

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

Under The Inquiries Act 2013

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

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Mr Brian Henry, Mr Chris Shannon and Ms Sykes for Gloriavale

Venue: Level 2
Abuse in Care Royal Commission of Inquiry
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TRANSCRIPT OF PROCEEDINGS

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3 **OPENING STATEMENT BY THE CATHOLIC CHURCH ON EDUCATION**

4 **MS McKECHNIE:** Commissioners, you have a copy of my written submissions on the bench in
5 front of you. They will be available online on the TRT [Te Rōpū Tautoko] website
6 momentarily for people who want to follow from home and are being e-mailed to Counsel
7 Assisting.

8 To commence, Commissioners, we too acknowledge the survivors and the survivor
9 networks who are here today. We acknowledge all those who are supporting and listening
10 both here in the room and on the livestream. My friend has outlined the evidence that
11 you'll