culture at Lake Alice could have been identified and addressed at the time.

645. Commentators writing about the workplace culture of psychiatric institutions in the 1960s and 1970s frequently described the atmosphere as overtly masculine. Lake Alice, which was exclusively male until 1966, had this masculine culture, and male staff generally opposed the introduction of female nurses in that same year.[1271]

646. In the 1970s, hospitals were run as a strict hierarchy as stipulated in the Department of Health's 1972 document Ethics and Rules of Conduct for Staff:

> *"All members of the staff are expected to carry out the legal orders of their superior officer without question. If they consider that these orders are unreasonable, they may, having given reasons for their objections and done what they have been told to do, present their objection to the next higher authority."*[1272]

647. Lake Alice was no exception. In May 1976, the medical superintendent, Dr Pugmire, circulated a paper to staff that described the administrative structure of Lake Alice as "a rigidly defined, hierarchical dictatorship".[1273] He went on to say:

"Orders coming down the line from senior officers to lower ranks are not optional. Even if a senior officer gives an order in a polite manner or even if the senior officer gives the order in the form of a request, it still has to be obeyed first and argued about afterwards. Anyone who attempts to prevent an officer carrying out a legitimate order commits an offence."[1274]

648. This hierarchy was recognised by clinical and educational staff, who mirrored the deference shown to the medical profession by the staff from external agencies such as social workers. Educational professionals who spoke to the inquiry largely felt senior medical staff in the unit were unapproachable and did not take the advice of those outside psychiatric or clinical psychological disciplines.

649. We earlier referred to two examples of threats made by Dr Leeks to staff who expressed concern about his actions. On one occasion, Mr Terrence Conlan, a nurse, expressed concern that electric shocks given to Mr Paul Zentveld had caused muscle spasms, which he said was not meant to happen. On a different occasion, Mr Brian Stabb, a nurse, expressed concern about the administration of shocks. Dr Leeks responded by referring to the hospital housing the nurses lived in, implying their accommodation would be at risk if they continued to express concern.

I māori noa iho ngā mahi tūkino – Abusive practices accepted as the norm

650. As the children and young people were housed in a unit which was part of a psychiatric hospital, the medication, medical equipment and language of that setting became available and was able to be misused.

651. Medical status, paternalism and medical language were used to validate the existence of the unit and the practices used there. Language such as 'treatment', 'discipline', 'timeout', 'electro-convulsive therapy' and 'aversion therapy' disguised what was happening in practice. This language gave professional legitimacy and respectability to practices that were abusive. Children and young people experienced violence justified as therapy and harsh discipline rationalised as a legitimate form of behavioural control.

652. Painful medical techniques such as electric shocks and injections of paraldehyde were routinely misused in the unit and physical and emotional abuse occurred in the open (as discussed in chapter 2.1). Solitary confinement was also routinely used. These were accepted means of maintaining control within the unit and staff, including Dr Leeks, appear to have become desensitised to the pain they were inflicting.

653. Charge nurse, Dempsey Corkran, told us that, in hindsight, he considered ECT and paraldehyde were probably overused in the unit, but he said paraldehyde was prescribed and ECT was probably overused in all psychiatric hospitals as it was the treatment of choice at the time. [1275] He said he would like to think neither was used as means of punishment but he could understand why patients who were "seriously out of control or were doing something very wrong" may have seen it as such.[1276] He said paraldehyde was a form of control in very difficult circumstances and that "it helped to restore control where other means weren't possible".[1277]

654. This demonstrates how the availability and acceptance of these practices led to their frequent misuse by unit staff. Coupled with the view that the tamariki were out of control and undisciplined, a culture of abuse developed in the unit. As we have noted, tamariki were often sent to the unit because of their apparent behavioural problems. When complaints were first made to responsible agencies, some of their agents were more concerned with whether the methods were effective at modifying behaviour than whether they amounted to abuse,[1278] which contributed to abuse continuing within the unit (discussed in chapter 2.1).

Te korenga o ngā mahi whakangungu kaimahi me ngā rawa – Inadequate staff training and resourcing

655. The power dynamics and abusive practices at Lake Alice can be, in part, attributed to issues relating to the care workforce. We heard about staff shortages and poor staff training at Lake Alice and more widely within psychiatric care throughout the country. Because of this, many staff practices were to maintain control over patients such as extended periods in secure or use of restraint. We also know the workforce was not trained in matauranga Māori or te reo Māori, despite the large numbers of Māori in the unit.

656. During the 1970s, there was a worldwide shortage of qualified child psychiatrists. This was particularly serious in New Zealand.[1279] Dr Leeks was one of very few child psychiatrists in the country at the time, and his services were divided among the Manawaroa health clinic at Palmerston North Hospital, various child health clinics and the unit, where he worked about one day each week.

657. It is clear from the Lake Alice annual reports for 1971 to 1977 that the hospital had difficulty recruiting and retaining qualified staff.[1280]

658. Various factors contributed to the shortage. Quite apart from the difficulty of the job, there may have been concerns about workload, with a report that staff levels were not being increased despite the opening of more villas at Lake Alice.[1281] Poor working conditions in the institutions were reported generally.

659. In addition, the stigma associated with mental illness meant psychiatric nursing was largely seen as 'dirty work'.[1282] Staff said it was a tough working environment. One former psychiatric nurse who worked at the unit from 1974 to 1976 said staff members would come and go. *"It did not appear to me that the Adolescent Unit was a popular place to work. I believe there was a general feeling in the hospital that the residents were out of control and undisciplined."*[1283] He also said the unit had built a reputation of being "set apart and clandestine".[1284] He told us, *"The staff who worked there were ostracised, and none of the local staff wanted to work there."*[1285]

660. The hospital reported that staff selection policies were effective: *"A rigorous selection system is adopted for all staff at Lake Alice."*[1286] But *with the* difficulties of recruiting and retaining staff and adequately resourcing the unit, a lack of effective vetting procedures was apparent at this time. There is no indication the hospital recognised a need to recruit staff that reflected the diversity of the children and young people in the unit.

Te whakangungutanga o ngā kaimahi ki Lake Alice - Training of staff at Lake Alice

661. A charge nurse at the unit confirmed that in the 1950s and 1960s most staff at Lake Alice were 'self-trained'.[1287] This was echoed by a nurse aide who worked in Lake Alice for about three years. He said there was no formalised training and no formalised supervision for nurse aides and while he was at Lake Alice[1288] all his training was on the job.[1289] Staff with training in or knowledge of tikanga Māori could have provided an opportunity for Māori tamariki at the unit to maintain some contact with their culture. As one survivor noted, "Lake Alice totally disregarded my Māori culture. I did not have access to any Māori cultural learning as a patient there."[1290]

662. The inexperience and lack of formalised specialist training meant junior nurses and nurse aides relied on the mentorship and on-the-job training provided by senior nurses and psychiatrists at Lake Alice. This would have made it difficult for them to challenge clinical decisions and treatment choices by more senior colleagues.

"[Dr Leeks] kept telling me I'd be a better person. Then they covered my eyes and my mouth with sticky tape. I couldn't even move. I was then given two lots of ECT. The pain was unbearable, and my body went stiff with the second shot of ECT. I must have passed out as I don't remember anything else."

- Letter from survivor

2.3.5 Te kore i whakamaru – Lack of safeguarding

663. The experiences of 'care' at Lake Alice constituted systemic abuse. The system failures and factors that contributed to the unit functioning in this way included the abuse of power relations between staff and the children and young people, the physical environment, and the culture of the institution. In addition, no clear pathway existed for complaints about the treatment or abuse inflicted and suffered. Given these factors, robust safeguards were even more critical to ensure the safety of patients at the unit. However, safeguards did not exist or were entirely inadequate to protect children and young people at Lake Alice.

Te kore i rawaka o ngā hōmiromiro, aroturuki nō roto – Inadequate internal oversight and monitoring

Te whakahaere o te manga – Management of unit

664. Until the 1970s, the Department of Health ran all public psychiatric hospitals in Aotearoa New Zealand. In 1972, the Government transferred control of most psychiatric hospitals to local hospital boards, which had already been running most other public hospitals. This reform was intended to align the mental health system more closely with the general health system. The sole exception to this reform was Lake Alice, which was kept under the Department of Health's control because the hospital housed the national security unit. This unit was regarded as a government responsibility because it held high-security and forensic patients from around the country.[1291] In this context, the placement of children and young people at Lake Alice was a serious anomaly.

665. The Department employed a medical superintendent to run Lake Alice. During the 1970s, this was Dr Pugmire. He oversaw the large number of employees necessary to run a hospital as big as Lake Alice, including psychiatrists, psychiatric nurses, psychologists, cleaners, gardeners and cooks.[1292]

Te korenga o ngā hōmiromirotanga ā-rata – Lack of clinical oversight

666. Unlike Dr Pugmire, Dr Leeks worked for the Palmerston North Hospital Board. As one of the country's few child psychiatrists at the time, Dr Leeks oversaw the board's child and adolescent mental health services. By an arrangement between the board and the Department, Dr Leeks became responsible for the Lake Alice unit as a consultant to the Department.[1293] His role included providing specialist advice to Lake Alice staff running the unit.[1294]

667. At times this arrangement created uncertainty about the lines of accountability and responsibility. Dr Leeks and Dr Pugmire disagreed about what powers and responsibilities Dr Pugmire and the Department had towards the unit.[1295] In June 1976, Dr Pugmire wrote to his superior, Dr Mirams, the Director of Mental Health at the Department of Health, asking for clarification about who had administrative responsibility for the unit.[1296] Dr Mirams responded in July saying the unit was, in many ways, comparable to that of specialised units in a general hospital.

> *"It is the clear intention and implication of the Mental Health Act that a psychiatrist in a psychiatric hospital should have full clinical autonomy in the treatment of cases under his care. As a corollary of this, he is expected to assume full responsibility in the legal sense... In the general hospital setting it is usual for the physician in charge of such a unit to have full discretion in the matter of admissions to, and discharges from, that unit."*[1297]

668. Dr Mirams went on to say that, "[i]t is perfectly true that the physician in this situation is in the general administrative way subject to the direction of the Medical Superintendent of the hospital, just as is a psychiatrist in a psychiatric hospital".[1298]

669. Based on that advice, Dr Pugmire wrote to Dr Leeks to tell him he (Dr Leeks) was fully responsible and autonomous regarding all clinical aspects of the unit. This included "full responsibility for all treatments by other therapists you may wish to deploy in the unit in your treatment programmes".[1299] He continued, "All administrative aspects of the unit will remain my responsibility and I will expect standard procedures to be followed regarding admissions, mental states, follow up notes, recording special investigations, discharge letters and the routine recording and handling of administrative and clerical matters in the same way as they would be dealt with on other wards in the hospital".[1300]

670. A New Zealand Herald article by Mr Peter Trickett on 20 December 1976 said the unit was administered as an integral part of the "non-criminal" section of the hospital,[1301] and yet Dr Pugmire said he was not responsible for the medical treatment administered to those at the unit because the unit was the responsibility of the Palmerston North Hospital Board. Dr Pugmire expressed surprise the superintendent-in-chief of the Palmerston North Hospital Board, Dr Kenneth Archer, "had also disclaimed responsibility" for the unit, adding, "I thought I was correct in saying that Dr Leeks was responsible to the hospital board that employs him" before concluding, "I suppose he is really answerable to himself".[1302]

671. The magistrate noted the lack of clarity about lines of responsibility between the hospital and the unit in his 1977 report. He described Dr Leeks' position as "unusual" and continued:

> *"He is employed by the Palmerston North Hospital Board. Lake Alice Hospital is conducted by the Department of Health. Dr Leeks is seconded to the Department of Health to run the Lake Alice Hospital Unit. Dr Pugmire, the Medical Superintendent of Lake Alice Hospital, told the Commission that he has a written direction not to involve himself in clinical matters in the adolescent psychiatric unit … the unit has nothing to do with the hospital board which is Dr Leeks' employer. Nor does it come under Dr Pugmire's jurisdiction in the normal way."*[1303]

672. In July 1977, Dr Mirams wrote to the medical superintendents of psychiatric hospitals to "call [their] attention" to the views of the Chief Ombudsman, but noted:

> *"The Department does not in any way indicate either approval or disapproval of specific forms of treatment and does not seek to impose any restrictions on the clinical judgement of those with a statutory and professional responsibility for the care and treatment of patients."*[1304]

673. This approach to the supervision of treatments at the unit is consistent with the approach taken by the Minister of Health to the Citizens Commission on Human Rights in 1977, where he wrote:

> *"Treatment of any type is a matter for the judgement of the individual doctor in charge of the case. In terms of the Mental Health Act the responsibility for the treatment of a patient at Lake Alice lies quite clearly with the Medical Superintendent or the specialist psychiatrist in charge of the patient."*[1305]

674. However, no means existed to ensure clinicians were held accountable for their statutory and professional responsibilities. In theory, the office of district inspector existed under the Mental Health Act 1969 to ensure agreements to informally admit patients under section 15 of the Act were lawful. In practice, we understand the office was vacant between 1975 and 1978 for the area that included Lake Alice, and no district inspector visited during that period. The failure of the Medical Council process to hold Dr Leeks accountable is dealt with in chapter 2.4.

675. It is clear no one was responsible for overseeing Dr Leeks' running of the unit and its activities. Mr Grant Cameron, a lawyer who represented Lake Alice survivors

in legal cases between 1996 and 2006, said Dr Leeks was in a position of, "complete autonomy in which he was not subject to any or proper oversight".[1306]

676. Dr Pugmire considered he could not question Dr Leeks' clinical decisions because Dr Leeks was a full-time employee of the Palmerston North Hospital Board and not on Dr Pugmire's staff.[1307] The Department of Health had delegated clinical management of the unit to Dr Leeks, yet the superintendent of Manawaroa did not consider himself responsible for Dr Leeks either.[1308] Dr Pugmire said that he considered this meant staff at the unit were responsible to no one and Dr Leeks was responsible to himself.[1309] As a result, there was no oversight of clinical decisions and practices made by Dr Leeks and he was not accountable to anyone.

Te tiaki mauhanga me te tuari kōrero – Record keeping and information sharing

677. Although Dr Leeks claimed to be implementing a therapeutic aversive programme, appropriate records identifying what he was doing are lacking. Mr Thomas Van Arendonk was the administrative secretary at Lake Alice from 1970 to 1977 and was responsible for all of the records kept at the hospital, including doctor and patient records. He told a private investigator hired by the Crown in 2001:

> *"I am aware that Dr Leeks was not good on keeping patient records including details of ECT treatment and I discussed this with Dr Pugmire who asked me to speak to Selwyn about this. I approached Selwyn and asked him to ensure that detailed patient records were kept for his own protection and that of the staff. I said to him "look Selwyn we have complaints that you are not recording some treatments." I reminded him of the interest the Scientology people were displaying in Lake Alice. We had had them visit the hospital and they were shown around and spoke to some of the patients. Selwyn agreed to record all treatments on the files."*[1310]

678. Dr Pugmire expressed concern about this, particularly about Dr Leeks' failure to record his use of 'electrotonus'.[1311] He was not alone in this criticism. A staff member, nurse, Denis Hesseltine, told us he did not remember Dr Leeks writing notes regarding Ectonus,[1312] although in fairness the task of writing notes may have been left to nurses. Mr Stabb told us:

> *"There were no records kept by Dr Leeks, including records of nursing procedures essential for the safe administration of ECT. Dr Leeks kept medicine charts but I don't recall ever seeing a medical note written by him in all my time at Lake Alice, in my experience was very unusual."*[1313]

679. Mr Stabb said he believed the use of 'aversion therapy' at the unit, "was conducted in an air of secrecy, neither being documented, controlled, nor monitored".[1314]

680. When reflecting on the record keeping practices at the unit, Dr Garry Walter wrote in his report to NZ Police that Dr Leeks' documentation of treatment appeared to depart significantly from the standards of the day.[1315] He also wrote:

> *"Although the standards of record keeping were neither as high as they are today and the record keeping was less comprehensive, as a bare minimum one would expect for there to be an entry in the patient file on the day of treatment about the treatment being given and any significant untoward effects experienced following the treatment. Some (but not all) hospitals at the time had a separate form (included in the patient file) that included the date of ECT administration, some information about the characteristics of the electrical stimulus (e.g. on what part of the head the electrodes were applied) and name and doses of medications (anaesthetic, muscle relaxant) used."*[1316]

681. Poor record keeping was not limited to Dr Leeks. The Mental Health Act 1969 required every hospital superintendent to keep a register of admissions and discharges (including transfers and deaths).[1317] We did not find this register for the unit, which is why we are unable to say with certainty how many tamariki were admitted to the unit.

Ngā hātepe amuamu i te manga – Complaint processes in the unit

682. Almost from the outset, complaints began to surface about the way the unit was treating patients, and nearly all these complaints were swept under the carpet (described in chapter 2.1). Children and young people complained while in the unit and once they had left, but their complaints were, with few exceptions, not believed or disregarded. The barriers to reporting by Māori, Pacific peoples and disabled people are well known. These challenges extend to families. For example, Māori and Pacific peoples may struggle to challenge people in authority, including medical professionals.

683. Mr Halo had to raise the alarm about the abuse he suffered by writing to his mother in his native language (Niuean) so his plea for help would not be intercepted. Some outsiders such as social workers and psychologists raised concerns, but these too came to nothing. Some staff in the unit raised concerns but were told to mind their own business.

684. The government organisations with responsibility for various aspects of the unit's operation – the Departments of Social Welfare, Health and Education –

minimised or dismissed the warnings they received and failed to act. They could have done more in the few instances when complaints led to official inquiries.

685. As with many hospitals in the 1970s, Lake Alice lacked internal procedures for patients to complain about abuse. Despite this, there were several different means by which complaints were or could have been considered. Almost none were effective.

686. Tamariki tried complaining to staff, without success. Complaints were made to different external agencies, including the Nursing Council, the Medical Council, the Ombudsman, NZ Police, and civil society agencies such as the Citizens Commission for Human Rights (CCHR) and Auckland Committee on Racism and Discrimination (ACORD). Again, with the limited exceptions of the Ombudsman and the interest fostered by civil society agencies, the complaints came to nothing. The statutory offices of the official visitor and the district inspector established by the Mental Health Act 1969 appeared to play no part in the unit.

Ngā amuamu ki ngā kaimahi – Complaints to staff

687. According to survivors, staff almost never dealt with their complaints in an appropriate way. Staff usually did not believe their complaints, did not seem able to do anything about their complaints, or dealt with their complaints inappropriately. For example, Mr JJ told the inquiry he was regularly sexually abused at Lake Alice by different male nurses.[1318] One time, he told a trusted nurse about the abuse and showed her a tear on his bottom as evidence. She escalated this information to Dr Leeks, but he said Mr JJ was lying. Mr JJ said he tried complaining to the nurse again on future occasions but, "she would look at me as though she believed me but was saying 'what can I do?'".[1319]

688. Survivor Paul Zentveld said, *"I found that complaining was no use as I had been a mental patient and people would not take me seriously. I had no help with this from my parents. I had been put in Lake Alice in the first place by my mother."*[1320] Mr Zentveld said he saw some tamariki complain of being raped then get punished by the staff for complaining. *"That's got to change. The system has to change, there has to be a protection for them somehow … From this psychiatric horror must emerge protections to ensure no child will endure what we have."*[1321]

Ngā amuamu ki ngā umanga ngaio – Complaints to professional bodies

689. After he left Lake Alice, Mr Kevin Banks had a complaint referred to the Medical Council. We outline the council process that ended with no charge being laid against Dr Leeks in chapter 2.4. In addition, Mr Stabb, a former nurse, recalled an occasion in 1976 where he helped a group of boys to send a letter to the Nursing Council complaining about the treatment they had been receiving at Lake Alice.[1322]

690. In response to a notice from this inquiry, the Nursing Council searched its records and materials at Archives New Zealand, but found no record of any complaint made about the unit or about registered nurses who were staff members at the unit.

Ngā amuamu ki Ngā Pirihimana o Aotearoa - Complaints to New Zealand Police

691. We detail the complaints made to NZ Police and the failure of each resulting investigation to adequately respond to the allegations of mistreatment of children and young people at the unit over the years in chapter 2.4. An investigation in 1977 focused only on possible violations of the Mental Health Act 1969, which covered harm done to 'any mentally disordered person'. It is now widely acknowledged that most children and young people at the unit did not have a mental illness. Subsequent investigations were also flawed.

692. In 2021, NZ Police acknowledged it had failed to appropriately prioritise and resource the investigations. There is also evidence of bias against the complainants based on prior admission to a psychiatric facility. A long history of tension exists between Māori and Pacific peoples and NZ Police. During the 1970s, this tension was evident in the dawn raids of Pacific people's homes and the occupation of Bastion Point.

Ētahi atu amuamu mō te manga – Other complaints about the unit

693. The CCHR visit to the unit in early 1976 resulted in a great deal of publicity. Parents started to come forward with complaints about the treatment of their tamariki at the unit. Later that same year, a parent complained to the Ombudsman, which triggered an investigation into decisions and actions of the Departments of Social Welfare and Health in relation to Mr CD. We have described how Mr Halo smuggled a message in Niuean out of the unit with a drawing he sent his mother while at Lake Alice. Because of the media attention by ACORD and CCHR, in 1977 a commission of inquiry was held into the treatment of Mr Halo. Its functions were undermined because the institutions under investigation withheld relevant information from the inquiry.

694. It was only through the persistence of many individuals and determined advocacy groups that the many allegations of abuse at the Lake Alice unit were eventually dealt with formally by the authorities.

695. We consider the lack of support in recognising, understanding or reporting abuse likely created an additional barrier to tamariki in the unit disclosing abuse and to the detection of abuse.

Kāore i haumaru ngā kaimahi ki te kōrero (te pupuhi i te whio) – Staff felt unsafe to speak up (whistleblowing)

696. Nurse Stabb told the inquiry he was often troubled by staff treatment of patients at Lake Alice and thought a lot about saying something. However, he said he signed the Official Secrets Act 1951 when he joined Lake Alice and believed he would be prosecuted for any 'whistleblowing'.[1323] He had heard of a nurse in England being deregistered for refusing to help a doctor give ECT to a patient.[1324]

697. At the Lake Alice public hearing, Mr Oliver Sutherland paid tribute to educational psychologist Ms Lyn Fry who, he said, risked being seen to have contravened the Official Secrets Act by alerting ACORD to Mr Halo's circumstances at the end of 1976.[1325]

Ngā tepenga hōmiromiro, aroturuki nō waho – Limitations on external oversight and monitoring

Te wāhi ki te tauwhiro – Role of the social worker

698. Between 1972 and 1974 Mr Hollis was a social worker in a geographic area that included Lake Alice.

699. Mr Hollis said Lake Alice was 'a law to itself'[1326] and didn't tell social workers what treatment State wards received.[1327] He said it was 'odd' he was not told the specific treatments staff were administering because, as a social worker, he was acting on behalf of the guardian of the tamariki in question, the Director-General of Social Welfare.[1328] He said in those days, "it was generally accepted that those administering treatment in a psychiatric hospital knew best ... the subtle message communicated by staff was not to question them, as social workers didn't know anything about psychiatric care."[1329] He said, "[t]he status of psychiatric professionals in those days was such that they weren't normally questioned."[1330] And added:

> *"I wouldn't be overly critical of Social Welfare back then, but in hindsight I think they probably took for granted the care that [State] wards were getting in a place like Lake Alice. I think they assumed all was well and that they were getting highly qualified specialised treatment. They could perhaps have raised more questions."*[1331]

700. Ms EE was another social worker who told us about a similar experience. She visited Lake Alice between 1976 and 1977 to speak to State wards and discuss their progress with staff.

"I do not recall Lake Alice staff ever requesting the Department's permission before giving medications or treatments to children at Lake Alice. This differed from the normal situation with state wards, where the Department's permission was usually sought before medications and treatments were given …

"… Lake Alice considered it had the necessary authority and expertise to treat the children in the way it saw appropriate, and the input of the Department and others was not seen as important. It was seen as the authority and in a position to make all the decisions."[1332]

701. There was a tension for social workers carrying out their role within the hospital. Ms EE told us she felt the staff at Lake Alice viewed the Department of Social Welfare negatively and had a culture of holding back information from social workers:

When I met with Dr Leeks, Mr Soeterik and Mr Corkran I always felt that some things may have been kept back from me. I remember that there were a lot of side glances and other unspoken interplay amongst the group. This was an ongoing feature of my experience at Lake Alice. At the time, this concerned me and left a question mark in my mind. I felt there was an aura of mystery that I had to break through. I had to show initiative to find things out.

For this reason, I felt my ability to do my job was somewhat frustrated by the unhelpful attitude of some Lake Alice staff.[1333]

702. As Ms EE put it, *"Overall, I would say that the Department had a presence at Lake Alice but not an authority."*[1334] She told us the cultural context was relevant and "[b]ack then, authority was authority and doctors were doctors".[1335]

Te wāhi ki ngā kaitirotiro ā-rohe me ngā manuhiri ōkawa – The role of District inspectors and official visitors

703. At the regulatory level, the Mental Health Act 1969 continued a system of official visitors and district inspectors that appeared in the previous mental health statute.[1336] These roles were created to provide independent oversight of psychiatric hospitals. District inspectors were lawyers and regarded as watchdogs of patients' legal and civil rights. Official visitors were non-lawyers who visited psychiatric institutions, supported and assisted patients, and generally kept watch for issues of concern.

704. District inspectors could receive complaints from psychiatric patients and proactively investigate psychiatric hospitals.[1337] Their job was to protect

patients by making information available on their legal status and rights and to investigate complaints by discussing problems with staff or, in serious cases, referring matters to NZ Police.[1338] They had a proactive role to check documentation and compliance with procedures, a 'visitation and inspection' role, and the ability to conduct inquiries.[1339]

705. The Act did not clearly specify the role of the official visitor, so much individual variation is likely in the way they carried out their role. The Department of Health interpreted the role as acting as a patient's friend or outsider from the community who could represent the patient's point of view.[1340] Official visitors were not paid. District inspectors were paid for any formal or semi-formal inquiries undertaken. However, their inquiries occurred in private and they had the power only to make recommendations, which could be ignored.[1341]

706. On the face of it, scope existed for a district inspector or an official visitor to intervene at the request of tamariki at the unit. In practice, neither proved effective monitors of patient rights at Lake Alice. It was the duty of the Director of Mental Health to ensure a district inspector or official visitor visited a hospital at least once every three months.[1342] The holders of both offices could visit as often as they liked, without notice, for as long as they liked,[1343] and it was an offence for a superintendent to obstruct a visit by an official visitor or district inspector.[1344] They could visit at any time of day or night[1345] and see every part of the hospital and speak to every person detained.[1346] We are unable to determine whether this occurred, and none of the survivors we spoke to mentioned any interactions with such visitors.

707. It was mandatory that the superintendent provide the district inspector or official visitor with registers and records required to be kept under the Act and with documents relating to the patients detained in the hospital.[1347] Every hospital was also required to keep an 'inspectors case book' into which the district inspector could enter "such observations as he thinks fit respecting the state of mind or body of any patient in the hospital".[1348]

708. This inquiry had access to the casebook regarding official visits but only passing mention was made of the unit. In the case of Lake Alice, we understand that no district inspector was appointed from 1975 to 1978, after the resignation of the former inspector. Most of the official visitors and district inspectors appointed under the 1969 Act were Pākehā, despite the increasing number of Māori in psychiatric hospitals and institutions in the late 1960s and 1970s. In a review of the 1969 Act, the lack of cultural responsiveness was acknowledged as an area to be addressed.[1349]

709. Deficiencies with the district inspector system were known at the time. District inspectors tended to have only slight workloads under the 1969 Act,

710. Under the modern system, it would be expected that district inspectors allocated to an in-patient unit would exercise proactive powers to identify and report on abuses and breaches of rights. Such a function is particularly necessary where patients may face barriers to making complaints.[1351] The absence of such activity at Lake Alice was a significant failing. The review also acknowledged that official visitors and district inspectors received no training or orientation to prepare them for these jobs, despite most probably not having any 'previous acquaintance' with psychiatric hospitals.[1352]

Te haukotinga o ngā reta – Interception of letters

711. In 1977, Dr Pugmire told Dr Mirams he had instructed staff in the unit to censor all children's letters. Dr Pugmire said this in response to an adult patient who had discharged himself from the hospital but was maintaining correspondence with two young female patients and to safeguard against that sort of activity in the future.[1353] In his letter to Dr Mirams, Dr Pugmire acknowledged that the Mental Health Act did not permit the censorship of mail and sought Dr Mirams' advice.[1354]

712. We have found that this practice was also used to prevent complaints being made. In August 1975, Dr Pugmire intercepted a letter from a committed adult patient to the editor of The Truth newspaper, in which, he complained about seeing patients assaulted and the treatment of young patients in the unit. The patient wrote, "I have seen young boys of about eleven and twelve here getting shock treatment and dragged back to their villas while they were too dazed to walk after it".[1355] In his letter, the patient pleaded with the newspaper, "if you publish this, as you should, as evils in this country's mental hospitals have gone on too long to be tolerated, then see I don't suffer any punitive action at the hands of this hospital."[1356]

713. Unfortunately for the patient, Dr Pugmire stopped the letter and on reviewing it, punished the patient by sending him to the maximum-security villa for six weeks. In a note on the patient's file Dr Pugmire said the transfer to the maximum-security villa was because staff intercepted "a 14-page letter of false allegations".[1357] Dr Pugmire also restricted the patient to being able to write to only his adoptive parents.[1358]

714. Dr Pugmire passed the letter to Dr Mirams saying the allegations it contained were 'false and defamatory'.[1359] Dr Pugmire proposed keeping the patient detained in the maximum-security villa for several more months. Dr Mirams responded to Dr Pugmire, telling him the decision divert the patient's letter to Dr Mirams breached the Mental Health Act 1969. As Dr Mirams explained, the Act

permitted letters to be opened by Dr Pugmire only if he believed "that it may disclose information relating to the mental condition of the patient, not easily obtainable otherwise" or for certain other reasons. Dr Mirams said Dr Pugmire should consider referring the complaint to the district inspector because the patient had made allegations of ill-treatment.[1360] Dr Mirams also did "not think it appropriate" to keep the patient detained longer in the maximum-security villa.[1361]

715. Dr Pugmire referred the letter to the hospital's official visitor who upheld Dr Pugmire's decision to stop the letter. The reasons the official visitor cited included that the accusations did not conform to the "known practice of the hospital staff" and that publication of the letter would be "damaging to the good name of a hospital" and would not "enhance the good record of the Department of Health".[1362] There is no evidence the official visitor investigated the patient's allegations.

Ētahi atu āhuatanga hōmiromiro nō waho – Other external oversight mechanisms

716. As well as the district inspectors and official visitors, the Ombudsman's and commission of inquiry in 1977 provided a degree of external oversight on specific matters. However, these investigations faced their own limitations (as described in chapter 2.4).

Te korenga o ngā whakaaro me ngā hōmiromirotanga a te mana whenua – Lack of input and oversight by mana whenua

717. As noted in the report by Ngā Wairiki and Ngāti Apa, there was no opportunity for iwi to provide any input or oversight into the operation of the unit. There appeared to be no consideration of this as an option, despite the iwi having mana whenua over the area and the hospital.

Ngā tūtohitanga – Summary of findings

Ngā āhuatanga i hua ake ai, i whāngai rānei i te mahi tūkino i te manga – Factors that caused or contributed to abuse in the unit

The Inquiry finds:

- Staff at the unit held largely unchecked power over vulnerable patients.
- The unit's isolated physical environment separated patients from their families, culture and support networks.
- Staff training and resourcing were inadequate.
- Staff's prejudiced attitudes devalued patients.
- The institutional culture at the unit normalised abusive practices and contributed to a culture of impunity.
- The Department of Social Welfare routinely failed to evaluate whether the unit was an appropriate environment for the children and young people in its care.
- Internal oversight and monitoring at the unit was inadequate, including ineffective complaint and whistleblowing mechanisms.
- Complaints to the Department of Education and Department of Social Welfare were not adequately investigated or responded to.
- External monitoring and oversight mechanisms were limited: district inspectors and official visitors held part-time roles with institutional limitations that reduced their effectiveness.

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No room for distrust, no ro

Open up your heart, don't

Quality in life that's hard

Like a child with an ope

Tenderness, sensitive to a

There comes a time in

No room for distrust, no

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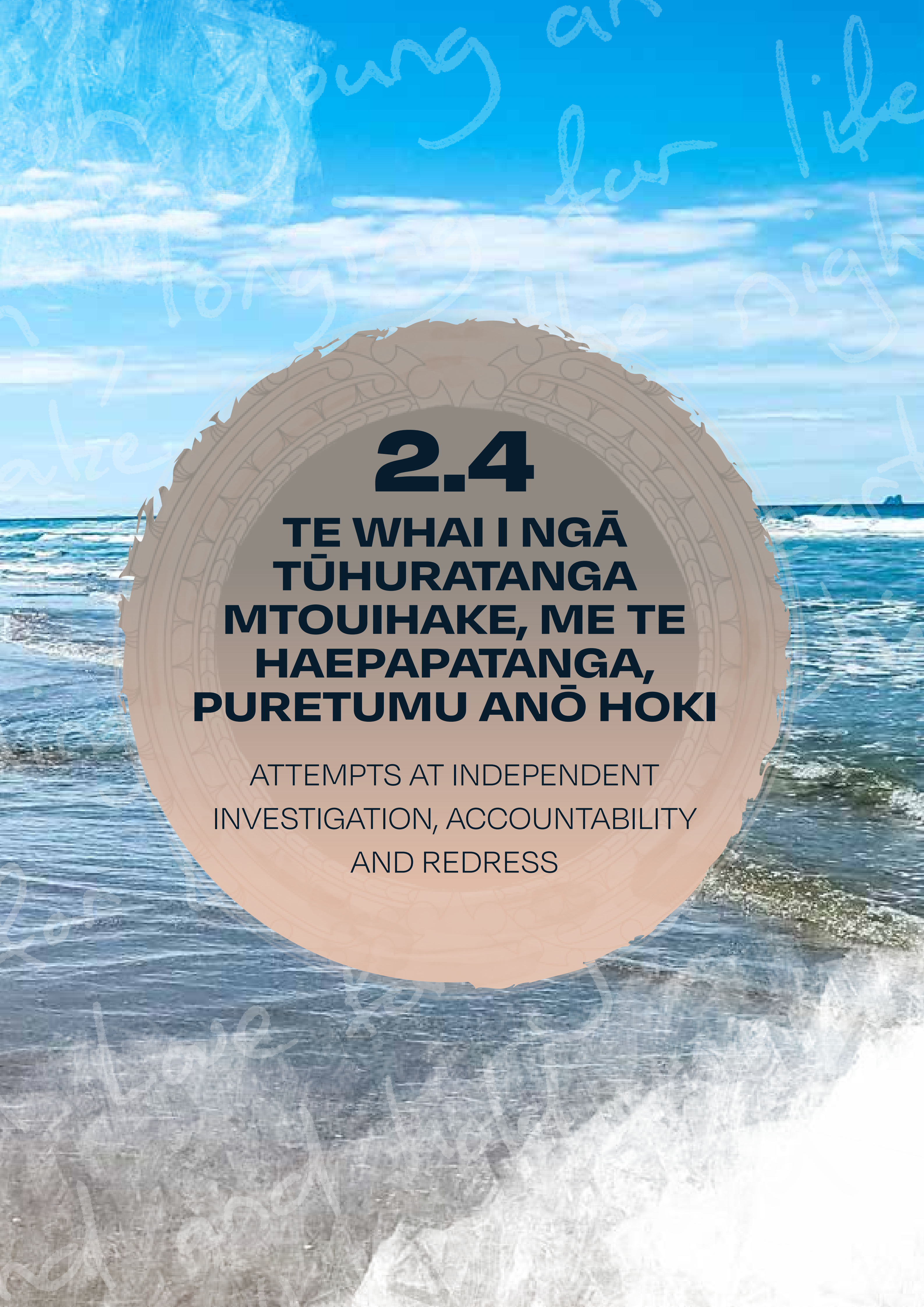

2.4
TE WHAI I NGĀ TŪHURATANGA MTOUIHAKE, ME TE HAEPAPATANGA, PURETUMU ANŌ HOKI
ATTEMPTS AT INDEPENDENT INVESTIGATION, ACCOUNTABILITY AND REDRESS

2.4 Te whai i ngā tūhuratanga motuihake, me te haepapatanga, puretumu anō hoki – Attempts at independent investigation, accountability and redress

2.4.1 Whakatakinga – Introduction

718. In the decades after the abuse at Lake Alice Hospital, survivors repeatedly tried to hold Dr Selwyn Leeks and other staff to account and to obtain compensation or redress for the abuse they suffered. There were some successes, but overall the response of public officials, NZ Police and professional bodies was unsatisfactory. In some cases, this flowed from inherent professional or institutional limitations. In others, it was the result of active resistance or discrimination. In this section, we detail the various attempts and the hurdles survivors faced in their battles for independent investigation, accountability and redress. Māori, Pacific peoples and disabled people faced particular challenges when seeking accountability, including discrimination by officials. We acknowledge their efforts and the persistence of survivors to seek justice despite the many barriers placed in their way.

2.4.2 Te tūhuratanga a Te Tari Tiaki Mana Tangata me te kōmihana whakatewhatewha – Ombudsman investigation and commission of inquiry

719. Two main inquiries in the late 1970s contributed to the closure of the Lake Alice child and adolescent unit – an investigation by Ombudsman Sir Guy Powles and a commission of inquiry conducted by Magistrate William (Bill) Mitchell. The first was prompted by a complaint by Mr CD's parents about his detention and treatment at the unit.[1363] The second followed media coverage about Mr Hake Halo's case.[1364] Despite setting in motion the process that led to the unit's closure, both inquiries faced limitations in fully or adequately exposing the abuse occurring at Lake Alice.

Te hōkaitanga o ngā tūhuratanga – Scope of the investigations

720. The Ombudsman's investigation and the commission of inquiry were limited to considering what had happened to an individual adolescent admitted to the unit. As neither inquiry undertook a wider investigation into what was happening at the unit, neither heard from other tamariki who may have provided accounts similar to those they were investigating.

721. The Ombudsman had wide statutory powers to decide what issues to address and how he should do so. He could compel the provision of information, although the Act in force at the time[1365] limited the Ombudsman's ability to compel information subject to secrecy under most enactments. He was able to spend nine months gathering information from various sources including the responsible departments, the boy's school and NZ Police. He obtained expert assistance from three professors of psychiatry, and employees within his office interviewed family members of the boy and various members of the clinical and social welfare staff who had looked after him.

722. The commission of inquiry was constrained in time and its terms of reference. The magistrate's terms of reference were to inquire into and report on:

- the authority on which treatment was administered to the boy by the medical authorities at Lake Alice
- any associated matters the magistrate considered relevant to the general objects of the inquiry.[1366]

723. The narrowness of these terms of reference may have been influenced by concerns the inquiry would turn into an evaluation of electroconvulsive therapy (ECT) as a legitimate therapy. In January 1977, Dr Stanley Mirams, the Department of Health's Director of Mental Health, wrote to Dr Sydney

Pugmire, the Lake Alice medical superintendent, to tell him it was "certainly the intention of [the Department of Health] to avoid any public inquiry into the suitability of ECT as a form of treatment".[1367] Some of the correspondence discussed below provides insight into the concerns felt among hospital staff and responsible agencies about what they perceived to be an attempt to undermine public confidence in psychiatry more generally.

724. The terms of reference appear to have been settled quickly, the hearing was short, and the report had to be delivered within two months. The Hon. Patrick Keane, counsel for the Departments of Social Welfare and Health, recalled the inquiry as "a rapid and highly specific government response to December 1976 media criticism" concerning Mr Halo's care under the guardianship of the Director-General of Social Welfare "at a time where there was a similar complaint with the Ombudsman".[1368]

Te urupare nō Lake Alice – Response from Lake Alice

725. Lake Alice's responses to both the Ombudsman's investigation and commission of inquiry were sometimes less than forthcoming. Sir Guy was particularly unhappy with one incident at Lake Alice in November 1976. On the morning of a planned interview with Mr CD, Dr Leeks gave the boy unmodified ECT, leaving him "dazed and confused" and "unable to remember past events", which made the interview "singularly unhelpful to the investigation." Sir Guy's first impression was that Dr Leeks' actions may have been a deliberate attempt to prevent his office from carrying out its duties. He asked the Department of Health for an explanation.[1369] Dr Leeks responded to Dr Pugmire:

> *"I saw no reasons why medical requirements should take secondary consideration over political expediency. [Mr CD] was involved in a course of treatment at two day intervals, and the appearance of a political or official agent of enquiry is of little importance compared to the treatment of a patient. [Mr CD] at the time though quieter and less violent was still not speaking to the pakeha contingent of the Unit, but communicating only with the Polynesian groups. In effect, as it happened, I consider it was perhaps a favour to the Ombudsman's officer, although again this was secondary, as [Mr CD] was able to speak with the person concerned."* [1370]

726. The Deputy Director-General of Health, Dr Rod Barker, reviewed Dr Leeks' response and wrote to the Ombudsman, saying the Department was "perturbed at Dr Leeks' apparent failure to grasp the overriding significance" of the matters under investigation.[1371] However, he said he had discussed the matter with Dr Mirams who assured him Dr Leeks would be motivated only by the consideration for his patient, and he did not think he would have

any deliberate intention of obstructing the inquiry.[1372] Dr Barker further noted that some psychiatrists regarded the effectiveness of ECT as being heavily dependent on carrying out the prescribed course of treatment.[1373]

727. After hearing explanations and comments from the director of the division of mental health, Sir Guy was satisfied there was not a deliberate attempt to interfere with the enquiry.[1374] However, he said it was "unfortunate" the treatment had gone ahead on a day when the hospital knew well in advance that a member of his staff was coming to interview Mr CD.[1375] "If proper consideration had been given at the Hospital and my office informed", he wrote, "I could easily have arranged for my staff member to go on another day. I decided to not take this matter any further".[1376]

728. On 22 December 1976, Dr Pugmire wrote to Dr Mirams responding to his request for an evaluation of why Mr CD had been given ECT before the interview and how it had been carried out.[1377] Dr Pugmire said in his letter to Dr Mirams that they had previously had lengthy correspondence about Dr Pugmire's difference of views with Dr Leeks about the care and treatment of tamariki in the unit:

> *"My view on the basis of success in the treatment of children is frankness and honesty in answering their questions, correct medication, just and simple rules of ward conduct plus an overall attitude of kindness."*[1378]

729. Dr Pugmire also pointed out in his letter that Dr Mirams had clearly set out the previous year that all clinical responsibility for the treatment at the unit fell to Dr Leeks.[1379] Dr Pugmire also advised that he had recently discovered Dr Leeks had been using an ECT machine that Dr Pugmire thought had been condemned. He said it had become clear that Dr Leeks had continued to carry out ECT in the unit, rather than the ECT Department and without an anaesthetist.[1380]

730. Dr Pugmire said he had removed the outdated machine to safeguard the officers of the unit in any forthcoming inquiry, but after Dr Leeks insisted it was a clinical decision to continue to use the machine he had returned it.[1381] Dr Pugmire said he did not want to be responsible for a machine he "did not like" and treatments he "did not know were occurring" in a place that was not "suitable" for giving ECT.[1382] He said that Dr Leeks' decision to continue giving ECT in the unit with the outdated machine was, by virtue of its lack of safeguards, "hard to defend" and "foolish".[1383]

731. In relation to the commission of inquiry, Dr Pugmire wrote to Dr Leeks that it was "shrewd thinking on behalf of our faithful colleagues at Head Office to eliminate that question [regarding the appropriateness of ECT] from the Magistrate's brief and to ensure that the hearing was secret and not for publication".[1384] He went on to say:

"It is my personal opinion that if the present enquiry had been dealing with ECT and had been a public enquiry in which every false allegation was headlined, both you and I by now might have been seeking employment in South America where our heinous imaginary crimes were unknown."[1385]

Te korenga o ngā tuaritanga kōrero a ngā umanga tika - Lack of information sharing by responsible agencies

732. By 1977, the responsible agencies had received multiple complaints about the treatment of children and young people at the unit. In general, agencies took a defensive approach and were not forthcoming with material that could have assisted the investigation and commission of inquiry. This approach was inappropriate and limited the ability of the inquiries to see the full picture of abuse at the unit.

733. For example, the Department of Social Welfare removed and edited information from Mr CD's file after the Ombudsman had asked to see it.[1386] The Ombudsman pressed the Department for an explanation, and the Department said a senior officer had "felt that the comments which he had removed had no relevance to the subject-matter of the complaint and should not in any event have appeared on the papers".[1387] The Ombudsman accepted the officer did not intend to obstruct his investigation, but he still regarded the officer's actions as "extremely serious" and referred the matter to the State Services Commission, which issued a notice to public servants reminding them of the need always to provide all original documents the Ombudsman requested.[1388]

734. A second example was important contextual evidence regarding Mr Bryon Nicol the Department did not share. The office of the Director-General of Social Welfare asked Mr Michael Doolan, by then the Holdsworth School principal, for comment on Mr Nicol's time at Holdsworth before he was sent to Lake Alice in 1973. Mr Doolan replied on 8 February, about a week before the magistrate's inquiry began, saying the school's records on the boy were "rather sketchy".[1389] Nonetheless, he wrote:

"I have no doubt that [the boy] did receive ECT while at Lake Alice – this seemed to be routine at the time. I have no doubt that he perceived the administration of ECT as a form of punishment – I had the same perception. As Assistant Principal at Hokio Beach School, I had a lot of contact with the Lake Alice Adolescent Unit. It was my very clear perception that:

- *ECT was administered to children held at the point of consciousness – thought to be very effective with those tamariki exhibiting explosive character disorders;*
- *Nursing staff at the Unit used the threat of ECT as a method of behavioural control;*
- *Paraldehyde injections were used for similar reasons.*

> *"It was because of these, and other misgivings that I had, that Holdsworth ceased the practice of referring lads to the Lake Alice Hospital Adolescent Unit at the end of 1973."*[1390]

735. Mr Doolan concluded by saying he would be prepared to amplify the paragraphs quoted above should the Director-General wish him to do so.[1391] This information was not shared with the inquiry. We contacted Mr Mitchell for comment and provided him with Mr Doolan's statement. He told us:

> *"I am confident that, had I been aware of the concerns raised by Mr Doolan and it seems others, these issues would have been investigated by me as part of the inquiry. The information contained in Mr Doolan's witness statement could well have changed my view as to the evidence regarding the use of ECT as a punishment."*[1392]

736. Instead, the Commission of Inquiry was left to deal with Mr Halo's complaint of mistreatment without the benefit of further contextually relevant information. The examination of witnesses became a credibility assessment between a 13-year-old Pacific boy, who was perceived to have behavioural and psychological issues, and the responsible departments and a respected child psychiatrist. Mr Halo was not present or represented at the hearing.

737. The Department of Education was also not forthcoming. It did not tell the inquiry its head office sent an educational psychologist, Mr Don Brown, to investigate allegations of misuse of the ECT machine in 1974.[1393] Mr Brown's report, which was critical of the unit's use of ECT, was not supplied to the inquiry.

738. While the above examples may not have been directly relevant to the treatment of the individual at the centre of the inquiry, they would have provided context as to growing concerns about the methods used at the unit. However, adverse publicity about psychiatry generally and about Lake Alice appears to have led those responsible for children and young people in the unit to take a defensive approach to the inquiries. The effect of the approach was to prioritise the reputation of the institutions and of psychiatry over openness and oversight.

2.4.3 Te whakatewhatewhatanga a te kaitirotiro ā-takiwā, 1977 – District inspector inquiry, 1977

739. In the wake of publicity about Mr Halo's case, two separate families of tamariki who had been at Lake Alice contacted Dr Oliver Sutherland of the Auckland Committee on Racism and Discrimination (ACORD).[1394] Dr Sutherland met with the two boys and their families. He was told boys at the unit not only received ECT to their heads, but also received a "special sort of punishment"[1395] that involved electrodes from the ECT machine being placed on either side of their knees so an electric current could be administered.[1396] Dr Sutherland said he met with Dr Mirams on 11 May 1977 to present these further allegations to him and demand a full inquiry into the treatment of children and young people at Lake Alice as well as immediate closure of the unit.[1397]

740. After this meeting with Dr Sutherland, Dr Mirams gave an interview to the New Zealand Herald in which he said the ECT machine had been removed from the unit. He confirmed ACORD had presented him with further allegations about the treatment of children and young people at the unit.[1398] Dr Mirams said:

> *"If this is true it would involve deliberately giving a painful shock with the intention of it being painful ... the pain would not be incidental to the treatment, as it is with much medical treatment. This is the allegation I am looking into. If it is true, a number of considerations of professional judgement could apply but I would find it very difficult to envisage any defence which could be offered in those circumstances."*[1399]

741. Dr Mirams also commissioned a lawyer and district inspector for the Auckland region, Mr Gordon Vial, to investigate the allegations ACORD had presented to him.[1400]

742. On 27 May 1977, Acting Minister of Health, Hugh Templeton, responded in a media interview to allegations from the opposition that Lake Alice was using ECT to punish tamariki. Mr Templeton strongly denied the allegations and rejected the need for a further commission of inquiry into the wider use of ECT at Lake Alice.[1401] However, Mr Templeton did confirm that an "inquiry into the use of ECT at [Lake Alice] was being conducted" by Mr Vial in response to a complaint by ACORD.[1402]

743. Mr Vial was in the second of two five-year terms as a district inspector under the Mental Health Act 1969. Mr Vial never visited Lake Alice and had no contact with Dr Leeks or any of the staff there, but he did meet with the boys in June 1977 and prepared separate notes of each meeting.[1403] One boy,

Mr EB, was more forthcoming than the other boy. Mr EB described receiving electric shocks to his head several times without anaesthetic administered by Dr Leeks.[1404] He also spoke of being punished by having shocks to his legs three times – twice for fighting and once for smoking. On these occasions, nurses administered the shocks without a doctor present.[1405]

744. The shocks were painful, and he recalled one knocked him off the chair he was sitting on. Other boys heard him screaming, and he had to be helped downstairs following the session as his leg was still hurting. On one occasion he was told "this should teach you a lesson". On another, a nurse was "laughing his head off" as he received electric shocks. The boy also reported seeing boys shocked in pairs while being strapped together at the knee for smoking.[1406]

745. Mr Vial admitted to being 'sceptical' at first, but acknowledged that Mr EB "was neither evasive nor uncertain" and it was not apparent that Mr EB's account was based on any "bitterness or vindictiveness towards the nurses" concerned.[1407] Mr Vial's firm impression was that the boy's account should be investigated further, and he said so in the report he sent to the Department of Health.[1408]

746. Having received Mr Vial's report, Dr Mirams sent Commissioner of NZ Police Ken Burnside copies of notes that Mr Vial had made of his interviews with the two boys he met and statements from Mr DR and Mr EB. Dr Mirams also attached notes he had prepared for the Minister of Health on 19 May 1977, which set out his opinion that:

> *"Should it be established any member of the nursing staff has administered shocks of whatever nature to a patient at Lake Alice, that this would constitute an offence in terms of section 112 of the Mental Health Act and it might be most appropriately dealt with by laying an information with the Police."*[1409]

747. The Commissioner of Police responded by setting in motion a police investigation into the concerns raised by Dr Mirams.

comes a time in
"Most of my life, I was not able to find a job. No one would take me on after they asked about my education and found out I couldn't read or write. Also, I have just not been well enough to work for most of my life. I believe I lost the chance to earn a living because of Lake Alice and Cherry Farm [a psychiatric hospital]."
- Mr JJ

2.4.4 Te tūhuratanga tuatahi a Ngā Pirihimana o Aotearoa, 1977 – First NZ Police investigation, 1977

748. Detective Senior Sergeant, Rob Butler, from the Whanganui criminal investigation branch was tasked with carrying out the first NZ Police investigation in 1977.[1410] The focus was on section 112 of the Mental Health Act 1969, which made the ill-treatment of [a] mentally disordered person an offence.[1411] Mr Butler was instructed to conduct the investigation with urgency and a minimum of publicity.[1412]

749. Mr Butler interviewed Dr Leeks twice, on 27 June and 11 July 1977. Dr Leeks initially gave Mr Butler comments about Mr DR and Mr EB, along with four other patients who had made complaints.[1413] A month later, he gave Mr Butler a list of 44 boys, supposedly identifying who had received ECT only, who had received aversion therapy only, and who had received both.[1414]

750. Mr Butler's notes of his first interview with Dr Leeks show they discussed the difference between ECT and aversion therapy. Dr Leeks said aversion therapy was when "an event or a behaviour is linked with an aversive stimulus, in this case an electric current … the behaviour becomes an aversive stimulus to the person so that they do not carry it out".[1415] Dr Leeks said ECT was quite different because a much greater current induces unconsciousness and a convulsion.[1416] He said he had stopped using aversion therapy because, "if one is using something in an uncomfortable way, it is not a good thing".[1417]

751. Mr Butler asked Dr Leeks whether he believed the boys were telling "half-truths" about aversion therapy, and Dr Leeks agreed, saying "they were really the bottom-of-the-barrel kids from Hokio, Kohitere and Holdsworth, who could not manage them. They were anti-social and destructive kids".[1418]

752. On 6 July 1977, 10 days after this interview, Mr Butler indicated to Dr Mirams that there was "no possibility of [laying] criminal charges".[1419] At that stage, Mr Butler had spoken to only three of the six complainants and no staff members and did not yet have any expert medical opinion.

753. On 11 July, during the second interview with Mr Butler, Dr Leeks said at least 12, and perhaps as many as 16, individuals had received ECT and aversion therapy in the three to four months during which he said aversion therapy was being carried out.[1420]

754. In response to an allegation that a boy had received electric shocks to his head from two nurses, Dr Leeks said it would not be "beyond his instructions" to the nurses to administer 'treatment' to the head.[1421] They then discussed the case of another boy who had been given electric shocks by other boys at his suggestion.

Dr Leeks admitted that, in retrospect, "he did not know whether or not he would do such a thing again."[1422]

755. Mr Butler next interviewed five staff members – Mr Steve Hunt, Mr Terrence Conlan, Mr John Blackmore, Mr Brian Stabb and Mr John O'Connell. Mr Hunt and Mr Conlan confirmed Dr Leeks had administered aversion therapy to boys with behavioural problems.[1423] Mr Conlan confirmed Dr Leeks had started aversion therapy on boys from places such as Hokio Beach School and Kohitere Boys' Training Centre after they would not respond to any other type of therapy and had 'offended'.[1424] Mr Conlan said some of these boys were "simply young thugs".[1425] He said Dr Leeks would administer most of the aversion therapy himself in the evenings, but Dr Leeks had given him and Mr Hunt authority to administer it in his absence if a particular patient offended.[1426] Mr Conlan said he and Mr Hunt had initially questioned whether they had the legal authority to administer such treatment, but Dr Leeks replied that his verbal instructions were sufficient and they should have no concerns carrying them out.[1427]

756. Mr Butler's report said aversion therapy as practised at Lake Alice was a type of punishment.[1428] He said most boys who received it had been uncontrollable at State-run homes and had been sent to the unit "as an obvious last resort".[1429] However, their behaviour remained uncontrollable, he said, and they "failed to respond to group therapy and medication, so were subjected to electric shock therapy. There is no doubt that the majority of the boys concerned were of the worst anti-social and character-disordered types".[1430] He said in his report that aversion electric shock therapy at the unit appeared to have been effective and apparently had no side effects on any of the patients.[1431] In his report, he said he considered it unnecessary to speak to every boy subjected to electric shocks because there was no question the unit used both ECT and aversion therapy.[1432] He concluded evidence was insufficient for charges under section 112 of the Mental Health Act 1969.[1433]

757. On 12 September 1977, Mr Butler received correspondence from NZ Police legal advisor, Neville Trendle, who said NZ Police should not prosecute Dr Leeks over his use of ECT and aversion therapy because it was not an offence under the Mental Health Act 1969 for nurses, on Dr Leeks' authority, to administer either therapy.[1434] Mr Trendle said it was "as plain as it can be that the aversion therapy in particular is nothing other than a form of 'punishment', albeit a more sophisticated type".[1435] However, he said NZ Police could not "disregard the honest professional opinion of Dr Leeks" and unless the use of ECT and aversion therapy was "completely at odds with the psychiatric or psychological thought of the day", a criminal prosecution of Dr Leeks should not follow.[1436]

758. Nonetheless, Mr Trendle said Mr Butler described one case that warranted further inquiry. This case involved Dr Leeks letting other patients give

shock treatment to a boy. He considered Dr Leeks' lack of direct control over the boys administering the treatment made it "dangerous at least and bordering on criminal ill-treatment. If this opinion is shared by his professional peers, a prosecution may be necessary".[1437]

759. Deputy Police Commissioner, Bob Walton, read the file and said its contents were a "considerable cause for concern".[1438] He said his primary concern was over the use of ECT other than by a medical practitioner and seemingly without a written programme. Mr Walton instructed the Director of Crime to speak with the Director of Medical Services as to his opinion about the treatment given at the unit and seek his advice on a suitable expert who could provide an opinion on this matter. It is unclear whether the Director of Medical Services ever gave his opinion on the treatment or provided advice on who would be an appropriate expert. However, NZ Police did seek an expert opinion from psychiatrist Dr David McLachlan. This opinion was provided to NZ Police on 28 December 1977.[1439]

760. Dr McLachlan considered the allegations had not been substantiated, and he believed the actions of staff had not been shown to be motivated by anything other than "genuine therapeutic intent".[1440] He said unmodified ECT should not be used routinely, but was justified in "difficult and problem patients when all other methods have failed".[1441] He expressed concern that patients had reported pain and discomfort during ECT and said this should not happen, but he added there was no evidence ECT was deliberately used in "any unacceptable way".[1442] He said it was natural patients disliked aversion therapy and regarded it as punishment, "when that in fact was not the motive" of staff.[1443]

761. Dr McLachlan dismissed the allegations, stating patients were "commonly paranoid" and it was no surprise the technique could be misinterpreted as punishment. His professional assessment was that Dr Leeks had shown bad judgement in allowing other patients to give electric shocks to a boy. However, Dr McLachlan then stated that he believed Dr Leeks intended to help the boys giving the shocks, who were victims of abuse by the boy receiving the shocks, and at the same time to help the boy who was given shocks. He did not believe Dr Leeks would have had any thought that it could have been considered ill-treatment in terms of s 112 of the Mental Health Act and "it was certainly not intended by him to be so".[1444]

762. He also said he knew Dr Leeks personally, and that he was well regarded by psychiatric colleagues who found him a compassionate man concerned for his patients. He said it would be entirely out of character for Dr Leeks to undertake the sort of ill-motivated practices alleged. He noted Dr Leeks was under a heavy workload at the time of the allegations, so was unable to dedicate more time to looking after patients and supervising staff.[1445]

763. Dr McLachlan said unit staff were doing a good job under very difficult conditions, although a small minority might have misused aversion therapy with punitive intent, which could have arisen from a misunderstanding of the technique.[1446] Nonetheless, he said "the evidence is not sufficiently clear or conclusive for any action to be taken".[1447] He excused any failure by staff to maintain professional standards as unsurprising given the challenges they faced.[1448]

764. Dr McLachlan's opinion was decisive for NZ Police. On 27 January 1978, they issued a press release saying their investigation had found no evidence of criminal misconduct.[1449]

Ngā tepenga o te tūhuratanga a Ngā Pirihimana o Aotearoa - Limitations of the NZ Police investigation

765. The NZ Police investigation was flawed in several ways.

766. Mr Butler advised Dr Mirams that he saw no possibility of laying criminal charges after interviewing Dr Leeks only once, without having interviewed any staff and only three of the six complainants, and without having obtained an expert medical opinion.[1450]

767. Specific allegations were not always put to staff members for a response. One nurse, for example, was not asked about allegations that he gave electric shocks to a patient's head as punishment for smoking.

768. NZ Police accepted at face value Dr Leeks' summaries of patients and their time at the unit without looking to nursing notes or other documentary evidence to identify inconsistencies in Dr Leeks' accounts. NZ Police did not question Dr Leeks' estimates of how many children and young people had received aversion therapy. They appeared to accept without analysis of clinical notes his claim that he used aversion therapy only after trying all other forms of therapy without success.[1451]

769. What Dr Leeks told NZ Police was also inconsistent with what he had previously told Dr Mirams. In May 1977, Dr Leeks told Dr Mirams he had no knowledge of "any occasion on which medical authority has been given for the use of painful aversive shocks by nursing staff".[1452] In one of his interviews with Mr Butler, however, he said he gave nursing staff permission to administer shocks in his absence. Mr Butler chose not to question Dr Leeks about this inconsistency, instead describing it as a matter of "interpretation and medical ethics between [Dr Leeks] and Dr Mirams".[1453]

770. NZ Police did not interview the 44 children and young people that Dr Leeks' identified as having received ECT or aversion therapy; nor did they speak to their families. Had they done so, they would most

likely have had additional evidence to put to Dr Leeks for explanation. They may also have uncovered evidence about physical and sexual offending against the children and young people in the unit.

771. Finally, NZ Police did not obtain an expert psychiatric opinion from someone unconnected to Lake Alice. Rather, they relied on Dr McLachlan who knew Dr Leeks personally and vouched for his character. He expressed sympathy for Dr Leeks as "compassionate, concerned for his patients and working diligently for their well-being", and on this basis he concluded it would be "entirely out of character for him to undertake the sort of ill-motivated practices that are alleged".[1454] He similarly exonerated other staff of having any unworthy motives, despite evidence to the contrary from six boys.

772. Dr McLachlan should have carefully examined the claim that nursing staff had given a boy electric shocks to the head as punishment for smoking. Instead, he dismissed it as unreliable. He referred to the patients who made the allegations, as a group, as 'commonly paranoid'.[1455] Dr McLachlan failed to identify the way Dr Leeks used electric shocks as aversion therapy departed from commonly understood practice of this therapy. Instead, his opinion was based on negative assumptions about the character of the tamariki and positive assumptions about the character of Dr Leeks.

773. NZ Police should have recognised at least some of these shortcomings. By relying on a deficient expert opinion, NZ Police did not adequately address the question raised by Mr Trendle, namely whether the use of electric shocks and aversion therapy at the unit was at odds with the psychiatric or psychological thought of the day.

774. Many years later Dr McLachlan himself was the subject of allegations of improper conduct, with claims the misconduct had been reported to medical staff in the 1970s.[1456] In evidence to this inquiry, the Citizens Commission on Human Rights was also critical of Dr McLachlan's involvement in performing and studying prefrontal lobotomies in the 1930s and 1940s.[1457] There is no suggestion these matters were known to NZ Police when it sought Dr McLachlan's expert opinion in the late 1970s, but it does reinforce the danger in seeking advice from people connected to each other within a small circle, particularly where questions of character or institutional culture may be relevant.

"I always feel like I'm always intruding in situations that I'm not supposed to be in. I avoid work functions and socialising. I think this stems from Lake Alice and being forced to isolate to keep safe. I don't know where I belong."
- Debbie Dickson

2.4.5 Ngā tūhuratanga a ngā umanga rata ngaio, 1977 – Investigations by medical professional bodies, 1977

775. A fourth investigation got under way in 1977 even as the NZ Police investigation was still in progress. It involved three professional bodies: the Medical Council of New Zealand, New Zealand Medical Association and Australian and New Zealand College of Psychiatrists.

776. The Medical Council was, and still is, the regulatory body for doctors. The council's main responsibilities in the 1970s were the registration and discipline of medical practitioners.

777. The Medical Association was a professional membership organisation for doctors and medical students.[1458] In the 1970s, the association had a statutory role in recommending two of the 11 council members.[1459]

778. The Australasian Association of Psychiatrists was established in 1946 in Melbourne, Australia, becoming the Australian and New Zealand College of Psychiatrists in 1964[1460] and the Royal Australian and New Zealand College of Psychiatrists in 1978. It is a membership organisation responsible for training, providing education and professional development, and advocating for its members in both countries.[1461]

779. In the 1970s, the council and the association played a role in disciplining medical professionals (the disciplinary bodies and their roles are set out below). The college had no powers to investigate or require the production of information or evidence in relation to misconduct of psychiatrists, so the college relied on the findings by these and other relevant disciplinary bodies.

Disciplinary bodies in 1970s

The Medical Association: The Medical Practitioners Disciplinary Committee

The New Zealand Medical Association had a Central Ethical Committee that could refer complaints to the Medical Practitioners Disciplinary Committee. The disciplinary committee was a body for the medical profession, appointed by the council of the association and the Minister of Health.[1462] The disciplinary committee was responsible for hearing lower-level charges of professional misconduct.[1463] If it made a finding of professional misconduct, it could order a fine, impose conditions on practice, censure practitioners, and order payment of costs and expenses of the inquiry.[1464]

The Medical Council: Penal Cases Committee

The Medical Council of New Zealand's Penal Cases Committee consisted of two members of the council and a solicitor.[1465] It dealt with more serious allegations that could amount to disgraceful conduct.[1466] If the Penal Cases Committee considered the practitioner's conduct was disgraceful, it could refer the complaint to the chair of the council, who would convene a meeting of the council to hear the charge.[1467]

Medical Council

If the Medical Council considered there was disgraceful conduct or a practitioner had been convicted of an offence punishable by at least two years' imprisonment, the council had powers to discipline them.[1468] The disciplinary powers included suspension from practice or cancellation of registration as well as fines, censure and costs orders.[1469]

Te amuamu a te purapura ora, a Mr Kevin Banks – Complaint by survivor, Mr Kevin Banks

780. Mr Kevin Banks complained to Dr Pugmire after he was discharged from the unit on 27 May 1977.[1470] The complaint was ultimately referred to the New Zealand Medical Association's Central Ethical Committee.[1471] It consisted of four allegations.[1472]

- Dr Leeks had deliberately administered ECT to Mr Banks as punishment "on more than one occasion"; for example, as punishment for smoking.
- Dr Leeks administered painful shocks to Mr Banks more than once that were not conventional ECT. These shocks were administered for what Dr Leeks considered to be 'unsatisfactory behaviour'.
- On some occasions, two boys had their arms strapped together and were given shocks jointly. This happened to Mr Banks at least once.
- Mr Banks recounted an incident when one of the older boys (Mr CC) sexually assaulted him and four or five other boys in the unit. Dr Leeks told the boys to bring the ECT machine to the treatment room, where Mr CC was also taken. Under Dr Leeks' direction, each boy took turns to administer painful electric shocks to Mr CC.

781. Dr Mirams recorded these complaints in notes of his interview with Mr Banks, which Mr Banks signed as a true summary.[1473] Mr Banks also elaborated on the allegations and discussed a further incident where Dr Leeks applied the electrodes of the ECT machine to his chest and gave him a painful shock.[1474] Mr Banks also said nurses gave painful shocks when no doctor was present.[1475] Former charge nurse Steve Hunt was one of these nurses.[1476]

782. Dr Mirams noted he considered Mr Banks would be "quite a satisfactory witness in any formal proceedings".[1477] He considered two matters might complicate a disciplinary hearing. First, Mr Banks said he had told his stepmother about the sort of treatment he was receiving and she had told him it was doing him good.[1478] Second, he considered Mr Banks was now in a satisfactory state of health.[1479]

783. Dr Mirams mentioned that some of Mr Banks' allegations had been brought to the attention of NZ Police.[1480] He did not mention that he had forwarded similar allegations made by other individuals to NZ Police on 14 June 1977.

Te tūhuratanga a te Medical Association's Central Ethical Committee – Medical Association's Central Ethical Committee's finding

784. The Central Ethical Committee sought a response from Dr Leeks to the allegations. Dr Leeks explained what he said were the clinical justifications for Mr Banks receiving several courses of ECT, given by Dr Leeks and other psychiatrists.[1481] He also said Mr Banks had received a course of three sessions of aversion therapy in response to several vicious attacks by Mr Banks on another boy.[1482] He said the shocks were not painful and were a legitimate treatment aimed at preventing further violence.[1483] He said he had no knowledge of boys being strapped together and shocked and could only describe the allegation as a 'fabrication'.[1484] The Central Ethical Committee accepted these responses to the first three allegations and decided not to investigate them further.[1485]

785. The fourth allegation was more serious. Dr Leeks acknowledged he had allowed several boys to administer electric shocks to Mr CC (who had been accused of sexually assaulting them).[1486] Dr Leeks said he spent time with each of the boys alone and then together as a group and decided it was reasonable the boys who had been sexually assaulted should do something to demonstrate their feelings of hurt and degradation to Mr CC.[1487] According to Dr Leeks, the boys had asked to be included in Mr CC's "aversive programme".[1488] Each boy was asked to say how it felt to be assaulted. At that point, each pressed the switch and gave the victim "a single shock from the aversive faradic circuit".[1489] They all did this in turn before Dr Leeks "took over and completed the aversive therapy session".[1490]

786. The Central Ethical Committee had "considerable doubts as to whether it is ethical to administer aversion therapy to a committed patient unless his informed and voluntary consent is first obtained".[1491] There was no way it was acceptable psychiatric therapy to allow victims to punish a patient.[1492] The committee appreciated Dr Leeks may have acted in good faith but felt strongly this "constituted grossly unethical conduct likely to bring the reputation of the medical profession into disrepute".[1493] For this reason, the Medical Association referred the fourth allegation to the New Zealand Medical Council's Penal Cases Committee for investigation of potential disgraceful conduct.[1494]

Te urupare a Penal Cases Committee – Penal Cases Committee's response

787. Dr Humphrey Gowland, convenor of the Penal Cases Committee, wrote to Dr Leeks on 3 November 1977 to give him notice the Committee had received a complaint that he had been guilty of disgraceful conduct.[1495] Dr Gowland noted that the complaint was that "in the course of giving treatment to a patient with an ECT machine you permitted young fellow

patients to administer the shock treatment to the patient concerned by means of the ECT machine".[1496] He invited Dr Leeks to provide a written explanation and appear at a hearing on 23 November.[1497]

788. Dr Leeks responded, providing his explanation for what happened and accepting the invitation to be heard.[1498] He said Mr CC had a history of sexual assaults and at some point attacked a younger boy at the unit.[1499] He said he had secured Mr CC's consent to a two-week course of aversive therapy, which he described as "one of the behaviour therapies which was being used between late 1972 and mid-1974 for sexual and assaultive offenders".[1500] Halfway through the treatment, staff learned the boy had sexually assaulted five other boys.[1501] Dr Leeks said he decided to involve the five boys in administering shocks to Mr CC on the basis it would help the boys deal with their feelings about being sexually abused by Mr CC.[1502] He also said he considered it would be a way for Mr CC to understand the feelings of his victims.[1503]

789. The Penal Cases Committee obtained an expert opinion on Dr Leeks' actions and explanations from Professor John Roberts. Professor Roberts said the technical requirements of the type of aversive therapy Dr Leeks said he was using were "far from straightforward".[1504] He said it was absolutely essential to the effectiveness of the treatment that the subject agreed to the treatment and wanted to change his behaviour.[1505] He also said Mr Banks "clearly identifies the treatment with punishment", adding that "if the boys saw the treatment in terms of punishment, then I find it very difficult to understand the justification for incorporating them in these sessions".[1506] It was clear Professor Roberts was reluctant to criticise a colleague. He said he was concerned about Dr Leeks and suspected he was being called to account for utilising a technique that "in the light of the present day no longer is regarded in the same favourable way in which it was at the time which is under consideration".[1507] He was also clear he considered it inappropriate to include the other boys in the electric treatment session.[1508] He said, "I can understand the logic of Dr Leeks' argument, but I cannot accept the premises from which he argues".[1509]

790. The Penal Cases Committee met on 23 November. No records of the meeting or the outcome existed by the time we came to investigate. However, the committee did not lay a charge or proceed any further.[1510]

791. Following the hearing, Dr Leeks wrote to the Medical Council to request a letter of good standing so he could be registered to practise in Australia.[1511] Dr Leeks continued to practise in Australia until 2006.

Ngā ngoikoretanga o ngā tōpūtanga rata ngaio – Shortcomings of the medical professional bodies

792. The decision by the Central Ethical Committee to progress only the fourth allegation to the Penal Cases Committee appears to have been based on a preference for Dr Leeks' account over that of the complainant. There may be records that no longer exist or that we have been unable to obtain. However, the Central Ethical Committee does not appear to have enquired into factual inconsistencies between the accounts or sought input from other witnesses to the events.

793. The expert opinion by Professor Roberts shows a reluctance to criticise a colleague and prioritised concern about Dr Leeks being unfairly treated over the safety and wellbeing of patients.

794. Because of a lack of records, we have been unable to review the decisions made by the medical disciplinary bodies in relation to Mr Banks' complaint. In its evidence to the inquiry, the Medical Council acknowledged that due to the passage of time and incomplete records it was unable to provide reasons for its decisions in relation to Dr Leeks.[1512]

Te wāhi ki te Australian and New Zealand College of Psychiatrists – The role of the Australian and New Zealand College of Psychiatrists

795. In the lead up to the commission of inquiry in the late 1970s, the New Zealand branch of the Australian and New Zealand College of Psychiatrists was concerned about the criticism of Dr Leeks' treatment of Mr Hake Halo.[1513] The chairman of the New Zealand branch committee, Dr Dobson, wrote to the Minister of social welfare to express concern that skilfully applied psychiatric treatment may be brought into disrepute. He said the committee considered patients or their relatives may become reluctant to accept ECT, which was a safe and effective treatment if applied skilfully.[1514]

796. In its report to the college's General Council, the New Zealand branch reported that at its monthly meeting it had discussed the possibility that the commission of inquiry's scope may be widened to consider ECT as a treatment overall, which would be undesirable.[1515] The committee thought it would be difficult for public opinion to be influenced towards a greater acceptance of ECT, but agreed the branch would be ready to present its knowledge in an authoritative, expert and impartial manner.[1516]

797. Dr Jim Methven appeared for the New Zealand branch of the College of Psychiatrists at the hearing for the commission of inquiry.[1517] Dr John Werry, a child psychiatrist, also appeared but in his individual capacity and not as a

representative of the college.[1518] Dr Werry told us they went along thinking they might be able to support Dr Leeks, but it didn't work out that way.[1519] He said they did not know much about Dr Leeks or his practices before the hearing.

798. Dr Werry said as the hearing progressed he and Dr Methven were shocked by what they heard.[1520] He said it seemed as if Dr Leeks was diagnosing tamariki with childhood schizophrenia to justify keeping them at Lake Alice.[1521] Dr Werry said that with the benefit of hindsight they should have been more forceful in trying to change things and to confront Dr Leeks after what they had heard at the inquiry.[1522] However, he acknowledged the difficulty in criticising colleagues and said, "if you're going to do that, you need evidence that is going to stand up in a court of law".[1523]

799. In the New Zealand branch's report to the college's General Council for its meeting scheduled for October 1977, it again reported it had discussed the commission of inquiry's report.[1524] The branch considered parental consent was the main issue but that ECT attracted a great deal of publicity.[1525] It considered allegations that shocks were administered from an ECT machine to a patient's legs for punishment was not an ECT issue and was probably under NZ Police investigation.[1526] It also recorded that the committee had "strongly directed the allegations" that ECT was used as punishment to the relevant medical disciplinary bodies to minimise publicity.[1527] It noted the need to balance efforts to minimise publicity that could have repercussions for psychiatry and reinforce myths about legitimate ECT with the need to scrutinise their own clinical practice and take note of the social climate.[1528]

"[He] had been out of Lake Alice for just a few weeks when he killed himself. He killed himself on 16 August 1976. He had not been settled, and it was decided he needed more treatment. I was driving home to tell him that he was going to go to Manawaroa [health clinic] and be under the care of Dr Durie. When I got home, I found [him] in the shed."

- Confidential

2.4.6 Ngā mahi i ngā kōti me ngā whakataunga – Court action and settlements

800. By the 1990s, there had been no meaningful accountability for the abuse at Lake Alice and the survivors of Lake Alice had not received any redress for the abuse they suffered. The Crown had not considered, much less offered, financial compensation or any other assistance for survivors. Many survivors turned to the legal system looking for justice.

801. The legal claims ultimately led to financial redress for many survivors, despite the flaws in the legal process that we wrote about in our redress report, He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui. Indeed, the Lake Alice legal claims resulted in the most effective vindication for any survivors of abuse in Aotearoa New Zealand up to that point.

Ngā kerēme puretumu a ngā purapura ora – Survivors' claims for redress

802. In the 1990s, two Lake Alice survivors, Ms Leoni McInroe (1994) and Mr DW (1997), filed claims in the High Court for the abuse they suffered at Lake Alice.[1529] From early 1997, lawyer Grant Cameron also began discussions with the Crown on behalf of a large group of Lake Alice survivors.[1530] The group sought an out-of-court settlement with the Crown that would include the payment of compensation and an apology. In July 1998, Mr Cameron provided a draft statement of claim with 42 signed statements (volume 1).[1531] A further 55 statements were served on 14 September 1998 (volume 2).[1532]

Ngā meka tōmua o ngā kerēme – The merits of the claims were clear from early on

803. Dr Janice Wilson, the Ministry of Health's Director of Mental Health at the time Ms McInroe filed her claim, agreed she had sympathy "from the very early day[s]"[1533] for Ms McInroe's claim and subsequent claims by other survivors, finding them reasonable, compelling and believable.[1534] She said there was reasonable evidence supporting Ms McInroe's claims, including about unmodified ECT, the misuse of behavioural aversion therapy and probably the misuse of drugs, all of which she considered inappropriate.[1535] Dr Wilson said she conveyed her view that the claim was reasonable to the ministry's lawyers. Dr Wilson said she believed her views would have been heard by Crown Law and Ministers and she noted a time-consuming legal, policy and Cabinet process had to be worked through in respect of the claims.[1536]

804. By September 1995, the Crown had two opinions on Ms McInroe's claim from experienced psychiatrists, both saying Dr Leeks' conduct was professionally inappropriate.[1537] Despite this, the Crown continued to defend Ms McInroe's claim for many more years.[1538]

805. By early 1999, a large amount of evidence was in the Crown's possession showing the merits of the claims. In addition to the two psychiatrists briefed by the Crown who supported Ms McInroe's claim, a psychiatrist briefed by Mr DW said Dr Leeks' actions were "not appropriate".[1539] The Ministry of Health had advised that "psychiatric hospitals in the 1970s were not well managed and there were few controls to ensure that patients were not abused by staff".[1540]

806. In February 1999, Crown Law told the Minister and Ministry of Health that some of the Grant Cameron claimants' patient files appeared to corroborate the allegations of the use of unmodified ECT and its use as a punishment.[1541] It said the files revealed "numerous consistencies" between claimants' statements.[1542] It explained the advantages and disadvantages of defending the claims in court, saying the key question was whether to respond to the claims on their merits or fight them at all costs.

> *"If Ministers want the Crown to respond to the claims, an appropriate [alternative dispute resolution] mode is preferable because it will avoid any precedential effect, and the Crown may be able to manage publicity impacts, if that is wanted. If Ministers want to resist the claims at all costs, and seek to defeat them by whatever means, they should litigate."*[1543]

Tā te Karauna whakatau kia whawhai i ngā kēhi ki roto i ngā kōti – Crown's decision to fight the cases in court

807. Despite the evidence showing the merits of the claims, the Crown decided to go to Court to test whether the Crown had any legal liability in light of available defences rather than settle. On 23 February 1999, the Minister of Finance, Bill English, and Health Minister, Wyatt Creech, met Ministry of Health officials, Dr Wilson and Crown Law's Grant Liddell. Dr Wilson reiterated her belief in the credibility of survivors' claims, and the notes record her telling the group that psychiatric opinion in the 1970s held that Dr Leeks' treatments were unusual, had a "sadistic" element and might not stand up to "the benchmarks of the day".[1544] Mr Creech told us that he carefully considered the advice from Crown Law about the options for resolving the Lake Alice claims.[1545] He said he concluded that litigation would be the "optimum way forward to finally resolve the matter and establish the parameters of Crown liability" given the parties' inability to agree.[1546]

808. In March 1999, after more than two and half years of discussion, the Crown rejected the settlement process the survivors proposed and chose to defend the claims in court, saying the courts needed to test the legal issues at stake in the claims before there could be any compensation.

Tā te Pirimia tohu kia whakatau – Prime Minister's direction to settle

809. After a change of Government in late 1999, the Crown reversed its stance on the Lake Alice claims. A briefing paper for the new Prime Minister and Minister of Health in March 2000 detailed the nature and extent of survivors' allegations, by which time the number of claimants represented by Mr Grant Cameron had climbed to 88 (it would ultimately reach 95).[1547] The paper said preliminary analysis of claimants' files so far collated by Crown Law showed it would not be difficult to prove the legal basis for admissions and detentions at the unit was 'often unclear' and that admission procedures were 'generally lax'. It said some evidence existed that some patients were given ECT and paraldehyde to control behaviour rather than as medical treatment. It also said paraldehyde injections were given 'routinely' and would have been 'extremely painful'. All in all, it said, a factual basis for at least some of the claims undoubtedly existed.[1548]

810. In May 2000, the new Government agreed to offer an out-of-court settlement. The advice ministers presented to the new Cabinet acknowledged that the Crown had a variety of available legal defences to the claims but stated it had a moral obligation to help those harmed in its care. It noted the vulnerability of the individuals involved, the distress litigation might cause and the potential for an out-of-court process to meet claimants' needs.[1549]

811. Crown Law and Treasury had reservations about settling claims through alternative dispute resolution. Rather than settle, they would have preferred to take at least some cases to court to test the technical defences available to the Crown. Even after the direction to settle, Crown Law continued to disagree with Mr Cameron about the way to resolve the claims. In September 2000, Mr Cameron complained that Crown Law would not commit to any particular resolution process, reserved its right to plead technical defences, said it would attempt to engage Dr Leeks as a defence witness, and would not commit to a 'fiscal envelope' for financial settlements.[1550] In November 2000 the Prime Minister, after reviewing Mr Cameron's letter, repeated to officials the direction to proceed with settlement in accordance with the Government's earlier direction.

812. Further evidence the Crown collected served only to strengthen the Crown's moral obligation to settle with the claimants. In early 2001, the Crown arranged for four psychiatrists to review 21 claimant files. All four said the lack of

information in patients' files hampered their ability to make clear assessments of some of the allegations. Nonetheless, they were able to find further examples of professional misconduct by Dr Leeks and his staff, including that some claimants were clearly:

- given electric shocks inappropriately
- given anti-psychotic medication and sedated with paraldehyde for being difficult to manage or as punishment, rather than for any therapeutic purpose
- admitted to the unit with an incorrect diagnosis or without any proper diagnosis
- placed in solitary confinement on numerous occasions for what in some cases was punishment for "bad behaviour".[1551]

Te ara ki te whakataunga – Approach to settlement

813. In May 2001, the Government agreed to set aside a sum for a full and final settlement of Lake Alice claims.[1552]

814. The Crown initially proposed a settlement offer of $4 million and subsequently increased that sum to $6.5 million, stating that was the maximum amount it would be prepared to pay. The $6.5 million figure included the claimants' legal costs, as well as claimants' time, stress and inconvenience.[1553] Mr Cameron said he had the authority of survivors to negotiate the settlement, and it would not have been possible to seek the views of the 95 clients; nor would it have changed the final result.[1554] Grant Cameron Associates consulted Mr John Billington QC, who was strongly of the view the claimants should accept the offer. The alternative, court action, offered little to no hope of success with barriers such as the Limitation Act 1950 and other technical defences open to the Crown.[1555]

815. Mr Cameron told us claimants were entitled to opt out of the process at this stage, preserving their opportunity to pursue the Crown for remedy by other means and go elsewhere for legal representation if they wished. Mr Cameron told us mandates were sent to all claimants in the group, on which they would provide their instructions whether they wished to remain in the process. Some of the group exercised their option to leave the process at that stage. He said he had advised claimants to seek independent legal advice both before originally signing up with his firm and before accepting the Crown's offer.[1556]

816. Mr Hamish Hancock from Crown Law wrote in a memorandum to the Solicitor-General, Mr Terence Arnold QC, that an "obvious disadvantage" of the proposed settlement was that Crown Law could not give a precise estimate of the Crown's potential liability because the

settlement was "at the direction of the Executive" rather than on the basis of a legal assessment of potential liability by Crown Law.[1557]

817. The Government agreed with Mr Cameron's recommendation that former High Court judge Sir Rodney Gallen would determine how the $6.5 million would be distributed among the 95 claimants.[1558] After consulting the claimants, Sir Rodney decided all would receive an equal sum, supplemented by another sum based on his assessment of the degree of harm each individual had experienced.[1559]

Te pūrongo Gallen – The Gallen report

818. Sir Rodney's role was to determine how the $6.5 million should be split among claimants, but he was so disturbed by what he heard and learned he wrote a comprehensive account of what had taken place at Lake Alice. He wrote that he was "satisfied that in the main the allegations which have been made are true and reveal an appalling situation".[1560]

819. In response, Dr Anthony Duncan, a psychiatrist and the Ministry of Health's Deputy Director of Mental Health, wrote to Crown Law and senior ministry officials about two weeks later, on 27 September 2001, saying some claimants' allegations might not have been entirely factual, but "there is no doubt some dreadful things happened in Lake Alice".[1561] He said an apology by the ministry was a "good idea" and it should "just fess up and say it is totally indefensible to use electric currents to deliberately cause pain using any equipment, including ECT equipment".[1562] A Ministry of Health briefing paper for the Prime Minister and Minister of Health the following day adopted an only slightly less blunt tone, saying it was "totally unacceptable" that apparently "ECT machines were sometimes used to administer electric shocks as punishment."[1563]

820. On 7 October 2001, Prime Minister Helen Clark issued a media release announcing Sir Rodney had completed his allocation work and the $6.5 million had been paid into the account of the claimants' lawyer for distribution. She and Minister of Health Annette King also issued a qualified apology to claimants, saying that "whatever the legal rights and wrongs of the matter", what had happened to those sent to the unit was "unacceptable".[1564]

821. On 11 October 2001, Crown Law learned The Evening Post newspaper was about to publish parts of the report. An earlier letter from Crown Law to the attorney-general noted that Sir Rodney's report was in "very damning terms" and further noted the report should be treated as confidential until the Crown had resolved any other Lake Alice claims.[1565] In other correspondence relating to the publication of the report, Crown Law stated it wanted to avoid prejudice to the settlement of other claims concerning Lake Alice that were yet to be determined. It was concerned knowledge of the details

of Sir Rodney's report might encourage embellishment or fabrication of claims.[1566] The following day, Crown Law applied to the High Court to prevent publication of the report on the basis it was confidential. In the end, the court allowed publication of those parts of the report that summarised claimants' evidence. It noted that much, if not all, of this information was already in the public domain.[1567] The court withheld the part of the report that set out Sir Rodney's allocation of the settlement funds.[1568] The Evening Post subsequently published two stories about the report on 13 October 2001.[1569]

822. Sir Rodney noted in his report that his inquiry was unusual in that he had been unable to interview staff to hear "their side of the story".[1570] We learned that Mr Denis Hesseltine, a nurse aide at Lake Alice, contacted Mr Liddell at Crown Law in July 2001 asking for a meeting with Sir Rodney to discuss the pay-outs to claimants. Mr Liddell's note of the call suggested another Lake Alice nurse, Mr Dempsey Corkran, also wanted to meet Sir Rodney.[1571] No meetings were held.

823. Sir Rodney, however, did have access to some of the medical records and nursing notes of former staff and said in his report that the medical records outlined at least some of the abuse at the unit.[1572] He said they provided independent corroboration of some of the survivors' claims.[1573] He said the medical notes on their own showed paraldehyde was used as punishment and that unmodified ECT was in constant use.[1574]

824. Mr David Collins QC (now a Court of Appeal judge), who later helped Sir Rodney in the second round of settlements, also commented on the significance of the medical records, along with survivors' accounts. He told us the records and accounts "contained revelations that were extremely distressing and contained accounts of abuses that I did not think could have happened in New Zealand".[1575]

825. Justice Collins also told us he considered Dr Leeks had engaged in criminal conduct, and that it was Sir Rodney's view that "Dr Leeks had probably committed criminal offences when carrying out his aversion therapy regime".[1576] He said both he and Sir Rodney contemplated going to NZ Police but felt bound by the confidentiality agreement signed with claimants and the promise both men made not to disclose claimants' details.[1577]

Ngā whakataunga tuarua – Second round of settlements

826. The Government had settled one round of claims, but more claims were to come. As we set out in He Purapura Ora, he Māra Tipu, a second round of settlements soon became necessary.[1578] The Crown appointed Mr Collins in 2002 to help survivors make their claims and to help Sir Rodney, who again had the task of determining settlement amounts.

827. Justice Collins told us that ensuring payments were comparable to those made in the first round was a crucial factor in the settlement process.[1579] The Crown

was aware second-round claimants would receive more cash in their hands than first-round claimants because of the fees Grant Cameron Associates had deducted from the $6.5 million payment. We discussed in He Purapura Ora, he Māra Tipu, how the Crown was concerned, based on anecdotal information, that Grant Cameron Associates had received too much money from the first settlement round and how this example in respect of historical abuse claims led Crown officials to mistrust lawyers and the survivors they represented.[1580]

828. Ms Una Jagose, the Solicitor-General and chief executive of Crown Law, told us the Crown, therefore, decided to reduce payments to second-round claimants by 30 percent to reflect the fact they would not incur the same legal costs as first-round claimants.[1581]

829. However, the agreement that second-round claimants signed with the Crown to take part in the process made no reference to any reduction,[1582] and Sir Rodney made no deduction when calculating the sums people should be entitled to. He said he assumed the Ministry of Health would do it.[1583]

830. As a result, Mr Paul Zentveld, one of the second-round claimants, was initially told in June 2002 that he would receive $114,912.[1584] However, when the Ministry of Health wrote to him about the settlement the following month, they had reduced that figure by 30 percent to $80,438.[1585] Mr Zentveld accepted this sum, but then took legal action to recover the deduction from his payment. In November 2002, Grant Cameron Associates filed proceedings in Wellington District Court on behalf of Mr Zentveld, seeking repayment of the $34,474 that had been deducted from the sum awarded by Sir Rodney.[1586]

831. The judge found that Mr Zentveld was entitled to be paid the full amount awarded by Sir Rodney. He found that Sir Rodney's original determinations, without deductions, were within the meaning of his agreement with the Crown.[1587] He also found that relying on the agreement between the Crown and Mr Zentveld would result in the Crown paying less than it was contractually obliged to pay under its agreement with Sir Rodney.[1588]

832. The Judge also noted that some issues would have been avoided if the Crown had not kept Sir Rodney's agreement confidential, such as by incorporating it in its agreement with claimants so claimants understood the procedure Sir Rodney would follow in making his decisions.[1589]

833. As a result of the judge's ruling, the Crown reimbursed all second-round claimants their 30 percent deduction.[1590] Ms Jagose told us she considered the whole deduction process was "done badly".[1591]

834. Between 2001 and January 2020, the Crown paid a total of $12.6 million in three settlement rounds to Lake Alice survivors: $6.5 million to 95 survivors in

the first round, $5.7 million to 90 survivors in the second round and $400,000 to survivors who presented claims after the second round closed.[1592]

Ngā ngoikoretanga i ngā hātepe whakaea nawe, hātepe whakataunga – Failings in litigation and settlement processes

835. As the above summary shows, and as we have reported, the legal process had many flaws.

- It was slow, made worse by inexcusable delays on the part of the Crown.[1593]
- The legal system placed many barriers in the way of survivors, which put them on the back foot.[1594]
- Crown lawyers exploited every legal advantage to try to defeat the claimants, with an adversarial mindset, despite the merits of the claims.[1595]
- Many officials and others in power had a resistant attitude to the claims, the claimants and their legal representatives.[1596]
- The Crown made arbitrary deductions from some settlements for costs.[1597]
- The settlements did not acknowledge physical and sexual abuse.
- The settlements were 'without prejudice' (that is, with no admission of wrongdoing).
- The process did not lead to criminal or professional disciplinary accountability.
- Human rights breaches and the State's obligation to carry out a prompt and impartial investigation into the allegations of torture were not recognised.
- No effort was made to engage with Māori survivors in a manner that recognised their culture and tikanga Māori.
- No effort was made to recognise Pacific peoples' culture and language.
- No effort was made to recognise the needs of disabled people.

836. We now develop some of these points, expanding on the account given in the redress report.

I tahuri ngā rōia a te Karauna ki te ara kakari - Crown lawyers adopted an adversarial mindset

837. Crown Law's initial response to the Lake Alice claims focused on legal technicalities and identifying options to defeat the claims, rather than assessing the merits of each claim or potential breaches of human rights. That is, at least in part, a product of the adversarial system. But in this case, the merits were particularly strong, many years were lost, and much damage was done before the Government ultimately came to the right decision to settle the claims.

The public of Aotearoa New Zealand would, we think, expect the Crown's legal advisers to take a broader view of their role. To identify meritorious claims early on and give the Government balanced advice about settlement options, especially in cases of serious abuse and breaches of human rights. We found no sign that the responsible lawyers at Crown Law approached the Lake Alice claims in that way.

838. Instead, in June 1995, the Crown and Dr Leeks applied to strike out Ms McInroe's claim,[1598] including on the basis of defences that could be described as technical.[1599] For example, the Crown relied on the Limitation Act defence, arguing that the claim was too late, rather than saying it lacked merit.[1600] The Crown also relied on a defence in the Mental Health Act 1969, which applied to acts done in good faith and with reasonable care.[1601] In arguing this, the Crown and Dr Leek's lawyer, Mr Knowsley were, in effect, declaring to the courts that Dr Leeks treated his patients in good faith and reasonably. If Dr Leeks could show he acted in this manner, the Crown would also avoid liability. The immunity under the Mental Health Act could also be used as a defence against criminal charges, so if Dr Leeks had succeeded in using the immunity in this civil case, a police criminal prosecution for the same acts would have been compromised.

839. The application to strike out Ms McInroe's claim was unsuccessful but the Crown's procedural applications and unjustified delays dragged the claims out for years. As we note in He Purapura Ora, he Māra Tipu, litigation has had a negative impact on survivors, including re-traumatisation.

Te utu ki ngā rōia i tū mā ngā purapura ora - Payment of legal fees to solicitors representing survivors

840. Mr Cameron told us he sought Crown funding for his clients' legal fees on 13 separate occasions during the first round of settlements. All were declined.[1602] Mr Cameron also considered the possibility of legal aid funding, but decided it was highly unlikely to be granted for the kind of work required for his Lake Alice clients.[1603] Mr Cameron told us he also offered to fund the initial investigations (capped at $80,000), conduct the settlement process (capped at $250,000) and work for legal aid rates. The Crown was made aware that if the funding requests were declined, the likely option to fund the claimants' legal fees was by way of contingency arrangement.

841. Grant Cameron Associates had reached agreement with the clients to pay a capped contribution to disbursements. The costs of the firm's time was covered by a contingency arrangement by which client costs were capped at a maximum of 40 percent of any payment agreed. Mr Cameron told us this was to ensure clients received a substantial portion of any settlement money.1604 Mr Cameron told us that the amount deducted from the settlement for legal costs was less than actual time incurred by

the firm over the previous five to six years. The firm wrote off the shortfall. Before invoices were sent to each client, Mr Colin Pigeon QC was asked for his opinion on whether the proposed fees complied with New Zealand Law Society rules. Mr Pigeon found they were reasonable and proper.

842. The Crown's refusal to pay legal costs placed the burden on claimants and their lawyers to fund their own investigation and greatly restricted the firm's ability to pursue the Crown for better settlement offers or to challenge those offers. The firm could not go on funding the negotiations itself forever and, in most cases, its clients could not afford to seek legal advice elsewhere.

843. Some survivors told us they were shocked at the amount they were eventually awarded and the fees deducted from that amount, but felt they had no choice but to accept the amount.[1605] Most first-round claimants told us they believed the Crown should have met the cost. They still felt aggrieved that the Crown had paid second-round claimants' legal fees but not theirs.[1606] The nearest the Crown has come to an acknowledgement of this inequity was at our hearing in June 2021 when Ms Jagose said that "although the Government attempted to achieve equity between the two rounds, this was poorly executed".[1607] We have recommended that the new redress body should be open to all survivors, including those who have been through previous redress processes.[1608]

I tepea ngā puretumu ki ngā utu ā-pūtea - Redress limited to financial payment

844. On 14 September 2001, during the first-round settlement process, Sir Rodney wrote to Crown Law seeking its agreement to provide counselling to claimants at the cost of the Crown.[1609] Grant Cameron Associates subsequently wrote to Crown Law asking for comment on how the Government intended to respond to Sir Rodney's recommendation. Mr Liddell replied on 26 November, saying the $6.5 million payment had "exhausted" the Crown's resources and Cabinet approval would be needed to fund any counselling. He advised Mr Cameron that he "should not necessarily assume that a positive response will be forthcoming from the Crown".[1610]

845. Mr Cameron told us he was "surprised" at this response because it seemed out of step with the Government's message that it was "determined to resolve the grievances of all people who may have suffered the unacceptable practices that went on at Lake Alice". He said "a true resolution of the grievances entailed rehabilitative treatment where necessary", and this was something Sir Rodney also had in mind.[1611]

846. Our redress report examined the Crown's failure to adequately consider non-financial forms of redress such as counselling and psychological care. Even the way survivors' claims were assessed revealed a lack of awareness

about the psychological damage caused by their time at the unit. This was something Justice Collins observed about his time with second-round claimants. He said neither he nor Sir Rodney "had any training in psychology or counselling" and he often wondered whether "the process of interviewing applicants may inadvertently have re-traumatised some of them". He said that were he to perform the same role today, he would have ensured "an appropriately qualified health professional was involved in the interviewing of applicants".[1612] In He Purapura Ora, he Māra Tipu, we said the puretumu torowhānui scheme should provide appropriate support services to survivors, including cultural supports, and ensure its own workforce has the proper skills.[1613] Appropriate cultural expertise would also be desirable.

847. Many survivors would have agreed with Justice Collins. One told us she was "willing to accept anything" after the trauma she re-lived during the first-round settlement process,[1614] while another said he felt angry the Government's response was "only about money to make us go away. There was no offer of rehabilitation to help our recovery".[1615]

I iti te reo o ngā kaikerēme – Limited voice for claimants

848. Claimants were given no opportunity to explain to a broader audience what happened to them at Lake Alice. Many felt the process was reduced to dollars and cents and their participation was confined to an interview or two. They had no avenue for expressing their strong feelings about how they had suffered – and continued to suffer – as a result of their time at the unit. Mr Peter Henaghan, speaking for many claimants, said it was not the justice he had hoped for.[1616] Mr Donald Ku said he had no opportunity to relate his experience, and he realised now how crucial that was to him.[1617] Mr JJ, said it was "very important to me that people hear what we went through", but such an opportunity never arose.[1618]

849. The Crown acknowledged to us that the settlement process lacked any mechanism for claimants to make their experiences known to the wider community. However, it said this inquiry provided a means for survivors to "be properly heard at last".[1619]

Kāore i uru ki ngā whakataunga o ngā tūkino ā-tinana me te taitōkai – Settlement excluded physical and sexual abuse

850. From an early stage it was clear that some of the claimants had raised allegations of sexual abuse in Department of Social Welfare custody. As the claims progressed, some claimants also made allegations of sexual and physical abuse at Lake Alice. However, the settlements in 2001 were confined to improper medical treatment only and excluded compensation for sexual and physical abuse.[1620]

851. One consequence of taking this restricted approach was that many of the same survivors were forced to pursue subsequent claims through other agencies, including the Ministries of Social Development and Education, for physical, sexual and other forms of abuse. This was needlessly traumatic for survivors, as well as costly and inefficient for the Crown. A second consequence was that the Crown missed opportunities to investigate physical and sexual abuse while perpetrators were still alive and memories were still fresh. The most notable example was prolific sex offender Mr John Drake, who was accused of indecent assault and sexual violation of children and young people at numerous Department of Social Welfare residences and Department of Education–run institutions, including Holdsworth School where he was acting principal. In 2001, at least four former Lake Alice patients had come forward with such allegations, and by the time he died in 2011, the number of boys alleging Mr Drake abused them had grown to seven. By the end of 2020, the number had reached 18.[1621] Mr Drake was never held accountable.

852. As late as 2013, Crown Law, on behalf of the Ministry of Social Development, was asserting that the medical treatment administered at the unit was "accepted practice at the time",[1622] and, in 2017, there was "no evidence that ECT was used as punishment and that further investigation or action … was required".[1623] Such statements are difficult to reconcile with the Prime Minister's acknowledgement in her apology in 2001 that what happened at the unit was "unacceptable by any standard, in particular the inappropriate use of electric shocks and injection".[1624]

853. In recent years, the Ministry of Social Development has investigated allegations of various kinds in response to complaints by survivors, although it has never initiated investigations of all those sent to the unit. It found a variety of practice failings, including parents not being told about their tamariki being placed at Lake Alice,[1625] no action on complaints about electric shocks,[1626] allegedly not following proper admission procedures[1627] and not monitoring the education of the children and young people placed at the unit.[1628] To our knowledge the ministry did not consider or address the lack of access to language, whānau and culture.

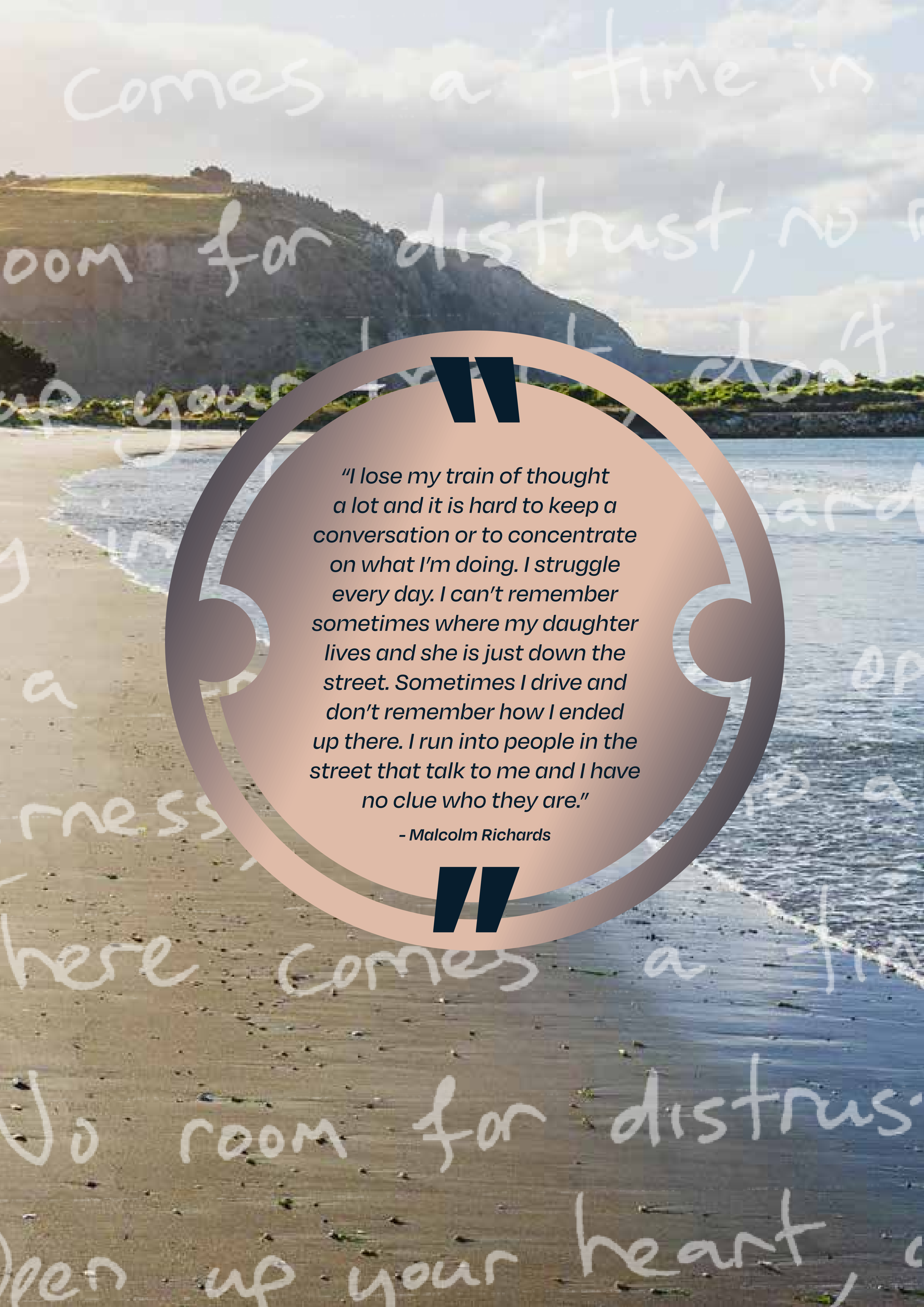
854. In October 2008, staff from the ministry interviewed Mr Don Brown, the educational psychologist who raised concerns about the misuse of ECT in 1974. Mr Brown told them the unit's use of "electrodes placed on the genitals and on the legs" put an end to any referrals to Lake Alice.[1629] We could not find any evidence that the ministry shared this information with NZ Police.

Te korenga o te haepapatanga – Lack of accountability

855. The civil settlement process that survivors pursued did not in itself lead to any meaningful accountability for Dr Leeks, other staff or any of the relevant institutions. To some extent that is an inherent feature of the approach adopted. The strongest form of accountability comes from the criminal law and/or professional discipline regimes. Civil claims, at best provide a more indirect form of accountability.

856. The decision whether to make a complaint to NZ Police or disciplinary body should ordinarily be one for the survivor concerned. In this case, however, there were opportunities for Crown agencies to take steps that may have led to accountability. For example, in 1997, the Ministry of Health told their Minister he had options to establish further investigations or inquiries, which in turn might lead to referrals to NZ Police or complaints to medical authorities.[1630]

857. Despite the overall lack of accountability, the Lake Alice group achieved greater success in pursuing redress than any other survivor group to date, as we have noted above. This can be put down to several factors. Primarily it was the result of the determination and patience of the survivors themselves, their legal representatives and supporters who were willing to challenge the legal and medical establishment despite the many hurdles. In the case of the legal representatives, it required lawyers willing to take on and persevere with difficult cases without any guarantee of payment or success. The claims were supported by evidence from the survivors, together with supporting evidence from the medical files and independent experts. The claimants also made up a critical mass of survivors who had been through the unit and their experiences were collected and presented together. Many survivors were able to articulate what had happened in the unit and provided evidence that they had not suffered from a mental health condition, which may have increased their perceived credibility. Ultimately, it required intervention from the highest levels of government (indeed as high as the Prime Minister) directing Crown agencies to resolve the legal claims despite the objections of Crown lawyers and officials. Survivors making claims of abuse related to other institutions, particularly health institutions, have faced additional barriers.


"I lose my train of thought a lot and it is hard to keep a conversation or to concentrate on what I'm doing. I struggle every day. I can't remember sometimes where my daughter lives and she is just down the street. Sometimes I drive and don't remember how I ended up there. I run into people in the street that talk to me and I have no clue who they are."
- Malcolm Richards

2.4.7 Ngā tōpūtanga nō waho, tuku whiu anō hoki nō ngā tau 1990 – External and disciplinary bodies from the 1990s

Medical Practitioners Disciplinary Committee: Te amuamu a tētahi purapura ora – Complaint by a survivor

858. In April 1991 a survivor, Mr Carl Perkins, made a complaint to the Medical Practitioners Disciplinary Committee that Dr Leeks gave him and other boys ECT as punishment while at the unit in 1973.[1631] The Medical Practitioners Disciplinary Committee, at that time, was administratively supported by the Medical Association.[1632]

859. Mr Perkins said because a staff member considered he had acted out "the officers ... put me in a wheel-chair and told me that I was in for big trouble".[1633] He described being wheeled to another building and receiving unmodified ECT.

> *"[Dr Leeks] kept telling me I'd be a better person. Then they covered my eyes and my mouth with sticky tape. I couldn't even move. I was then given two lots of ECT. The pain was unbearable, and my body went stiff with the second shot of ECT. I must have passed out as I don't remember anything else."*[1634]

860. When he woke up the nurses told him he had been asleep for eight days.[1635] He noted ongoing impacts to his physical health from the treatment, asked for an investigation into whether he was given deep sleep narcosis, and asked for Dr Leeks to be held accountable for his actions.[1636]

861. After considering the complaint, the chair of the Medical Practitioners Disciplinary Committee considered there were no grounds for an enquiry into Dr Leeks' conduct.[1637] The letter did not explain the reasons for this decision. We have not been able to review any further documentation about this complaint.

862. The former deputy secretary to the Medical Practitioners Disciplinary Committee, Ms Gay Fraser, told us that when the Medical Practitioners Disciplinary Committee ceased to exist in 1996, the Medical Council took over responsibility for its files.[1638] In 1997, at the request of the secretary of the Medical Council, records of complaints that did not proceed to hearing were destroyed.[1639] Ms Fraser retained index books from her time on the Medical Practitioners Disciplinary Committee and said the survivor's complaint was found not to be sufficiently substantial and never went to a hearing, which meant the file was destroyed.[1640]

Te Kaunihera Rata o Aotearoa: He amuamu a tētahi purapura ora – Medical Council of New Zealand: Complaint by a survivor

863. In January 1999, another survivor made a complaint to the Medical Council about Dr Leeks.[1641] It was accompanied by a video tape of a 1997 documentary about Dr Leeks and the unit, titled The Children of Lake Alice.[1642]

864. The Medical Council convened a Complaints Assessment Committee to investigate this complaint under the Medical Practitioners Act 1995.[1643] The Complaints Assessment Committee members were nominated by the council but could not be members of the council or tribunal.[1644]

865. At the time, the survivor was one of the 95 first-round claimants represented by Grant Cameron Associates and the firm gave the Complaints Assessment Committee copies of the survivor's witness statement and medical records.[1645] Grant Cameron Associates expressed concern about the timing of the disciplinary action and asked the committee to delay action while it discussed matters with the survivor.[1646] The Complaints Assessment Committee was later told by Grant Cameron Associates that the survivor might wish to seek independent legal advice in relation to the complaint, and their impression was that the firm effectively distanced itself from the committee's processes.[1647] The Complaints Assessment Committee wrote to the survivor's email and physical addresses to ask whether he wanted to proceed with the process,[1648] but heard nothing back.[1649]

866. Mr Knowsley contacted the Complaints Assessment Committee on behalf of Dr Leeks and took issue with "propriety of pursuing the investigation".[1650] He noted there had been a commission of inquiry, an Ombudsman's investigation, complaints to NZ Police and at least one complaint to the Medical Council that considered allegations about the treatments at the unit during Dr Leeks tenure.[1651] The Complaints Assessment Committee considered there was a potential for harassment in being subjected to successive re-examinations of essentially the same issues.[1652] In January 2000, the Complaints Assessment Committee decided to end its investigation, giving as its reasons that:

- more than 20 years had passed since the alleged abuse, during which Dr Leeks had not practised in New Zealand, and the committee considered he was unlikely to do so
- various bodies had considered similar allegations nearer to the time of the allegations including a commission of inquiry, the Ombudsman, the Medical Council and NZ Police
- insofar as the complaint could be limited to the survivor's treatment, it had not been formulated or articulated, and the survivor had also dropped from

communication, which the committee considered meant he opted out of the process

- High Court action under way at the time against Dr Leeks would provide an avenue for redress, thoroughly examine anything missed to date, and if anything did emerge, it would "doubtless be brought to the Medical Council's attention".[1653]

867. This demonstrates that the shortcomings of the investigations by the Magistrate, NZ Police and the Medical Council in the 1970s continued to have negative consequences for survivors into the 2000s.

868. Amid the publicity about a possible Crown settlement with claimants, the Medical Council wrote in July 2001 to Crown Law asking for any information relating to the settlement that it could lawfully disclose.[1654] Crown Law responded three months later, merely enclosing a copy of Sir Rodney's report,[1655] which the council forwarded to the Medical Practitioners Board of Victoria with the comment that the report seemed of no use in pursuing any complaints.[1656]

869. At the time, the Medical Council had no power to investigate professional misconduct without having first received a complaint.[1657]

Royal Australian and New Zealand College of Psychiatrists

870. In early 1999, media publicity about Dr Leeks and the unit attracted the attention of the Royal Australian and New Zealand College of Psychiatrists. The college's Professional Conduct Committee was asked to consider whether it should initiate a disciplinary process.[1658] In June 1999, Dr Broadbent wrote to Dr Leeks, inviting Dr Leeks to comment on the allegations about his conduct at Lake Alice.[1659] In August 1999, Dr Leeks responded to Dr Broadbent, providing his response, which was provided to the Professional Conduct Committee.[1660]

871. While the college had the power to censure, suspend and expel members, it had no powers to investigate or require the production of information or evidence in relation to misconduct of psychiatrists.[1661] As a result, it typically relied on factual findings of regulatory bodies such as the Medical Council of New Zealand or the courts to establish facts for the purposes of considering action in relation to a person's college membership.[1662]

872. Associate Professor Wayne Miles, the president of the college from 2001 to 2003, said the difficulty for the college was that "all the reports of the practices at Lake Alice Hospital would suggest gross malpractice, but we could not obtain from any of the possible sources clear, factual evidence of that malpractice".[1663] He told us the organisation was so concerned about Dr Leeks that it took the "unusual step" of requesting information from the Crown.[1664]

873. The college's executive director, Mr Craig Patterson made renewed efforts to highlight to various regulatory bodies, as well as to the Government, the college's inability to institute disciplinary proceedings without an appropriate body having first made factual findings. On 16 October 2001, Mr Patterson wrote to the Minister of Health, Annette King, asking the Government and Ministry of Health to provide any information relating to Dr Leeks' clinical practice at Lake Alice.[1665] He said the college had previously sought information from the Medical Practitioners Board of Victoria and from the New Zealand Medical Council, High Court and Ministry of Health.[1666] However, no determinations of fact regarding Dr Leeks' role in the allegations had been provided or were publicly available.[1667] He said statements made by Sir Rodney Gallen indicated factual findings had been made and the college needed this information so it could terminate Dr Leeks' membership, and thus his capacity to practise as a psychiatrist, if the allegations were correct.[1668] Mr Patterson added that as long as this "inaction continues and Dr Leeks' position remains unexamined", confidence in psychiatry would be "eroded".[1669] He added that "this situation cannot be allowed to continue".[1670]

874. An internal Ministry of Health email said the college had specifically requested evidence filed by Ms McInroe and another survivor.[1671] This would have included the highly critical opinion by Dr Werry, described above. On 17 October 2001, Mr Arnold met Mr Liddell and another Crown Law lawyer, and one topic discussed was how to respond to the college's requests for information. A note from the meeting said the "Crown should probably only provide information in so far as it is required to by the law".[1672]

875. On 24 October 2001, the Ministry of Health's chief legal advisor, Mr Grant Adam, replied to Mr Patterson enclosing only a copy of the part of Sir Rodney's report that had been made public.[1673] He also said the report had come about in unusual circumstances and it was "not a judicial determination" but rather Sir Rodney's "recording of the claimants' own oral and documentary evidence without other input" such as evidence from staff.[1674] He said the purpose of Sir Rodney's involvement was to decide allocation, not to establish facts or attribute fault to any individuals.[1675]

876. Mr Patterson also wrote to the Medical Council of New Zealand urging it to investigate Dr Leeks' clinical practice, so the college could, in turn, act if the allegations were proven by terminating his membership.[1676] The college also issued a media release calling on the Medical Practitioners Board of Victoria to urgently investigate the allegations against Dr Leeks. It demanded statutory bodies with the necessary powers in both countries look "aggressively and unequivocally" into his alleged practices, which could "only be described as severe child abuse and torture".[1677]

877. In December 2001, the college issued a media release urging survivors to lodge complaints with the Medical Council of New Zealand or the Medical Practitioners Board of Victoria, which it considered the only way to see "justice served".[1678]

878. The Medical Practitioners Board of Victoria opened an investigation into Dr Leeks in June 2002, but, as we discuss below, it did not proceed with a hearing. Dr Leeks' membership with the college remained in place[1679] until his death in early 2022.

Te Kaporeihana Āwhina Hunga Whara: Te pīra McInroe – Accident Compensation Corporation: – McInroe appeal

879. In November 1994, Ms McInroe appealed against the Accident Compensation Corporation's (ACC's) rejection of her claim for cover because of medical misadventure while at Lake Alice, and she provided supporting opinions from two psychiatrists, Dr McGeorge and Dr Armstrong. ACC had denied the claim in August 1993, saying her treatment was appropriate and appropriately given, and there was "no evidence of medical error or negligence".[1680] In January 1996, the review officer found Ms McInroe was entitled to cover for personal injury caused by medical misadventure.[1681] The finding of medical misadventure triggered a statutory obligation on ACC to refer the finding to the Medical Council of New Zealand for investigation.[1682] Crown Law lawyer Mr Ian Carter was aware of this obligation on ACC because he made a file note that, in the event of a medical misadventure finding, "ACC automatically refers it to Medical Disciplinary Tribunals".[1683]

880. However, the council said it never received a section 5(10) referral about Ms McInroe's case,[1684] and ACC told us it had no record of having referred the finding to the council or any other investigative agency. When asked why it had not made a referral, ACC said it was probably because a review officer, not the corporation itself, had made the finding of medical misadventure.[1685]

881. ACC's failure to make a referral was a serious oversight. Review findings are binding on ACC.[1686] It did not appeal against the decision to provide cover and it was obliged to make a section 5(10) referral.

Medical Practitioners Board of Victoria

882. Around early 1999, some survivors involved in litigation against the Crown through Grant Cameron Associates independently complained to the Medical Practitioners Board of Victoria about Dr Leeks.[1687] The board hesitated to investigate because of doubts about whether its jurisdiction extended to the conduct of doctors in other countries before they had registered in Australia.[1688] However, the board reconsidered its position after the Crown completed the first round of settlements with Lake Alice claimants,[1689] and in 2002 the board

opened an investigation into a complaint against Dr Leeks, following a formal complaint made by Grant Cameron Associates on behalf of 47 claimants.[1690]

883. After four years of investigation,[1691] the board wrote to Dr Leeks on 26 June 2006 notifying him that it would hold a hearing on 19 July 2006 to examine whether to find him "guilty of infamous conduct in a professional respect".[1692] Two days before the hearing, Dr Leeks wrote to the board saying he undertook to retire from all forms of medical practice in Victoria or anywhere else in order to "[avoid] a costly formal hearing". He did not admit to any of the allegations raised in the complaint.[1693] The board cancelled the hearing and wrote to Grant Cameron Associates explaining that its prime role was to protect the community, which was assured now that Dr Leeks had undertaken not to practise again.[1694]

Manaakitia a Tātou Tamariki – Children's Commissioner

884. The civil settlement and release of the Gallen report in late 2001 prompted Children's Commissioner Roger McClay to act too. On 17 October 2001, Mr McClay wrote to the Minister of Health asking for officials to check the whereabouts of former Lake Alice staff to ensure none was "currently working with children".[1695] The minister replied that it would not be possible for officials to do a check on former Lake Alice staff. The minister also advised that such an inquiry by the Ministry of Health would not be warranted or appropriate, stating that it would be unjust and inappropriate to act in any way that assumed the guilt of former staff.[1696] However, she invited Mr McClay to meet Ministry of Health officials to discuss the issues he had raised.

885. According to a Crown Law file note of the meeting on 28 January 2002, officials told Mr McClay the government had investigated the allegations including interviewing staff members, and that on the basis of its investigations the government had decided it was not "appropriate to conduct a further investigation of the former staff".[1697] The file note states Mr McLay was told that "the information obtained by the Crown was obtained in confidence, for the purposes of the litigation" and that "the Government(sic) is not free to release the information". The file note also states that claimants had been compensated for their "experiences" rather than on the basis of "wrongs", and that it was "very hard to work out what went on at Lake Alice".[1698] As for Dr Leeks, the officials told Mr McClay the Crown's position on taking legal action against him might have been different if he still lived in New Zealand, but he did not.[1699] They also referred to the possibility of investigations of Dr Leeks by the Medical Council and the Royal Australia and New Zealand College of Psychiatrists, as well as the potential for a private prosecution.[1700] Mr McLay took no further action on the subject after this meeting.

886. We gave the Office of the Children's Commissioner a selection of documents in the Crown's possession before the 2002 meeting summarising the evidence it had collected and the conclusions it had reached about survivors' allegations. After reviewing the material, the Office of the Children's Commissioner told us it considered there were indications the Crown officials had withheld important information from Mr McLay.[1701]

Te Toihau Hauora, Hauātanga – Health and Disability Commissioner

887. Several survivors, or survivor advocates, made complaints to the Health and Disability Commissioner about Dr Leeks and their treatment at the unit, but the Commissioner did not act on any of the complaints. One was made before 2004, so was not investigated because the office at that time had no jurisdiction to investigate complaints about matters that took place before its establishment in 1996.[1702] An amendment in 2004 to the Health and Disability Commissioner Act 1994 allowed investigations into complaints about certain matters before 1996.[1703] However, despite this, the commission decided not to investigate any of the complaints made after 2004 because too much time had elapsed since the events that were the subject of the complaints.[1704]

888. One of those complaints was made by Mr Kevin Banks. In November 2005, Mr Banks complained that Dr Leeks had forced him and other boys to administer electric shocks to another boy (the incident with Mr CC, described above), which had affected him "gravely".[1705] He said Dr Leeks' conduct had also affected more than 300 other New Zealanders, and he expressed concern that Dr Leeks was still practising psychiatry.[1706] Mr Banks included a lengthy statement prepared by Grant Cameron Associates, his medical notes and a transcript of a taped discussion with Dr Leeks in 2001 in which Dr Leeks admitted allowing Mr Banks and other boys to administer shocks to Mr CC.

889. Less than a month later, Health and Disability Commissioner, Ron Paterson, wrote back saying he had decided to "not take any specific action on your concerns".[1707] Mr Paterson explained that similar inquiries had previously been conducted, such as those by Sir Rodney Gallen, and he considered little could be gained by conducting another investigation. He suggested Mr Banks could either take court action or contact the Confidential Forum, a forum set up for former psychiatric patients who suffered abuse in hospital before 1992, which had no investigative powers.

890. The Health and Disability Commissioner's decision was made on the advice of the internal complaints team. Mr Paterson does not appear to have taken a substantive role in formulating the decision, although he signed out the letter advising Mr Banks of the decision. An unfortunate aspect is that there

was at least the potential for a perceived conflict of interest that does not appear to have been disclosed. Before his appointment as Health and Disability Commissioner, Mr Paterson had held senior positions in the Ministry of Health and was involved in responding to the class action by Grant Cameron Associates, of which Mr Banks was a part. He was employed as manager of mental health services,[1708] then deputy director-general of its safety and regulation branch between 1999 and 2000.[1709] In 1997, he helped brief Minister of Health, Bill English, on how to respond to Lake Alice abuse claims, one of which was Mr Banks' claim.[1710] One of those briefings, dated 15 October 1997, attached a draft Cabinet paper seeking Cabinet approval for an Ombudsman investigation into allegations made by a group of former patients at the adolescent unit at Lake Alice and noted that the purpose of the paper was to "provide advice on how to minimise the legal and fiscal risks posed to the Crown arising out of the alleged mistreatment of patients at the [unit] by employees of the Department of Health and Palmerston North Hospital Board".[1711]

891. In February 1998, Mr Cameron prepared a chronology of his interactions with the ministry while representing Mr Banks and a large group of other claimants, and this document showed Mr Paterson was a recipient of four letters from Mr Cameron. It also showed Mr Paterson participated in four meetings about the case put forward by the claimants, including Mr Banks.[1712]

892. The office should have notified Mr Banks of Mr Paterson's previous involvement, so Mr Banks could consider asking Mr Paterson to recuse himself from decision-making. There was a potential for a perceived conflict of interest,[1713] even though the letter complied with the Health and Disability Commissioner's process for triage, legal advice and drafting of a 'no further action' letter on a complaint.

"At Lake Alice, however, I would be loath to give a D because I was aware of the dire consequences for the children. I was told upon being given the book that if a child had a small number of D ranks in a row, they would get electric shock treatment, without anaesthetic.
It was appalling."
- Anna Natusch

2.4.8 Ētahi anō tūhuratanga a Ngā Pirihimana o Aotearoa – Further NZ Police investigations

893. After the 1977 investigation, NZ Police conducted a series of investigations that can be divided into three phases. The first phase stretched over a three-year period from 2003 to 2006. The second was, in effect, a continuation of the first, but led by a new officer, and lasted four years, from 2006 to 2010. The third began in November 2018 with a single complainant before widening to two complainants and eventually extending to every Lake Alice survivor who had made a complaint to NZ Police. It ended three years later in December 2021.

Tūhuratanga tuarua: 2003 ki 2006 – Second investigation: 2003 to 2006

894. On 7 March 2002, with the second round of Crown settlements complete, Grant Cameron Associates, with the claimants' consent to do so, submitted to NZ Police the statements, medical files and nursing notes of 34 claimants, along with corroborating evidence from other witnesses, and asked NZ Police to investigate the allegations of criminal conduct contained in this material.[1714] Superintendent Graham Emery reviewed the material and concluded the complaints had "substance" and needed to be "thoroughly investigate[d]", noting that "in many cases ECT was for behavioural problems, not as treatment but rather for punishment purposes".[1715] Mr Emery considered NZ Police should, for "public interest reasons", investigate the various complaints made by ex-patients of Lake Alice.[1716]

895. It was not until 15 months after receipt of the documentation from Grant Cameron Associates that an investigation began. On 12 June 2003, Detective Superintendent Larry Reid, based at NZ Police national headquarters in Wellington, was assigned the investigation file. Deputy Commissioner Stephen Long attached a hand-written direction to seek an opinion from Crown Law.[1717]

896. The second investigation proceeded without reference to the 1977 investigation. Mr Reid was not aware of the previous file, and the 2003 investigation was not given priority.[1718] While responsible for the investigation, Mr Reid led other investigations and allocated resources to major inquiries. He also relieved for a period as national crime manager.[1719] He told us it was a very busy role, he had many other matters that needed to be dealt with and the Lake Alice investigation was handled on an "as available basis".[1720]

897. The first step he took was to seek an opinion from Ms Nicola Crutchley, Deputy Solicitor-General, at Crown Law in June 2003. However, it was evident from the outset Mr Reid did not consider an investigation was warranted and he

conveyed this to Ms Crutchley.[1721] He passed on to her documentation relating only to Mr Halo's complaint. He explained to another of the complainants that Mr Halo's case "capture[d] the intent and general allegations of other complaints".[1722] However, this was not accurate. Mr Halo complained he had been given electric shocks to his head, whereas others complained of electric shocks to other parts of the body, and many also complained of serious sexual and physical abuse. By submitting a single complaint, he also failed to reveal the systemic nature of the alleged abuse, a criticism subsequently levelled by the United Nations Committee against Torture.[1723]

898. Crown Law's opinion did not arrive until April 2004, almost 10 months later. Mr Reid was waiting for Crown Law advice and took no investigative steps in the interim. Ms Crutchley's opinion was unambiguous. There was insufficient evidence at present to justify laying criminal charges, but NZ Police should investigate further given the nature of the allegations. She said she had little doubt that if claimants had received ECT (or more accurately electric shocks) as punishment, this would be "reprehensible conduct, and quite likely, criminal behaviour on the part of those responsible".[1724] Ms Crutchley advised NZ Police to conduct further inquiries to ascertain whether there should be a detailed investigation. She suggested a number of enquiries to be undertaken. None of these was done until 2006.[1725]

899. In September 2004, Inspector Jim Taare was instructed to look into Mr Halo's complaint. He prepared an 11-step investigation plan, interviewed Mr Halo and a former school teacher, Ms Anna Natusch. In Mr Taare's report, he concluded sufficient evidence existed to start a criminal investigation and considered Ms Natusch to be a credible and reliable witness.[1726]

900. We do not know whether NZ Police took any notice of Mr Taare's report during their investigation as his report, like many other documents relating to this investigation, has gone missing. No file was entered into the central database in operation at the time, so several file documents were not saved and can no longer be found.[1727] Poor file management practices extended to the loss of statements and supporting evidence provided by 14 of the 34 complainants.[1728] NZ Police acknowledged to us it is "unknown whether any investigative steps were taken in respect of these complaints, but it appears unlikely".[1729] One statement from a survivor who alleged Dr Leeks had raped her was lost.

901. Mr Reid undertook no investigative work until early 2005 when he incorrectly recorded in a weekly report, dated 18 March 2005, that Crown Law had advised him against investigating the misuse of the ECT machine and paraldehyde any further.[1730] He wrote that "these former patients are also alleging that ECT and a drug called paraldehyde was used inappropriately at Lake Alice however [the Crown Law] opinion provided to me really

dismisses this issue from criminal investigation".[1731] Mr Reid's incorrect interpretation of Crown Law's advice led him to consider the only allegations remaining to investigate were those involving sexual and physical abuse.

902. Following from this, Mr Reid drew up a schedule of the survivor statements, based on the 20 remaining statements held, that alleged physical or sexual abuse. He described the allegations in each statement and listed the alleged offenders, if identified. Six men were named. His descriptions of the allegations did not reflect the serious nature of the sexual offending in particular. In respect of one survivor, for example, he simply recorded "sexual assault".[1732] In fact, the survivor's statement contained detailed descriptions of sexual violation by unlawful sexual connection, both oral and anal, on numerous occasions by two offenders.

903. Rather than interview complainants to get a full account of their allegations and identify potential lines of inquiry, witnesses to speak to, and the availability of corroborative evidence, Mr Reid made only cursory inquiries about the location of former staff. He took no further steps to speak to them. He did not contact or interview any of the complainants, he did not identify or interview other witnesses, he did not seek out hospital files or records, and he did not locate or interview suspects. NZ Police conceded to us in 2021 that, from 2002 to 2006, they did not actively progress any of the complaints.[1733]

904. The disinclination of NZ Police to investigate the allegations was particularly evident in the case of Ms Sharyn Collis, who alleged Dr Leeks raped her while she was at the unit. Records show her lawyer wrote to NZ Police twice to try to initiate action on her complaint – a complaint Ms Crutchley had specifically mentioned in her opinion to NZ Police. Ms Collis' lawyer, Mr Steve Winter, wrote first in October 2004 and again 10 days later. NZ Police eventually replied in February 2005 saying they had no record of her complaint but could interview her, although they never did.[1734]

905. Perhaps the clearest evidence of NZ Police inaction can be found in a weekly report Mr Reid wrote in March 2005, in which he said, "it is my strong view that none of the complaint/allegations I have without a direct and unequivocal confession from the suspect (where one can be identified) would reach evidential standard to even consider a prosecution."[1735] Mr Reid told us:

> *"I have been involved in many criminal prosecutions. Without corroborative evidence, the focus inevitably shifts to the credibility of the complainant. The troubled lives of the complainants led to their attention at Lake Alice, many of whom unfortunately went on to have criminal convictions and the like. In my view, it would have been*

unfair and improper to the complainants to put them in that situation without strong supporting corroborative evidence."[1736]

906. Mr Reid, however, made these observations about the credibility of dozens of complainants' without having first conducted an interview or taken any steps to investigate their complaints in any substantive way.

Tūhuratanga tuatoru: 2006 ki 2010 - Third investigation: 2006 to 2010

907. Detective Superintendent Malcolm Burgess inherited the NZ Police investigation in April 2006 from Mr Reid. One of his first actions was to prepare a comprehensive investigation plan that had five objectives. These objectives were to:

- investigate the allegations by 35 complainants subjected to "unlawful" ECT at the unit between 1972 and 1977[1737]
- investigate specific allegations of sexual assaults and other violations by named suspects during this time
- determine whether there was enough evidence to press criminal charges
- follow best-practice guidelines
- ensure the investigation team met all its legal obligations.[1738]

908. The plan detailed the tasks that would be necessary to meet the objectives. It also said a full inquiry team would be needed to complete these tasks, namely, a detective sergeant, four investigators and an analyst.

909. Mr Burgess submitted the plan to Assistant Commissioner Peter Marshall on 22 June 2006 for approval.[1739] It was not approved. After discussions with Mr Marshall, he and Detective Superintendent Nick Perry decided the plan would demand too many resources and that Mr Burgess would have to conduct the inquiry on an ad-hoc, part-time basis, drawing on a small handful of officers as and when he could fit this work around his other duties.[1740] Mr Burgess and Mr Perry decided to focus the inquiry's scope on Dr Leeks and the misuse of the ECT machine. This meant allegations against others who had worked at the unit and allegations of sexual and physical abuse, as well as the punitive use of paraldehyde, whether by nurses or Dr Leeks, were not properly investigated.[1741] This decision was made despite Mr Burgess and Mr Perry being aware of allegations of "significant sexual offending"[1742] and that staff members were probably also parties to offences of wilful ill-treatment of a child.[1743] Mr Marshall endorsed this narrowed approach.[1744] As a result of failing to receive approval for his comprehensive investigation plan, Mr Burgess could only continue the same under-resourced, low-priority approach his predecessor had adopted.

910. Detective Superintendent Tom Fitzgerald told us NZ Police did not "accord sufficient priority and resources to the investigation".[1745] However, he did not explain why a low priority was given to a case involving serious allegations by a large number of complainants about so many suspects. NZ Police could not explain to us why they did not designate the investigation a "specialist investigation", which would have resulted in the allocation of specialised investigating officers and greater resources. NZ Police told us they accepted they should have given it such a designation.[1746]

911. NZ Police apologised that "not all allegations were thoroughly investigated".[1747] However, it does not appear any allegations were properly investigated. The handful of interviews NZ Police carried out with former staff were general in nature, they did not gather highly relevant and corroborative hospital and social welfare files, and they excluded from their investigation serious allegations of offending by other staff. NZ Police apologised for their failure to investigate paraldehyde, but made no mention of their failure to investigate any allegations of sexual offending.[1748] The NZ Police apology failed to reflect the full gravity of the investigation failures, which we now examine in more detail.

Te ngoikoretanga ki te whakapā atu me te uiui i ngā kaiamuamu – Failure to contact and interview complainants

912. One of the NZ Police policies in place at the time governed investigations of sexual assaults. It said, "consultation with the victim is a priority throughout the investigation process, and decisions must be made in consultation with the victim and the [investigation's adult sexual assault co-ordinator]".[1749] Mr Burgess accepted complainants were not interviewed.[1750] Officers were required to make initial contact with complainants and confirm their willingness to take part in the investigation. He said NZ Police did not contact complainants out of concern they might not welcome an approach after such a long delay between submitting their statement and hearing from NZ Police.[1751] They maintained this belief despite two complainants expressly asking NZ Police to investigate their complaints. During the next four years, NZ Police spoke to only one complainant, and only after he had initiated contact. They failed to interview any other complainants and they failed to even advise them they were looking into their complaints. Nor did NZ Police check whether complainants had access to wellbeing support services.

913. NZ Police conducted the investigation on the basis of statements prepared for civil litigation, not criminal prosecutions, which require a higher evidential standard. More fundamentally, their failure to interview complainants meant they lost the opportunity to gather further information to initiate other lines of inquiry. The process by which NZ Police determined

whether they had enough evidence to prosecute was deeply flawed and led to the irretrievable loss of some corroborative evidence.

Te ngoikoretanga ki te tūhura i ngā hara ā-taitōkai - Failure to investigate sexual offending

914. The statements in the police file when Mr Burgess took over the investigation contained, as he conceded, "multiple allegations ... of some pretty horrific sexual matters".[1752] Among the alleged offences were sexual violation by rape, sexual violation by unlawful sexual connection (anal and oral), indecent assaults and electric shocks to the genitals and breasts. The complainants were aged 10 to 16 at the time.

915. One of the complainants was Ms Collis, whose lawyer had tried to have Mr Reid investigate her allegation that Dr Leeks raped her. Mr Burgess told the inquiry he had examined Ms Collis' statement and while he accepted that Ms Collis believed she had been raped he considered there were evidential difficulties' with proving her allegation. He took no further action concerning her complaint. It was not until 2018, 16 years after receiving her statement, that NZ Police interviewed her.

916. In 2008, a former detective sergeant, Mr Dave Pizzini, conducted an independent review of the investigation file and found 11 possible steps NZ Police had failed to take.[1753] When we asked Mr Burgess to comment on this finding, he said the passage of time had "significantly limited" many of these 11 potential lines of inquiry.[1754]

917. We asked Mr Burgess to explain why he failed to investigate any of the allegations, and he told us:

> *"Some were so vague that the details of the offending and the alleged offender could not be established. In two cases, the staff member was dead, [and] in one case the complainant was dead. Some allegations were not sufficiently credible to pursue, given conflicting evidence from the medical notes and no other corroborating evidence."*[1755]

918. He conceded, however, that NZ Police could have addressed any lack of detail in the statements by interviewing the complainants[1756] and that it was inherently difficult to assess the adequacy of evidence to support a criminal charge without following this standard procedure.[1757] In short, NZ Police were in no position to assess the adequacy or credibility of evidence without having taken that most basic of investigative steps – interviewing complainants, let alone taking any other rudimentary steps in an inquiry.

Kāore a Ngā Pirihimana o Aotearoa i tūhura i te whakatuakitanga o ngā kaimahi – NZ Police failed to investigate staff culpability

919. The decision to focus solely on Dr Leeks meant NZ Police did not investigate the role of other staff in administering electric shocks and paraldehyde as punishment or the allegations against staff of physical or sexual assaults. Interviewing officers were instructed to speak to former staff in a general way about the unit and to invite them to comment on a list of complainants and "any psychotic condition [they] may have displayed during their stay". Mr Burgess explained that the intention was not to interview staff members in detail "at this stage" about any specific allegations made against them by complainants.[1758]

920. We can only speculate about how many lines of inquiry might have opened up if NZ Police had carried out proper interviews with staff, but we have no doubt the tentative and undemanding nature of the questions officers put to staff members diminished the quality and quantity of evidence available to senior officers in deciding whether to investigate further or prosecute.

Ngā ngoikoretanga i te ripoata i tukuna kia kupu ā-ture - Flaws in report submitted for legal opinion

921. By September 2009, the investigation was coming to an end, and Mr Burgess prepared an investigation report, which he sent to Mr Ian McArthur, manager of NZ Police's southern region legal services, for a legal opinion on the "public interest and abuse of process issues in regard to any potential prosecution".[1759] Mr Burgess wrote that he considered seven complaints appeared to have sufficient evidence to justify a prosecution.

922. However, the impact of the NZ Police decision not to implement Mr Burgess' comprehensive investigation plan from mid-2006 was reflected in Mr Burgess's report to Mr McArthur. This in turn, strongly influenced the legal opinion Mr McArthur wrote, which was to oppose prosecution. Mr Burgess' report made no mention of the lack of evidence on which to base a decision about whether to prosecute, although he made references to the need for further investigation if Mr McArthur decided there was a public interest in pursuing a prosecution.

923. The report also contained inaccuracies and omissions about what little evidence NZ Police had collected. It referred, for example, to a "group incident" in which one boy was subjected to a series of electric shocks by Dr Leeks and a group of other boys, but it failed to mention that a nurse, Mr Terrence Conlan, had told Mr Burgess he witnessed Dr Leeks applying the electrodes of an ECT machine to the boy's genitals and thighs.[1760] It also failed to explicitly mention that expert evidence had confirmed this had never been medically accepted practice.

924. The expert was Dr Garry Walter, on whom the Crown had relied previously to defend civil litigation by survivors. NZ Police asked Dr Walter for an opinion on the appropriateness of Dr Leeks' medical practices. He replied with a 10-page opinion stating:

- the use of an ECT machine to give aversive therapy had never been medically approved
- placing ECT electrodes on parts of the body associated with offending behaviour had never been medically accepted practice
- giving unmodified ECT to patients, including children and young people, was, by the 1970s, no longer considered appropriate
- it had never been acceptable for a doctor to permit children and young people to administer electric shocks to another patient
- Dr Leeks' treatments appeared to depart significantly from the standards of the day.

925. Dr Walter's opinion was a clear rejection of the practices employed by Dr Leeks and his staff, yet it received only brief mention in Mr Burgess' report. He merely noted that "an expert opinion regarding the use of ECT to children has been obtained and is attached to the file".[1761] That relegation of such important evidence had a significant impact on Mr McArthur's opinion as well as on a subsequent one sought by NZ Police from Mr Philip Hall QC, since neither made any reference to Dr Walter's expert opinion. Mr Burgess conceded to us that neither had read Dr Walter's opinion.[1762] At the very least, Mr Burgess should have included a summary of Dr Walter's opinion.

926. Mr Burgess' report also failed to mention the evidence of staff who confirmed Dr Leeks and nurses gave shocks as punishment. This included evidence by a nurse, Mr Brian Stabb, who gave Mr Burgess copies of his previous statements about the unit, in which he explained the clear distinction between the aversion therapy he had observed in England and the practices Dr Leeks employed at the unit, which he described as "barbaric".

Ngā kupu ā-ture i tukuna ki te tūhuratanga - Legal opinions provided to the investigation

927. Mr McArthur told us he had relied solely on the contents of Mr Burgess' report.[1763] Mr Hall, was later asked to review Mr McArthur's opinion. He told us he chose to provide his opinion on the basis of Mr McArthur's opinion and Mr Burgess' report, and did not consider it was necessary to review the other information held on the file.[1764]

928. Mr McArthur failed to make any reference to evidence by Mr Stabb or other staff. Instead, he characterised staff as exhibiting "personal and professional care towards their charges, sharply contrasting with the negative assertions provided by the complainants".[1765]

929. Mr McArthur's opinion was largely based on his belief that it would be difficult to establish whether the methods employed by Dr Leeks and his staff constituted appropriate medical treatment in the 1970s, given that, as he understood it, using an ECT machine to carry out aversion therapy was an acceptable practice – a misunderstanding he demonstrated when he wrote, "The difficulty here is that the correlation between misbehaviour and administration of ECT is also entirely consistent with the theory of aversion therapy".[1766]

930. As we have made clear, Mr Burgess made little reference to Dr Walters' opinion in his report to Mr McArthur, but it was available to Mr McArthur. Had he read Dr Walter's opinion, he would not have made such an error; nor would he have written that the "argument supporting a criminal prosecution is based solely on distinguishing applications of ECT as a punishment, rather than as treatment. Such an argument relies very heavily on clear evidence from the victims. Given the passage of time, this would, in my opinion, be extremely difficult to prove beyond reasonable doubt". Asserting the Crown would have to rely heavily on victims' testimony revealed another deep misunderstanding. Quite apart from the fact Dr Walter's evidence showed the use of the ECT machine by Dr Leeks and his staff was unwarranted and unjustified, he also had corroborating evidence from nursing notes and statements of other patients and staff.

931. Mr McArthur assessed the public interest in proceeding with prosecutions as follows:

> *"The fact that the events occurred many years ago and the victims have received a government pardon and civil compensation for the wrongdoing, may reasonably be considered as meaning that many of the general public are of the view that the victims' allegations have been taken seriously, and have been adequately addressed by the courts and the government."*[1767]

932. He, therefore, concluded "it would not be in the public interest to commence proceedings against Dr Leeks".[1768]

933. The Crown stated to us that the inquiry had collected significantly more evidence from survivors and experts than was available to NZ Police at the time,[1769] but the material we collected has always been available to NZ Police. They needed only to investigate the complaints properly to find it.

934. Mr Hall's review of Mr McArthur's opinion was also flawed because he too relied on the same limited material.[1770] He referred to "divided medical opinion as to what was appropriate treatment in the 1970s", as well as a "strong body of evidence from staff who worked with Dr Leeks that his administration of ECT was treatment rather than punishment in order to modify behaviour".[1771] He went on, "Dr Leeks would be able to call medical opinion that his use of ECT as aversion therapy was justified in the treatment of young patients in the 1970s who exhibited the mental and/or behavioural problems of the alleged victims".[1772] But the "strong body of evidence from staff" was no more than a small sample of self-serving accounts from staff, which he accepted uncritically. Like Mr McArthur, Mr Hall did not read or refer to the expert evidence of Dr Walters, and the expert psychiatric evidence Dr Leeks would be able to call on in support of his practices was non-existent. He said Dr Leeks' culpability "must be low" and "there is little or no independent evidence that Dr Leeks acted in bad faith or without reasonable care towards his patients".[1773]

935. In December 2009, Mr Hall told NZ Police he had reached the same conclusion as Mr McArthur that a prosecution would be unlikely to succeed and it would not be in the public interest to prosecute Dr Leeks.[1774] Mr McArthur and Mr Hall drew conclusions in the absence of Dr Walter's expert opinion. If Mr Burgess had properly presented Dr Walter's opinion in his report, it would likely have affected the legal opinions reached.

936. On 30 March 2010, NZ Police issued a press release saying they had decided after a "lengthy" investigation that evidence was "insufficient" to justify a prosecution.[1775] Complainants had little option but to accept the decision because, as Ms Tracy Hu, a lawyer for survivors, noted, there was no accessible avenue for complainants to challenge a decision by NZ Police to refuse to bring a prosecution.[1776] In theory, such a decision can be challenged by judicial review, but this is hardly realistic for most complainants. In our view, the lack of a realistic mechanism to challenge such a decision is a gap that warrants further attention.

Te haukume ki ngā kaituku amuamu – Bias against complainants

937. From the outset in 1977, NZ Police demonstrated a bias against those admitted to the unit, and it influenced their assessments of complainants' worth and credibility, which in turn influenced how vigorously or otherwise they investigated claims of abuse, and ultimately whether to prosecute the alleged perpetrators. The bias persisted, albeit wrapped in different language, after the patients at the unit grew into adults, but the results were the same: prosecutions failed to materialise – with a single exception in 2021, more than 40 years after the unit closed.

938. As we noted in our review of the 1977 investigation, Mr Butler was soon completely persuaded by Dr Leeks' version of events, in which the unit was populated by "bottom-of-the-barrel kids" who were "anti-social and destructive".[1777] Some of the staff had similarly low views of patients' worth, one describing them as "young thugs".[1778] Mr Trendle called them "a fairly dangerous collection of individuals".[1779] Throughout this period racism, ableism, homophobia and transphobia were pervasive, reflected in the rapid growth of Māori within the prison system and the persecution of Pacific communities during the dawn raids.

939. Mr Butler's reports described allegations in sceptical terms, highlighting that it was possible complainants were not telling the complete truth about why they received aversion therapy.[1780] He labelled one young person "vindictive" for no other apparent reason than that he had made allegations against Dr Leeks.[1781] He wrote that those receiving electric shocks were "uncontrollable" types from Department of Social Welfare homes, and he had "no doubt the majority of the boys concerned were of the worst anti-social and character-disordered types".[1782] By the end of his investigation, he was asserting that Dr Leeks had been made a "scapegoat".[1783]

940. The discrediting of accusers as troublesome and unreliable was matched by a blanket assessment of staff as well-meaning, dedicated professionals doing difficult work under trying circumstances. Against this backdrop, it is hardly surprising NZ Police failed to investigate allegations impartially and comprehensively.

941. In later years, the language in NZ Police reports changed but the underlying attitudes did not. There were references to complainants' criminal histories and alleged addictions and substance abuse, which made it easier to downgrade assessments of their credibility. Mr Reid mentioned the criminal history of three complainants in the same breath as he described complainants as having "very low credibility".[1784]

942. Mr Burgess' first entry in the investigation file noted that complainants came from "disadvantaged or dysfunctional backgrounds", and that many had ended up in prison and other institutions after leaving Lake Alice, so "issues of credibility" were "bound" to arise. He acknowledged "significant corroboration of the complainants' allegations in the medical notes and patient files", yet he still maintained complainants' credibility was questionable.

943. One reason cited for dramatically reducing the size of Mr Burgess' investigation was "the significant number of the complainants suffering from psychiatric illnesses".[1785] However, we know very few had a psychiatric illness. We asked Mr Burgess to explain why he considered a psychiatric illness affected an individual's credibility, and he said it was one of the things

taken into account by officers to evaluate complainants. He conceded it was not something officers were taught as part of their training.[1786]

944. The legal opinions of Mr McArthur and Mr Hall also revealed they treated the accounts of staff as credible and those of survivors as questionable. The only material Mr McArthur sought from the investigation file were some staff accounts. He ignored the survivors' accounts. He wrote that there were "issues of credibility for a number of the ex-patients arising from ongoing addictions, substance abuse and criminal offending". We asked him to explain how he arrived at this observation, and he said it was based on his general knowledge at that time, formed in the course of more than 30 years of policing. He agreed, however, that Mr Burgess' report contained nothing to suggest survivors had addiction or substance abuse problems. Mr Hall, like Mr McArthur, unquestioningly accepted staff accounts are credible. He said that "on any view of it [Dr Leeks'] culpability must be low on the basis of the medical practices at the time and the evidence of other members of staff".[1787]

He aha i puta i muri i te tūhuratanga - What happened after the investigation

945. Three years after the conclusion of Mr Burgess' investigation, on 3 November 2013, NZ Police conducted their first interview of a complainant from the unit that complied with evidential interview procedures. Mr Stephen Watt went to Levin's police station and described how he witnessed an instance of prolonged abuse of a Niuean boy at the unit for stealing some cash. He gave the names of eight other patients and four staff who had also witnessed the incident.

946. Detective Inspector Doug Brew reviewed the report before sending it to Mr Burgess, who was by now an Assistant Commissioner. Mr Brew, in a memorandum, described having previously interviewed and recorded the statements of former patients at the unit. This was inaccurate.[1788] Mr Brew concluded the allegation was unsubstantiated and contained no "new or compelling evidence" to justify further investigation.[1789] Mr Burgess received the report and Mr Brew's assessment, and in March 2014 he concluded Mr Watt's complaint disclosed no offence because the 1977 commission of inquiry had already looked into the matter and found no fault on the part of Dr Leeks.[1790] This was not so. The inquiry had not examined the incident. As a result of the two officers' assessments, no further action was taken. The investigation was closed.

Tūhuratanga tuawhā: 2018 ki 2021 – Fourth investigation: 2018 to 2021

947. In June 2017 the National Adult Sexual Assault Team became aware of the Lake Alice file as a result of an Official Information Act request made by an investigative journalist. In October 2018, after reviewing material held, NZ Police

made the decision to reinvestigate sexual complaints from former patients of Lake Alice who wished their complaint to be investigated. In November 2018, survivor Mr Malcolm Richards contacted NZ Police to make a complaint of sexual violation but was unable to name the perpetrator. NZ Police told him there was "little benefit in taking a new statement from you in regards to being sexually assaulted while at Lake Alice, as you are unable to identify the person or persons that sexually assaulted you".[1791] Mr Richards also complained about Dr Leeks giving him electric shocks on his genitals and was told "similar allegations made by other patients were considered in the 2006 investigation completed by Assistant Commissioner Burgess. At this stage Police are not going to be reinvestigating complaints around the use of ECT treatment by Dr Leeks".[1792]

948. In December 2018 NZ Police interviewed Ms Collis and commenced an investigation into her complaint. In February 2019, NZ Police changed their position and contacted Mr Richards to say he could now make a new statement. The following month NZ Police interviewed him, along with another survivor, Mr Zentveld, who had complained that he, too, had been given electric shocks on the genitals.[1793] On 15 March 2019, Detective Foley, one of the officers who interviewed Mr Zentveld, described him as a credible person and said "the circumstances in which the [electric shocks] occurred made it very clear that the complainant was being assaulted and that it was not a medical treatment or procedure".[1794] This was the first time an officer had spoken so plainly about what survivors had been subjected to in the name of ECT and aversion therapy.

949. Mr Zentveld, Mr Richards, and Ms Collis were formally interviewed between December 2018 and March 2019 and separate investigation files were created. Identified enquiries were undertaken by NZ Police staff before the files were forwarded to the national adult sexual assault team at NZ Police national headquarters, which had agreed to co-ordinate the investigations.

950. An updated opinion was obtained from Dr Walter because 10 years had passed since he provided his initial opinion. He said:

> *"It remains my opinion that applying electrodes on the genitalia of children as a form of aversion therapy was not an accepted medical practice in the 1970s, and is not an accepted medical practice now, and that in no way could this be justified as medical treatment."*[1795]

951. NZ Police were considering seeking a second opinion in the months that followed when the United Nations Committee against Torture released its decision in December 2019 that New Zealand had been in breach of its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by failing to investigate Mr Zentveld's complaint.

952. The committee's decision prompted NZ Police to absorb the statements made by Mr Zentveld and Mr Richards, and a third made by Ms Collis, into a much wider investigation that began in February 2020 examining all Lake Alice allegations. On 8 December 2021, NZ Police announced the outcome of their investigation, which was to charge former nurse Mr Corkran with nine charges of wilful ill-treatment of a child.[1796] NZ Police also found sufficient evidence to charge Dr Leeks and another nurse with wilful ill-treatment of a child. Neither was charged because each was deemed medically unfit to stand trial.[1797]

953. NZ Police tried to locate every former patient who had already given them or another organisation a signed statement. They did not try to reach former patients who had not made contact with them. Mr Fitzgerald, who was in charge of the investigation, told us NZ Police made the decision to avoid causing renewed distress to individuals who might be revictimised by such contact.[1798] NZ Police contacted 102 individuals, 63 of whom said they wanted to be interviewed, 19 declined to be interviewed but agreed to the use of their previous statements, and 20 declined to be interviewed or have their previous statements used.[1799]

954. The desire of NZ Police to spare victims further anguish by contacting only those individuals who had previously contacted them or another organisation on their own initiative is understandable. However, this was the final opportunity to uncover the full extent of abuse at the unit and the decision not to actively contact everyone who had been at the unit may have diminished the amount of evidence potentially available, especially from disabled survivors whose experiences at the unit we know little about. Their decision not to screen all potential victims was contrary to the NZ Police policy on investigating mass allegations, which includes allegations about historic cases.[1800]

955. More than 40 years passed before NZ Police finally acted on the steady stream of complaints about Lake Alice and laid charges. The fact only a single individual was charged is the direct result of this delay and the inadequacy of earlier investigations. Not one staff member faced sexual abuse charges, despite the scale of sexual offending at the unit, because NZ Police decided not to investigate sexual allegations before them in the 2000s at a time when at least two alleged offenders, Dr Leeks and Mr Lawrence, were alive. For survivors and their families, this represents a loss of opportunity to obtain a key element of redress – accountability of perpetrators.

"Lake Alice destroyed my relationship with my kids."

Name: Sharyn Collis

Age when entered care: 15

Age now: 64

Hometown: Napier

Time in care: 1973–1974

Type of care facility: Psychiatric hospital – Lake Alice.

Ethnicity: European

Whānau background: Two older sisters and two younger brothers. Sharyn was the only child to go to Lake Alice.

Currently: Sharyn has six children and is now a great-grandmother.

Sharyn Collis

> ***My name is Sharyn. I'm a survivor of Lake Alice and a great grandmother. What I went through at Lake Alice didn't just affect me – it ran right through my whole family.***

I didn't have a good relationship with my mother. She physically abused me, although she didn't hit my siblings. The abuse got worse from when I was 12. I was punished for normal teenage things – swearing, smoking and coming home late. Mum used to punish me by hitting me with her hand, mainly her fist, and on occasion with the hearth brush. This was normal to me – I didn't know any different.

When I was 14, Mum sent me to Napier to live with some friends. I was taken off the street with two other girls by the Mongrel Mob, and we were each gang raped by them. I reported it to the police but nothing happened and they weren't charged. In fact, they said I was a willing participant.

Back home, I told Mum about the rape but she didn't believe me. Her attitude was that it didn't happen and I was lying, or that I deserved it.

After the rape I became disruptive, but that was typical of a rape victim, I guess. I got suspended from school twice, first for swearing and the second time for assault – I punched the headmistress. I accept that this happened, but I don't actually remember hitting her, because after the rape I used to have blackouts.

My GP sent me for counselling sessions with Dr Leeks for the rape and the fact I wasn't coping after it. I don't really know why but I found Dr Leeks a bit freaky – I didn't really like him or trust him. He gave me the creeps. These were mostly one-sided sessions, with Dr Leeks saying I would end up at Lake Alice if I didn't behave.

One day a police car arrived at home and I asked Mum what they were doing. She had arranged a police escort to get me to Lake Alice and purposely hadn't told me. She pulled a suitcase out from under the bed and I flipped out. I was really angry. I remember bolting for the front door but I couldn't get it open. I blacked out, and when I came to, I was at Lake Alice.

I was at Lake Alice for a few weeks before I got any 'treatment'. Some nurses came and got me and took me to a room. There was a tray with a needle on it. Dr Leeks told me since I wouldn't talk in counselling that he had something to make me talk. I started screaming and they had to restrain me. They tied me down with leather straps. The nurses left and Dr Leeks locked the door. He put the needle in and that's the last I remember.

When I woke up he was standing at the end of the bed, my top was pulled up over my breasts and my jeans and pants were down to the top of my thighs. Dr Leeks was the only one in the room. My arm was still strapped down and one of my legs was strapped down. I started swearing at him, "What the fuck are you doing?" I don't know if he intentionally wanted me to know what he was doing or whether it was a mistake in dosage that made me wake up. The needle was still in my arm, and he pushed the needle and I went back to sleep.

When I finally came to, I was alone in the room. I was sore and sticky between my legs. This time my clothes were back on. I knew what he had done – he had raped me. I felt like I was drunk, ready to pass out. I felt confused, angry, humiliated and embarrassed.

The same day I wrote a letter to a friend and told her what Dr Leeks had done. My writing was all over the place, like a drunk person, but you could understand it. She showed me the letter when I got out. I told the staff nurse what Dr Leeks had done, and she told me to stop lying – he was a doctor. The sexual abuse continued, and I kept complaining about him but eventually I gave up – there was no point. I learned to shut up and not say anything in order to survive.

I had modified and unmodified 'ECT' – electric shocks – at Lake Alice, and I was given the contraceptive pill daily even though I wasn't sexually active by choice. We were forced to take it and our mouths were checked to make sure we had swallowed it.

The fact that nobody believed me – about Dr Leeks or about the gang rape – made me feel like I was dead. No-one seemed to want us. We were put there and no-one would listen to us. If I wasn't crazy before I went there, I felt like I was when I came out. My behaviour afterwards was a lot worse – drink and drug problems, suicide attempts. These problems don't go away. I can't get Dr Leeks' face out of my nightmares.

I had six children, three miscarriages and one abortion. I wasn't a good mother to my children – I was distant and unaware of how to raise them. I think I had kids to compensate for what happened to me at Lake Alice. I do have the biggest heart, and I don't think I would have treated my kids the way I did if I had never gone to Lake Alice – it completely destroyed my family and affected my relationship with my children.

> ***I'm a great grandmother now. I love my grandkids and I think they love me too, but it's been a hard road. They are a really positive part of my life and I am so grateful to have them.***

"My mother's trauma got transmitted to me."

Amy Bethune

I'm Amy Bethune and Sharyn Collis is my mum.

My childhood was difficult and miserable – it certainly wasn't carefree. I was born a baby but immediately became an adult. My mother had major memory problems, was nearly always 'out to it' and couldn't care for us children properly. She was very distant, unemotional and cold, and I was aware of that as far back as I can remember. I've blotted out a lot of memories because it was too painful to keep remembering, but the biggest feeling I had was having to take responsibility for my younger siblings – I was always aware there was no-one to support me in my times of need.

Mum was always forgetful, and the prescription drugs she took seemed to make her more vacant. Sometimes that was dangerous – I recall once, a cousin of mine pushed a heater against the couch and it melted. It could have burned the house down, but Mum hadn't noticed it. When I was 10 years old I had a deeper realisation that Mum was far from alright.

She took us to the shops for ice cream and lollies, and as soon as we got back home she suggested we go to the shop to buy ice cream and lollies. I told her we had just been, but she had no memory of it.

Because of the way my mother was, I didn't have a childhood like other kids did. I was a good kid – I never got up to mischief, I just spent my time caring for my mother and my younger siblings. I'd make sure they were clothed, washed and fed and had what they needed for school and other activities. I had to protect my siblings from Mum's forgetfulness, because she was always forgetting important stuff in their lives and was unaware of dangerous situations.

> ***My parents were always separating and getting back together, so we constantly moved around and we didn't have a consistent home. That meant it was hard to develop friendships and have steady schooling.***

Having to parent my younger siblings took a serious toll on my education – I was tired in class and would fall asleep, especially at secondary school. I was often absent, not because I was wagging but because I was looking after my younger siblings. Schools didn't understand this, though.

I was first sexually abused as a five-year-old and it went on for at least a year. But I couldn't tell my parents. Eventually, I told my auntie and the police were brought in, but the abuser was never brought to justice – the police said they didn't have enough evidence. I was abused by some other boys when I was 11.

By the age of 15 I was homeless after Mum and I had an argument and she told me to fuck off. Dad wouldn't take me in. Being alone in the world and fending for myself at 15 was incredibly traumatic and stressful. I suffer from PTSD, major depression and anxiety. I don't know how to spell or read or write using proper grammar because I've had so little schooling.

I have six children myself. In my own parenting I have tried very hard to parent my children in a way that I wanted to be parented as a child and learn not to repeat the mistakes my mother made. I am proud of my children and what I have achieved with them.

As an adult I have carried extreme hurt and anger that I was not protected from sexual abuse and that no-one protected my family from family violence. And that I didn't have a childhood. I felt everyone was against me – my parents, the police, ACC – I never had a voice anywhere.

The trauma has been brought about because of having a mother who was struggling her whole childhood, who then allowed awful things to happen to me. I believe she was struggling because of the terrible experiences of drugs, electric shocks and abuse at Lake Alice.

By the late 1970s, the Government knew something terrible had happened at Lake Alice. All children born to a parent who had been in Lake Alice should have been followed up on and support given. I was a child bringing up children because my mother could not properly parent. All the trauma my mother went through got transmitted to me in ways that made my childhood hell.

> ***Many years ago Mum apologised to me for not being a proper mum and not protecting me from the sexual abuse. Our relationship now is the best it has ever been. She's moved back in with me and we're getting on very well, and she supports me in caring for my kids.***

After I left home, Mum sent me a letter to apologise. It said, "I will come back into your lives but it will be a long, long time away. When I find myself and heal inside and when I am a strong person I might be able to repair the damage I have caused you kids". Slowly, we are healing.

References – Sharyn Collis

Witness statement of Sharyn Collis, WITN0344007-0001; GCA0000131_00003-0001, including exhibits WITN0344002-WITN03440010.

References – Amy Bethune

Witness statement of Amy Bethune, WITN0317001 (19 March 2021).

Transcript of proceedings, Amy Bethune. Royal Commission of Inquiry (Abuse in Care) Lake Alice Child and Adolescent Unit Inquiry Hearing (18 June 2021).

"I have always found it hard to keep a job because I struggle with authority, trust, time management because of my memory issues etc. So, it was easier for me to keep with my life of crime ... I have been in and out of jail all of my life, mainly for theft and motor vehicle offences."
- Andrew Jane

2.4.9 Ngā herenga o Aotearoa i raro i ngā tikanga whakamamae – Aotearoa New Zealand's obligations under torture convention

Whakatakinga – Introduction

956. We have already concluded that the use of electric shocks and paraldehyde to punish at Lake Alice met the definition of torture as outlined by the Solicitor-General. In this section, we outline the Crown's obligations in international law to investigate and report on allegations of torture and how these relate to what occurred at Lake Alice. We examine how the Crown grappled with when to refer allegations made in civil litigation to external investigative bodies but failed to consider whether the abuse at Lake Alice could amount to torture. Even after settling the litigation brought by survivors, the Crown was reluctant to describe the abuse for what it was when reporting to the relevant United Nations bodies. We then consider the committee's findings in relation to Mr Zentveld and Mr Richards and how these are applicable to all Lake Alice survivors and how the Crown could approach its obligations in the future.

Ngā herenga whakamamae o Aotearoa – Aotearoa New Zealand's torture obligations

957. It was not until 1984 that the United Nations adopted the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and it was 1989 before New Zealand ratified the convention. However, some forms of torture violated international law long before the convention and in 2017 the United Nations Committee against Torture said a prohibition on torture and other inhuman treatment was accepted in the 1970s.[1801] This is consistent with the preamble to the convention, which refers to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, both of which stipulated that no one should be subjected to "torture or to cruel, inhuman or degrading treatment or punishment". Other regional human rights instruments contain similar provisions.[1802]

958. The work that led to the convention is instructive. By the early 1970s, it was clear the existing prohibition on torture was not enough to eradicate its practice. On 15 October 1974, the permanent representative to the New Zealand mission to the United Nations wrote to the secretary of foreign affairs in Wellington, attaching a copy of a statement announcing New Zealand's co-sponsorship of the "draft resolution on torture".[1803] The Government joined the list of co-sponsors of the draft resolution, which became the Declaration on the Protection of All Persons from being Subjected to Torture

and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in December 1975.[1804] The declaration marked a significant milestone in the process that led to the 1984 convention against torture, and its definition of torture is essentially the same as that in the convention.

959. However, these principles were not given effect in any of the official inquiries into Lake Alice in 1977. In 1978, the United Nations asked the Government what steps it had taken to put the declaration into effect.[1805] It asked whether Aotearoa New Zealand had conducted any investigations into "allegations of torture or other forms of cruel, inhuman or degrading treatment or punishment".[1806] Five months later, the Crown gave the curt response "No information on this"[1807] – even though four official investigations into complaints about abusive treatment at Lake Alice had occurred the previous year.

960. The Crown has accepted the Government has an obligation to detect and prevent torture, which arose as a matter of international law before the enactment of the Crimes of Torture Act 1989.[1808] It also accepted that by 1998 a sufficient evidential basis existed for an investigation into whether torture had occurred at Lake Alice.[1809] However, it acknowledged the allegations were treated like any other civil claim, whereby the focus was on assessing potential liability, whether the allegations could be proven, what defences were available and, where appropriate, settling the claims.[1810] The Crown has told us it now works with agencies to ensure claims that provide credible allegations of torture or other cruel, inhuman or degrading treatment are recognised and sent to the appropriate agency for investigation.[1811]

Ngā herenga whakapūrongo i raro i ngā tikanga – Reporting obligations under convention

961. After ratifying the convention in 1989, New Zealand was obliged to make periodic reports to the Committee against Torture[1812] on whether there had been any allegations of torture and what it had done in response.[1813] Neither the first report in 1992, nor the second in 1997, nor the third in 2002 mentioned survivors' allegations about the use of electric shocks or paraldehyde as punishment or NZ Police investigations into these allegations. The third report in 2002, which was consolidated into the fourth report, deserves closer examination.

962. In June 2001, the Ministry of Foreign Affairs and Trade asked the Ministry of Health for comment on the Crown's draft version of the report. After receiving a response that did not include the Lake Alice settlement process, the Ministry of Foreign Affairs and Trade followed up, pointing out the report needed to include "complaints, inquiries, indictments, proceedings sentences, reparation and compensation for acts of torture and other

cruel, inhuman, or degrading treatment or punishment". It suggested the report refer to the Crown's Lake Alice settlement process.[1814]

963. The Ministry of Health's chief legal advisor, Mr Adam, wrote to Crown Law saying he had been wary of using the word "torture" and was keen to ensure New Zealand "was not saying in an international environment that it carried out torture on its people, given that the Lake Alice 'treatments' were carried out without the real knowledge or condoning by the State".[1815] For its part, Crown Law said the Crown had yet to publicly accept that Dr Leeks' treatment was inappropriate or accept any liability.[1816]

964. In December 2001, Ms Heather Ward from the Ministry of Foreign Affairs and Trade again asked Mr Adam to reconsider referring to the Lake Alice settlement process. By then, payments had been made and apologies given to some survivors by the Prime Minister, Helen Clark. Ms Ward said the abuse at Lake Alice could be considered torture as defined by the convention.[1817] Mr Adam replied that the Crown might have settled with 95 claimants, but more settlement claims were likely and there were also "various views on whether it was a form of aversion therapy or not, but at this point in time it would not pay to dirty the waters and create problems for our current settlement processes by the government deciding for itself one way or the other".[1818] Crown Law supported Mr Adam's view.[1819] As a result, the 2002 report made no mention of the first round of settlements.

965. In May 2004, a government delegation appeared before the Committee against Torture to answer questions about the report. By then, the Crown had completed the Lake Alice settlement process, but it was still anxious to avoid referring to Lake Alice. Briefing material was requested about particular cases officials thought the committee might ask about because of media coverage.[1820] A Ministry of Health official, Ms Wendy Edgar, identified the Lake Alice settlements as relevant, but Mr Adam said he was opposed to including "Lake Alice people as examples".[1821] Information about Lake Alice was, however, included, but opinions differed about how to describe the Lake Alice abuse. The first draft said the Government viewed the abuse not as torture, but rather as an "inappropriate practice by an individual health professional".[1822] Mr Ben Keith, a lawyer at Crown Law who worked on human rights matters, wrote to another Crown lawyer disputing this interpretation, arguing there was at least a prima facie case for calling the abuse torture, and that the committee would regard any suggestion to the contrary as "implausible" and "a pretext to avoid the issue". Mr Keith said it would be better to acknowledge that some treatment might have amounted to torture or to cruel, inhuman or degrading treatment.[1823]

966. The final version adopted Mr Keith's suggestion in part, removing the statement that the abuses at Lake Alice were "not torture", although not stating they

might have been, and referred to the abuses as "unacceptable" – the same word used in the Government's press release in 2001 to describe the abuse.[1824] In the end, however, it was all of no consequence because the record of the presentation showed the committee never asked any questions about Lake Alice and the delegation never volunteered anything about Lake Alice.[1825]

967. The fifth report, submitted in January 2007, also contained no mention of allegations about Lake Alice or NZ Police investigations. In a presentation to the committee in May 2009 in a follow-up to the fifth report, the New Zealand delegation acknowledged the existence of Lake Alice allegations by survivors. It said "procedures had been established ... to investigate and compensate patients who claimed to have been mistreated" at the unit.[1826] This was a reference to the Crown's settlement process.[1827]

968. In May 2010, in a follow-up response to the committee, the Crown finally acknowledged there was truth to claimants' allegations. It said "claimants' personal statements and the medical records demonstrated that there had been improper treatment" at the unit. Claimants' allegations, it said, were "factually clearly established", although it maintained the allegations all stemmed from the treatment they received while "under the care of one particular doctor".[1828] That concession came two months after NZ Police announced the decision not to prosecute anyone over Lake Alice. The response made no reference to the NZ Police decision.

969. In that same month, May 2010, the Citizens Commission on Human Rights wrote to the committee saying New Zealand had not properly investigated Lake Alice allegations, had not held any perpetrators to account, and had not made any official findings about what took place at the unit.[1829]

970. It was not until two years later, in May 2012, that the committee sought an explanation for the failure to prosecute anyone. United Nations special rapporteur, Ms Felice Gaer, wrote to the Government saying the committee was concerned there had been no "prompt, impartial and effective investigation into all claims of abuse" at Lake Alice and no prosecution of "alleged perpetrators of the torture and ill-treatment perpetrated there". Ms Gaer asked the Government to clarify whether it intended to conduct an "investigation into the nearly 200 allegations of torture and ill-treatment against minors at Lake Alice, to criminally prosecute individuals found to have perpetrated this abuse, and to punish such perpetrators". She also asked whether the Government intended looking at the adequacy of the NZ Police investigation, including complaints that NZ Police had failed to interview many survivors, and whether it planned to reopen the investigation.[1830]

971. New Zealand responded to these questions in its sixth report to the committee, submitted 18 months later in December 2013. It said

NZ Police acted independently, and anyone alleging misconduct about a NZ Police investigation could go to the Independent Police Conduct Authority. It said it did "not propose undertaking any further review".[1831]

972. Further exchanges of correspondence occurred over the next two years. In its concluding remarks on the sixth report in 2015, the committee said New Zealand had "failed to investigate or hold any individual accountable for the nearly 200 allegations of torture and ill- treatment against minors at Lake Alice Hospital".[1832] Aotearoa New Zealand's response was a reiteration of its previous position – survivors were entitled to take complaints to NZ Police if they wished, and some had done so, but NZ Police had found insufficient evidence to lay charges.[1833]

Te ngoikoretanga ki te whakahāngai i ngā kerēme ki te whakamamaetanga – Failure to recognise that claims could amount to torture

973. For many years, the Crown knew about and had evidence of abuse at Lake Alice, and for a large portion of that time it condemned that abuse. Dr Wilson, a former director of Mental Health, and Dr Duncan, a former deputy director of Mental Health, accepted from 1995 onwards there was substance to patients' claims Dr Leeks' administered electric shocks and paraldehyde injections as punishment and that such practices were out of step with the "standards of the day". In 2009, Attorney-General, Chris Finlayson, said allegations made by Lake Alice survivors had been "verified" by contemporaneous medical records and Dr Leeks' form of aversion therapy using an ECT machine had been "indefensible even for its time".[1834] As the Solicitor-General put it, the proof Dr Leeks' was using electric shocks as punishment and behavioural modification "was right there in the file".[1835]

974. However, at least initially Crown Law did not turn its mind to whether it had obligations to refer these allegations to NZ Police. In her evidence to the inquiry, the Solicitor-General, Ms Jagose, said by 1998 a large number of allegations of the same criminal conduct were being made.[1836] Due to the significance of these allegations Ms Jagose considered Crown Law should have asked itself what its role was in referring the complaints to NZ Police.[1837] However, she said Crown Law did not appear to think referral to NZ Police was warranted in Ms McInroe's case and could see no record that it was considered in relation to the claimants represented by Grant Cameron Associates.[1838] Ms Jagose did not know whether this was discussed internally or between Crown Law and Grant Cameron Associates, but could not see anything on the record to show that it was.[1839]

975. In 2006, several senior lawyers at Crown Law, including Ms Jagose, wrote a draft policy for when disclosures of criminal offending were made

the course of preparation for civil claims against the Crown.[1840] It was a thoughtful 30-page analysis of the difficult issues that may arise in that context. The draft proposed that each allegation would be assessed on a case-by-case basis, but general guidelines were as follows:[1841]

- Admissions of offending of more than a minor nature should generally be referred to NZ Police.
- Allegations of serious criminal offending (such as serious assault or sexual offending) generally should be referred to NZ Police provided the alleged victim or perpetrator is identified or may be able to be identified (time, date and descriptive information). However, uncorroborated allegations in a statement of claim need not be referred, as an exception to the guideline.

976. In response, Deputy Solicitor-General, John Pike, described the proposals as "a little over-pitched" and took a narrower view of Crown Law's role. In Mr Pike's view, Crown Law was "but lawyers acting on instructions", not investigating the claims or anything else.[1842] He considered the question of reporting allegations to NZ Police should be put "firmly back to the plaintiff and counsel". The draft policy did not progress.

977. We acknowledge the tensions that can arise for Crown Law. It concurrently acts for defendants in civil cases alleging abuse and is responsible for the administration of criminal justice in New Zealand. We think the approach Ms Jagose and others proposed was a principled attempt to address that tension, and it would be appropriate for Crown Law to revisit the draft policy, factoring in Aotearoa New Zealand's human rights obligations and with a broader view of the Crown's responsibilities as a whole.

Ngā amuamu ki United Nations Committee against Torture – Complaints to United Nations Committee against Torture

978. The failure of NZ Police to prosecute a single person over what happened at Lake Alice prompted Mr Zentveld to make a complaint in person to the United Nations Committee against Torture.[1843] Accompanied by Mr Steve Green from the Citizens Commission on Human Rights, Mr Zentveld appeared before the committee in Geneva on 10 July 2015. In written submissions the commission prepared, Mr Zentveld said he received electric shocks many times from nursing staff and Dr Leeks, as well as painful injections of psychiatric drugs, and that he was placed in solitary confinement for "perceived bad behaviour".[1844]

979. Mr Zentveld did not ask the committee to rule on whether the abuse he suffered at Lake Alice amounted to torture as defined in article 1 of the convention – and it could not do so anyway because the abuse ended in 1977, seven years before the United Nations adopted the convention in 1984

and 12 years before New Zealand ratified it in 1989.[1845] Rather, he asked the committee to make findings about obligations Aotearoa New Zealand had assumed after ratifying the convention in 1989 – namely, to ensure competent authorities promptly and impartially investigated allegations of torture[1846] and to provide appropriate remedies to victims through an effective complaints investigation and compensation process.[1847]

980. In 2019, the committee found in favour of Mr Zentveld. It ruled New Zealand had breached its obligations under articles 12, 13 and 14 of the convention by failing to adequately investigate his complaint and failing to provide fair and adequate redress for the abuse he suffered.[1848]

981. Mr Richards also made a complaint to the committee about how Aotearoa New Zealand had responded to his allegations of abuse at the unit. His complaint was similar to Mr Zentveld's and, as with Mr Zentveld, the committee found in Mr Richards' favour in its decision of 12 May 2022.[1849]

982. The committee had already expressed deep concern over the Government's response to allegations of abuse at Lake Alice by the time it received Mr Zentveld's complaint in July 2017. Almost a year later, in May 2018, Aotearoa New Zealand asked the committee to dismiss Mr Zentveld's complaint on the grounds various inquiries and investigations had already looked into allegations about Lake Alice, and a forthcoming Royal Commission of Inquiry (this current inquiry) would resolve any outstanding aspects of these allegations. In addition, it said it had also provided ex-gratia payments and apologies to Lake Alice survivors.[1850]

983. On 4 December 2019, the committee found in favour of Mr Zentveld.[1851] It ruled Aotearoa New Zealand had failed "to conduct an effective investigation into the circumstances surrounding the acts of torture and ill-treatment suffered by [Mr Zentveld] while he was at the [unit]". It criticised Aotearoa New Zealand for making "no consistent efforts to establish the facts of such a sensitive historical issue involving the abuse of children in State care", for failing "to expressly acknowledge and qualify the alleged treatment inflicted on the complainant" and for failing to provide fair and adequate compensation.[1852]

984. The committee's 12 May 2022 decision on Mr Richards' complaint was similar. The committee noted the most recent NZ Police investigation had resulted in charges being laid against one former staff member and that Dr Leeks had died. It found Aotearoa New Zealand had failed "to conduct a prompt and impartial investigation into the acts of torture alleged by [Mr Richards] which he was at the [unit]".[1853] It also repeated the criticisms of Aotearoa New Zealand it made in its decision on Mr Zentveld's complaint.

Ka pā te tūhuratanga puretumu o te Komiti ki ngā purapura ora katoa – Committee's redress finding applies to all survivors

985. Mr Zentveld's and Mr Richards' complaints focused heavily on the failings of the NZ Police response to the complaints they laid in 2005 and 2010, respectively, but there is no question the Crown had grounds to investigate allegations of ill-treatment and torture much earlier than that date – probably from the mid to late-1990s. We have described at length the considerable body of information in the possession of Crown Law by that time about serious and systemic abuses at Lake Alice. The weight of this information amounted to more than "reasonable grounds to believe" acts of torture or "cruel, inhuman or degrading treatment or punishment" had been committed at the unit and this required a "prompt and impartial" investigation, as set out in articles 12 (dealing with torture) and 16 (dealing with cruel and inhuman treatment) of the convention.

986. Crown Law did not give any serious thought to the convention and its implications for Lake Alice. Therefore, it failed to advise ministers they had an obligation to order an impartial investigation of survivors' allegations. In looking into survivors' allegations, the Crown should have ensured an impartial investigation that paid no heed to the financial implications to the Crown or risk to its reputation. Rather than initiate such an investigation, the Crown instead waited for litigation from survivors, which it dealt with "in a manner undifferentiated from other civil claims brought against the Crown, so the focus was on potential liability, assessing whether the allegations could be proved on the balance of probability, exploring available defences and where appropriate pursuing settlement".[1854] In short, the Crown treated the allegations as a risk to be mitigated, not matters warranting investigation. When the weight of evidence finally led the Crown to begin the settlement process in 2001, redress was limited to financial payments. There was no impartial investigation, and no one was held accountable. No one admitted any wrongdoing, and no one made any findings of fault or responsibility. The nature and extent of any wrongdoing and the identity of individuals and institutions responsible were left undefined and unacknowledged, and apologies were vague. The truth remained buried.

987. Redress payments came without acknowledgment of liability. The size of those payments was determined through a negotiation process into which the survivors had limited input. The Crown was able to negotiate in the knowledge it had the financial resources to fight on if no resolution was reached. Survivors had no such comfort. They faced significant technical legal defences, and the law firm acting for them carried most of the financial cost of pursing their claims for six years. In our view, the committee's findings in relation to Mr Zentveld and Mr Richards apply to all survivors of the unit.

"[Abuse] has harmed their physical health, their psychological and emotional wellbeing, their education and economic prospects, their relationships with family and others, their cultural and spiritual lives, and much more, leaving a legacy of harm that has spanned generations."

Ngā tūtohitanga – Summary of findings

Te whai akoranga i te mahi tūkino: te haepapatanga me te puretumu – Attempts to learn lessons from abuse: accountability and redress

The Inquiry fiinds:

- Inquiries by the Ombudsman and a commission of inquiry in the late 1970s had limited scope and duration, and inadequate access to information.
- The first New Zealand Police investigation, in 1977, was flawed.
  - The investigating officer reached a conclusion before obtaining key evidence.
  - The scope of the investigation was narrow and important witnesses were not interviewed, including most of the patients at the unit.
  - NZ Police did not recognise the deficiencies in the expert opinion they obtained.
- The investigations and actions by medical professional bodies in 1977 were flawed.
  - The Medical Association prioritised fairness to Dr Leeks over the safety and wellbeing of patients.
  - The Medical Association and the Medical Council accepted much of Dr Leeks' response to allegations without question.
  - The New Zealand branch of the Australian and New Zealand College of Psychiatrists learned of Dr Leeks' conduct in the late 1970s but did not confront Dr Leeks or forcefully advocate for change.
- The Crown's response to civil claims by survivors in the 1990s and 2000s was flawed.
  - The information available to the Ministry of Health and Crown Law from the early stages showed the claims were meritorious, but officials were more focused on defending liability than acknowledging the merits of the claims.
  - In the late 1990s, Ministers decided to defend the claims in court, despite the merits, to establish the parameters of Crown liability.
  - A newly elected Government directed officials to settle the Lake Alice claims in 2000, but officials continued to place obstacles in the way of settlement, requiring a further direction to settle from the Prime Minister.
  - Even after proceeding with settlement, the Crown treated survivors unfairly and wrongly deducted amounts from the payments to survivors.

- The legal process had many other flaws.
  - The legal process was slow, made worse by inexcusable delays on the part of the Crown.
  - The legal system placed many legal and practical barriers in the way of survivors, which put them at a disadvantage.
  - Crown lawyers exploited every legal advantage to try to defeat the claimants, with an adversarial mindset, despite the merits of the claims.
  - Many officials and others in power had a resistant attitude to the claims and the claimants and their legal representatives.
  - The settlements did not acknowledge physical and sexual abuse.
  - The settlements were 'without prejudice'; that is, with no admission of wrongdoing.
  - The process did not lead to criminal or professional disciplinary accountability.
  - Human rights breaches were not recognised nor was the State's obligation to carry out a prompt and impartial investigation into the allegations of torture.
  - No effort was made to engage with Māori survivors in a way that recognised their culture and tikanga Māori.
  - No effort was made to recognise Pacific peoples' cultures and languages.
  - No effort was made to recognise the needs of disabled people.

- The Medical Council declined to carry out a fresh investigation into Dr Leeks' conduct in 2000, wrongly believing earlier investigations had adequately addressed the issues.
- The Royal Australian and New Zealand College of Psychiatrists had the power to censure, suspend and expel members, but it had no powers to investigate or require the production of information or evidence in relation to misconduct of psychiatrists.
- The Accident Compensation Corporation failed to refer evidence of medical misadventure by Dr Leeks to the Medical Council for investigation as it was required to do – a serious oversight.
- Despite a request to do so, the Crown did not provide the Children's Commissioner with material it held about former Lake Alice staff in 2002 and

the Commissioner took no further action.

- In 2005, the Health and Disability Commissioner took no further action on a Lake Alice complaint believing little would be gained by another investigation. The office of the Health and Disability Commissioner should have disclosed a potential perceived conflict of interest to the complainant, even though the outcome complied with internal processes.
- The second New Zealand Police investigation, from 2003 to 2006, was flawed.
  - The officer in charge did not think an investigation was warranted and was not aware of the previous investigation file.
  - NZ Police did not give the investigation priority or adequate resources and did not actively progress the investigation for four years (2003 to 2006).
  - NZ Police obtained advice from Crown Law based on just one complainant's evidence, despite having 33 other statements.
  - NZ Police did not follow Crown Law's advice to carry out further investigation into the use of electric shocks and paraldehyde as punishment.
  - NZ Police did not properly manage the file, losing key evidence.
  - NZ Police did not carry out basic investigative steps such as interviewing complainants or staff, seeking records or interviewing potential defendants.
  - The officer in charge formed an adverse view about the credibility of complainants without interviewing them or investigating their complaints.
- The third New Zealand Police investigation, in 2006 to 2010, was flawed.
  - NZ Police did not afford adequate priority or resources to the investigation.
  - NZ Police did not designate it a 'specialist investigation', which would have ensured specialist staff and greater resources were allocated to it.
  - NZ Police reduced the investigation's scope to the misuse of the machine used to deliver electric shocks, overlooking physical and sexual abuse and the punitive use of paraldehyde.
  - NZ Police did not interview relevant complainants or investigate serious sexual allegations.
  - NZ Police focused on Dr Leeks, overlooking other staff.
  - NZ Police obtained legal opinions based on an incomplete and inaccurate

summary of the file.

- NZ Police adopted a biased attitude against those who had been admitted to the unit, treating them as unreliable and troublesome. NZ Police assumed staff were well-meaning and dedicated professionals.

- The Crown Law Office did not consider Aotearoa New Zealand's obligations under the Convention against Torture when dealing with the Lake Alice claims in the 1990s and 2000s. The United Nations Committee against Torture found Aotearoa New Zealand in breach of the convention for failing to ensure a prompt and impartial investigation into the unit.

"I don't remember a lot of what happened because of the drugs he would inject into me. The first time he did this, I woke up and he was standing at the end of my bed, my top had been pulled over my breasts and my jeans were down to the top of my thighs. He put me back to sleep again and when I woke for the second time, he was gone. I was sore and sticky between my legs. I felt drunk and ready to pass out. I knew that he had raped me."

- Ms Sharyn Collis

WHAKATEPENGA
CONCLUSION

3. Whakatepenga – Conclusion

988. More than a hundred survivors of the unit and other witnesses spoke to the Royal Commission during the course of our investigation. Time and time again we heard and read of tamariki running away. They never got far. No one ever asked why they were running, or what they were running from.

989. This inquiry did ask. We heard that they were sent to the unit for treatment but instead many were subjected to torture and tūkino including serious sexual, physical, emotional and psychological abuse. Survivors' cultures were ignored. Disabled survivors were not recognised or cared for. They were not believed when they tried to tell what was happening to them. Instead they were neglected, threatened, degraded and humiliated.

990. The children and young people at the unit were out of sight, many miles away from whānau and friends. They and their whānau suffered incalculable, lifelong tūkino or harm at the hands of so-called professionals. For Māori survivors and their Whānau, the tūkino, abuse, harm and trauma was compounded by the ongoing effects of colonisation and settlement.

991. The enduring abuse inflicted upon them and succeeding generations of their whānau, hapu, iwi, support networks and communities has been magnified over the past four and a half decades by the failure of numerous State agencies to fully investigate their claims. As a result, the State institutions whose flawed systems enabled the abuse and failed to prevent it have not properly acknowledged their responsibility. They have not held individual perpetrators to account and they have not provided puretumu torowhānui, holistic redress, and neither has it been provided in a timely manner.

992. The themes and findings in this report reflect broader systemic issues that we are continuing to investigate across all settings. These will come together in our recommendations for change in the final report.

993. It is wrong that no one has ever been found accountable and that survivors are still waiting for justice. The story of the Lake Alice Child and Adolescent unit is a shameful chapter in the history of Aotearoa New Zealand, which must be faced head-on without excuses or explanations, but with a determination to accept the injustice, make proper amends and ensure this tragedy never happens again.

"That nearly killed me; my spirit, my soul,
my wanting to live. I can't even express what
21 days feels like alone in this world locked in
that room knowing that I don't have anybody
on the inside or the outside that cares
about me and that these adults can come
and inject me and punish me, leave me a
bucket to go to the toilet in, and leave me in
this little box away from anyone. They were
the longest days and nights of aloneness
and complete abandonment. A nurse came
in at about 15 days when I'd been in there
and she snuck me a book and that probably
was the only thing that kept me
from breaking completely."
- Leoni McInroe

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ENDNOTES

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117 Leeks, Curriculum vitae, p 1.

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125 It is important to treat this data with caution as Oranga Tamariki was often drawing together information from incomplete files and some files may have been lost or destroyed. Oranga Tamariki was unable to specify whether these individuals were placed in the unit or the wider hospital.

126 This number differs slightly from the 97 referred to in Witness statement of Carmel McKee for Oranga Tamariki, ORT0025605 (Royal Commission of Inquiry into Abuse in Care, 13 August 2021), as we found five individuals whose first placement was from home, but who later had placements from out-of-home care, who were included in the out-of-home care placements. Also, two individuals had placements from home from a hospital. We have counted these placements as from home in line with the data from Oranga Tamariki.

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1518 Mitchell, Report of the Commission of Inquiry into the Case of a Niuean Boy, para 2.1.

1519 Witness statement of Dr John Werry, WITN0381001, paras 14–15.

1520 Witness statement of Dr John Werry, WITN0381001, paras 16–17.

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1530 First witness statement of Grant Cameron, WITN0638001, para 33.

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1538 See Royal Commission of Inquiry into Abuse in Care, He Purapura Ora, he Māra Tipu (vol 2), pp 4–15.

1539 Opinion of Dr Susan Perry on Mr DW, CRL0044150_00082 (1997, provided to Crown Law on 17 June 1998), p 6.

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1602 First witness statement of Grant Cameron, WITN0638001, paras 60–61.

1603 First witness statement of Grant Cameron, WITN0638001, para 56.

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1605 Witness statement of Mr AA, WITN0219001, para 43; Witness statement of Antony de Malmanche, WITN0310001, paras 115–116.

1606 Witness statement of Kevin Banks, WITN0332001, para 75; Witness statement of Bryon Nicol, WITN0350001, para 48; Witness statement of Malcolm Richards, WITN0335001, para 66.

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1611 Second witness statement of Grant Cameron, WITN0638008, 2021, para 75.

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1614 Witness statement of Sharyn Collis, WITN0344001, para 67.

1615 Witness statement of Malcolm Richards, WITN0335001, para 64.

1616 Witness statement of Peter Henaghan, WITN0340001, para 43.

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1623 Letter from Crown Law to Sonja Cooper, MSD0004077 (3 November 2017), para 31.

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1642 Letter from Complaints Assessment Committee to president of Medical Council of New Zealand, WITN0275018 (Medical Council of New Zealand, 21 January 2000), para 3.

1643 Witness statement of Aleyna Hall, WITN0275002 (Royal Commission of Inquiry into Abuse in Care, 22 April 2021), para 16.

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1683 File note of Ian Carter, CRL0044149 (29 September 1995), p 230.

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1695 Letter from Children's Commissioner Roger McClay to Minister of Health Annette King, CRL0044442 (17 October 2001), p 284.

1696 Letter from Minister of Health Annette King to Children's Commissioner Roger McClay, CRL0044442 (15 November 2001), pp 280–283.

1697 File note of meeting between Children's Commissioner Roger McClay and Crown officials, CRL0044442_00137 (28 January 2002).

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1701 Statement from the Office of the Children's Commissioner, EXT0019206 (Royal Commission of Inquiry into Abuse in Care, 16 December 2021), p 9.

1702 Health and Disability Commissioner complaint file, HDC0000004_00011, (27 July 1999) pg 6

1703 Health and Disability Commissioner Amendment Act 2003. Under section 31 of the Health and Disability Commissioner Act 1994, such complaints could be investigated if it was alleged or appeared the action affected a health consumer and was, at the time it was made, a ground for bringing disciplinary proceedings against the health practitioner under a former health registration enactment, but was not referred to the body that, under that enactment, had jurisdiction to consider it.

1704 The time that had elapsed between the subject-matter of the complaint and the date when the complaint was made is a relevant factor for the commissioner to consider when deciding whether to take no action on a complaint: Health and Disability Commissioner Act 1994, section 38.

1705 Letter from the Health and Disability Commissioner to Kevin Banks, HDC0000004_00050 (6 December 2005).

1706 Letter from Kevin Banks to the Health and Disability Commissioner, HDC0000004_00053, (although no date appears on Mr Banks' letter of complaint, the letter from the Health and Disability Commissioner of 6 December 2005 acknowledges receipt of Mr Banks' letter of 26 November 2005).

1707 Letter from the Health and Disability Commissioner to Kevin Banks, HDC0000004_00048 (21 December 2005).

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1711 Ministry of Health, cover sheet of Health report, CRL0044462_00040 (15 October 1997).

1712 Letter from Grant Cameron to Dr Janice Wilson (Director of Mental Health, Ministry of Health), CRL0044463_00255 (27 February 1998).

1713 The office of the Health and Disability Commissioner did not introduce a conflict of interest policy until 2007: Response to Notice to Produce no 1, HDC0000004_00042 (Office of the Health and Disability Commissioner, undated).

1714 First witness statement of Grant Cameron, WITN0638001, para 368.

1715 Letter from Graham Emery to Deputy Commissioner Steve Long, NZP0000065 (25 March 2003).

1716 Letter from Graham Emery to Deputy Commissioner Steve Long, NZP0000065.

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1718 Witness statement of Lawrence Reid, WITN0482001 (Royal Commission of Inquiry into Abuse in Care, 22 April 2021), para 7 [amended version 26 August 2021]

1719 Witness statement of Lawrence Reid, WITN0482001, para 10 [amended version 26 August 2021]

1720 Witness statement of Lawrence Reid, WITN0482001, para 7 [amended version 26 August 2021]

1721 Memorandum from Nicola Crutchley to Lou Lamprati, CRL0250486 (26 June 2003), p 1.

1722 Letter from Larry Reid to Paul Zentveld, NZP0000291 (draft, no date), p 1.

1723 United Nations Committee against Torture, Decision adopted by committee under article 22 of the convention concerning communication no 852/2017, (23 January 2020), para 9.8.

1724 Legal opinion from Nicola Crutchley to New Zealand Police, NZP0000017 (15 April 2004), para 26.

1725 Statement read by Detective Superintendent Tom Fitzgerald, NZP0041717 (Royal Commission of Inquiry into Abuse in Care, 2021), p 1.

1726 Witness statement of Jim Taare, WITN0640001 (Royal Commission of Inquiry into Abuse in Care, 2 June 2021), para 35.

1727 Statement read by Detective Superintendent Tom Fitzgerald, NZP0041717, p 1.

1728 Statement read by Detective Superintendent Tom Fitzgerald, NZP0041717, p 1.

1729 Statement read by Detective Superintendent Tom Fitzgerald, NZP0041717, p 1.

1730 Reid, L, Weekly report, NZP0000004 (New Zealand Police, 18 March 2005).

1731 Reid, NZP0000004. Mr Reid expressed the same view in a letter to director-general of Health Karen Poutasi, NZP0001467 (18 February 2005) and a letter to Detective Superintendent Rod Drew, NZP0000064 (18 January 2006).

1732 Reid, L (detective superintendent), police schedule of Lake Alice complaints as part of Operation Lake Alice, NZP0000031, undated, p 1.

1733 Statement read by Detective Superintendent Tom Fitzgerald, NZP0041717, pp 1–2. NZ Police referred to taking some investigative steps, including seeking an opinion in relation to Hake Halo's complaint, making enquiries to establish whether staff members were alive, interviewing Mr Halo and Ms Natusch, preparing a schedule of alleged offending and suspects, correspondence with the Citizens Coalition of Human Rights New Zealand, the director-general of Health, the Confidential Listening and Assistance Service, and discussions with the Health and Disability Commissioner.

1734 Email from Larry Reid to Steve Winter, NZP0041555_00006 (2 February 2005).

1735 Reid, L, Weekly report, NZP0000004.

1736 Witness statement of Lawrence Reid, WITN0482001, para 23.

1737 Email from Detective Superintendent Malcolm Burgess to David at 'dbcollins law', NZP0000929, 21/06/2006.

1738 New Zealand Police, Investigation Plan – Lake Alice Inquiry, NZP0000050, 20/06/06.

1739 Letter from Malcom Burgess to Assistant Commissioner Peter Marshall, NZP0000316 (22 June 2006).

1740 Transcript of evidence of Malcolm Burgess from the Lake Alice Child and Adolescent Unit hearing, TRN0000395 (Royal Commission of Inquiry into Abuse in Care, 2021), pg 756

1741 Memorandum from Nick Perry, national manager: crime, to Assistant Commissioner: crime and operations, Lake Alice: Historic allegations, NZP0000317_00001 (12 July 2006), p 1. The decision to focus on only Dr Leeks and the misuse of ECT was also a complete reversal of the scope adopted by Mr Reid, which was to focus on allegations of physical and sexual offending.

1742 Email from Malcolm Burgess to David Collins, NZP0000929 (21 June 2006).

1743 Memorandum from Nick Perry, national manager: crime to Assistant Commissioner: crime and operations, NZP0000317_00001, p 1.

1744 Transcript of evidence of Malcolm Burgess, TRN0000395, p 756.

1745 Transcript of evidence of Thomas Fitzgerald from the Lake Alice Child and Adolescent Unit hearing, TRN0000395 (Royal Commission of Inquiry into Abuse in Care, 2021), pp 745–746.

1746 Transcript of evidence of Thomas Fitzgerald, TRN0000395, pp 824–825.

1747 Statement read by Detective Superintendent Tom Fitzgerald, NZP0041717, p 1.

1748 Statement read by Detective Superintendent Tom Fitzgerald, NZP0041717.

1749 New Zealand Police, Adult sexual assault investigation policy, NZP0026569 (effective from 1 August 2003), p 8.

1750 Transcript of evidence of Malcolm Burgess, TRN0000395, p 753.

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1754 Transcript of evidence of Malcolm Burgess, TRN0000395, pp 780–781.

1755 Witness statement of Malcolm Burgess, WITN0437001 (Royal Commission of Inquiry into Abuse in Care, 6 April 2021), para 6.16.

1756 Transcript of evidence of Malcolm Burgess, TRN0000395, p 761.

1757 Transcript of evidence of Malcolm Burgess, TRN0000395, p 761.

1758 Letter from Malcolm Burgess to Rod Drew, NZP0000061 (22 March 2007), p 3.

1759 Report of Malcolm Burgess, NZP0000308 (14 September 2009), p 1.

1760 Job sheet of interview of Terry Conlan, NZP0000341 (17 August 2006), p 2.

1761 Report of Malcolm Burgess, NZP0000308, p 4.

1762 Lake Alice Child and Adolescent Unit Inquiry Hearing Transcript of Proceedings, TRN0000396, (Royal Commission of Inquiry into Abuse in Care, 25 June 2021) p 786.

1763 Witness statement of Ian McArthur, WITN0443001 (Royal Commission of Inquiry into Abuse in Care, 21 April 2021).

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1765 Legal opinion of Ian McArthur, NZP0000853 (1 December 2009), p 5.

1766 Legal opinion of Ian McArthur, NZP0000853, p 9.

1767 Legal opinion of Ian McArthur, NZP0000853, p 10.

1768 Legal opinion of Ian McArthur, NZP0000853, p 13.

1769 Feint & Maltby, Closing submissions for the Crown, MSC0007606, para 6.3(d)

1770 Witness statement of Pip Hall, WITN0542001, para 7.

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1772 Legal opinion of Pip Hall, NZP0000019 (9 December 2009), para 7.

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1775 Stuff, Lake Alice abuse group to take case to UN, CCH0002160 (30 March 2010), p 7.

1776 Transcript of evidence of Solicitor-General Una Jagose, TRN0000397, pp 895–899.

1777 Notes of comments made by Dr Selwyn Leeks to Rob Butler, NZP0000774 (27 June 1977), p 7.

1778 Report by Detective Senior Sergeant Rob Butler regarding allegations of ill treatment of patients in Lake Alice Adolescent Unit, NZP0000762 (19 August 1977), p 14

1779 Legal opinion of Neville Trendle, NZP0000804 (12 September 1977), p 1.

1780 Notes of comments made by Dr Selwyn Leeks to Rob Butler, NZP0000774 (27 June 1977), p 7.

1781 Report by Rob Butler, NZP0000762 (19 August 1977), p 8.

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1783 Letter from Robert Butler to Wanganui District Commander Brian Dean, NZP0001459 (3 February 1978), p 1.

1784 Weekly report of Detective Superintendent Larry Reid, NZP0000004 (18 March 2005).

1785 Memorandum from Nick Perry to Assistant Commissioner: Crime and Operations, New Zealand Police, NZP0000317_00001 (12 July 2006), p 1.

1786 Transcript of evidence of Malcolm Burgess, TRN0000395, pp 758–759.

1787 Legal opinion of Pip Hall, NZP0000019, (9 December 2009) para 13(e).

1788 Report by Doug Brew to district manager, criminal investigations, NZP0000388 (27 January 2014), pp 8–10.

1789 Report by Doug Brew to district manager, criminal investigations, NZP0000388, p 10.

1790 Letter from Malcolm Burgess to Superintendent Russell Gibson, district commander, Central District, NZP0000388 (6 March 2014), p 5.

1791 Email from Detective Senior Sergeant Anthony Tebbutt to Malcolm Richards, NZP0001057 (29 November 2018).

1792 Email from Detective Senior Sergeant Anthony Tebbutt to Malcolm Richards, NZP0001057 (29 November 2018).

1793 Email from Detective Senior Sergeant Anthony Tebbutt to Malcolm Richards, NZP0001057 (11 and 12 February 2019).

1794 Interview report prepared by Detective L Foley, NZP0000407 (15 March 2019), p 3.

1795 Letter from Professor Garry Walter to Detective Senior Sergeant Tebbutt, NZP0001493 (27 September 2019), p 1.

1796 Crimes Act 1961, section 195.

1797 The fact a case arising out of this investigation is still before the courts means we cannot comment in any detail on how NZ Police conducted its investigation. We may do so in subsequent reports.

1798 Witness statement of Thomas Fitzgerald, NZP0047674 (28 March 2022), para 2.3.

1799 List of survivors/complainants whom NZ Police contacted or attempted to contact, NZP0047656, undated.

1800 Police instructions manual: Child protection – mass allegation investigation, NZP0042656 (New Zealand Police, 25 November 2021), pp 7–8.

1801 United Nations Committee against Torture, Decision adopted by committee under article 22 of the convention concerning communication no 852/2017, para 8.3.

1802 See, for example, the 1950 European Convention on Human Rights and 1969 American Convention on Human Rights.

1803 Letter from JMR Mansfield to secretary of foreign affairs, Wellington, MOJ0001306_00056 (15 October 1974).

1804 United Nations General Assembly Resolution 3452(XXX) of 9 December 1975.

1805 Letter from Secretary of Foreign Affairs Adrienne Jackson to Secretary for Justice, MOJ0001312_00015 (28 April 1978).

1806 United Nation's Committee Against Torture and Cruel Inhuman or Degrading Treatment or Punishment, Questionnaire on the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, MOJ0001312_00017 (8 December 1977).

1807 Letter from secretary for justice to secretary of foreign affairs, MOJ0001312_00011 (12 September 1978).

1808 Letter from Crown response unit chief advisor, Sandra Moore, to Erin James, inquiry secretariat, in response to Nowak–Steimann opinion, CRN0000649 (2 May 2022).

1809 Letter from Crown response unit chief advisor, CRN0000649 (2 May 2022).

1810 Letter from Crown response unit chief advisor, CRN0000649 (2 May 2022).

1811 Letter from Crown response unit chief advisor, CRN0000649 (2 May 2022).

1812 The committee came into being after the United Nations General Assembly adopted the text of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1984: UN Doc A/Res/57/199 (adopted 10 December 1984, entered into force 26 June 1987).

1813 When New Zealand ratified the convention on 10 December 1989 it also recognised the competence of the committee to "receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention": article 22(1).

1814 Email from Heather Ward to Grant Adam, CRL0044435_00025 (26 July 2001).

1815 Email from Grant Adam to Christine Lloyd and Grant Liddell, CRL0044435_00025 (27 July 2001).

1816 Email from Grant Liddell to various people, CRL0044435_00019 (27 July 2001).

1817 Email from Heather Ward to Grant Adam, CRL0044441_00036 (4 December 2001).

1818 Email from Grant Adam to Heather Ward, CRL0044441_00036 (5 December 2001).

1819 Email from Grant Adam to Heather Ward, CRL0044441_00036. (5 December 2001).

1820 Email from Wendy Edgar to various people, CRL0044447_00266 (13 February 2004).

1821 Email from Wendy Edgar to various people, CRL0044447_00265 (27 February 2004).

1822 Draft briefing paper for Don Mathieson, CRL0044447_00264 (no date), p 1.

1823 Email from Ben Keith to Rachael Schmidt, CRL0044447_00270 (14 April 2004).

1824 Briefing paper for Don Mathieson, CRL0044447_00261 (no date).

1825 United Nation's Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, Summary record of first part of committee's meeting, MFA0000067 (12 May 2004). author?

1826 Summary record of first part of committee's meeting, MFA0000076 (4 May 2009), p 6.

1827 Ministry of Health Chief Legal Advisor Mr Philip Knipe told the inquiry's redress hearing in October 2020 that Lake Alice survivors continued to come forward after the cut-off date for the second-round settlement of 1 July 2002. The ministry has maintained a separate process for new claims, although it makes no effort to publicise the claims process and no reference is made to it on its website. Even so, it has continued to receive on average about one new claim a year: Transcript of hearing, TRN0000016 (19 October 2020), pp 15 and 53–56.

1828 Follow-up responses by New Zealand to the concluding observations of the Committee against Torture, MFA0000078 (19 May 2010), pp 10–11.

1829 Green, S, Allegations of torture and/or cruel, inhuman or degrading treatment or punishment, WITN0502002 (Citizens Commission on Human Rights, 13 May 2010), pp 6–14.

1830 Follow-up letter from Felice Gaer to New Zealand regarding fifth periodic report, MFA0000079 (7 May 2012).

1831 New Zealand's Sixth periodic report to the United Nation's Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2013, MOJ0000023 (20 December 2013), p 40.

1832 United Nation's Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on sixth periodic report, MFA0000084 (United Nations Committee against Torture, 2 June 2015), p 5.

1833 Information received from New Zealand in follow-up to concluding observations, MFA0000085 (3 June 2016), p 6.

1834 Letter from Attorney-General Christopher Finlayson to Sonja Cooper, CRL0151648, pp 2–3.

1835 Transcript of evidence of Solicitor-General Una Jagose, TRN0000022 (Royal Commission of Inquiry into Abuse in Care, 2020), pp 962–963.

1836 Transcript of evidence of Solicitor-General Una Jagose, TRN0000397, p 853.

1837 Transcript of evidence of Solicitor-General Una Jagose, TRN0000397, p 853.

1838 Transcript of evidence of Solicitor-General Una Jagose, TRN0000397, p 853.

1839 Transcript of evidence of Solicitor-General Una Jagose, TRN0000397, pp 853–854.

1840 Memorandum from Una Jagose, Lisa Hansen, Austin Powell and Fiona Guy-Kidd to Karen Clark and John Pike, Deputy Solicitors-General dated 10 April 2006, CRL0008335_00020

1841 Memorandum dated 10 April 2006, CRL0008335_00020 at paras 115-116

1842 Memorandum from John Pike to Una Jagose dated 29 May 2006, CRL0016502.

1843 In ratifying the convention on 10 December 1989, New Zealand recognised the committee's competence to "receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims" of torture and similar treatment: Convention against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment, article 22(1).

1844 Boyd, V, Complaint to the United Nations Committee against Torture regarding Paul Zentveld, WITN0341044 (Citizens Commission on Human Rights, 10 July 2017), p 7.

1845 United Nations document A/Res/57/199. The convention was adopted on 10 December 1984 and came into force on 26 June 1987. It was ratified in New Zealand by the Crimes of Torture Act 1989.

1846 Convention against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment, article 12.

1847 Convention against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment, articles 13 and 14.

1848 United Nations Committee against Torture, Decision adopted by committee under article 22 of the convention concerning communication no 852/2017.

1849 United Nations Committee against Torture, Decision adopted by the committee under article 22 of the convention, concerning communication no 934/2019 (16 June 2022).

1850 Submission to United Nations Committee against Torture regarding Paul Zentveld's complaint, WITN0341044 (New Zealand Permanent Mission to United Nations Office in Geneva, 18 May 2018), paras 7–11.

1851 United Nations Committee against Torture, Decision adopted by committee under article 22 of the convention concerning communication no 852/2017.

1852 United Nations Committee against Torture, Decision adopted by committee under article 22 of the convention concerning communication no 852/2017, para 9.4.

1853 United Nations Committee against Torture, Decision adopted by the Committee against Torture under article 22 of the convention, concerning communication no 934/2019, para 8.10.

1854 Letter from Crown Response Unit chief advisor, Sandra Moore, to Erin James, inquiry secretariat, in response to Nowak–Steimann opinion, CRN0000649 (28 April 2022).

He karakia

This karakia is based on a modern karakia that has been adapted by Grant Huwyler.

Haupū ngā kōrero o te tira whai oranga

Ka iria ngā kōrero ki runga ki te tuanui o Rangi e tū nei i te māramatanga o te ra,

Kua haruru te whenua i te tapuae o te tangata,

Warea, warea, te onepū toro mai i Otakapou,

Ka hora te marino ki ngā wai o Rotowhero,

Puritia kia ū, puritia kia mau,

Puritia kia tina,

Haumi e, hui e, taiki e!

This karakia acknowledges all of the material contained in the report, and acknowledges that this report and all the contributions of survivors has been elevated and suspended in the sky for all to see in the light of day.

The karakia links the closing of this report to the visit survivors and their whānau and support networks with Ngāti Apa and Ngā Wairiki made to have karakia at the site of the Lake Alice Hospital in February 2022, in our efforts to bless the site and to release our ancestral land where the hospital is located from its shameful legacy, and to calm the waters of our lake, Rotowhero and the other nearby waterbodies.

for distrust, no room f

up your heart, don't la

lity in life that's hard to fi

a child with an open m

erness, sensitive to a smile

children have come into m

people young and b

children longing for life

le take away the night

from our hearts

for love and affection

Abuse in Care
Royal Commission of Inquiry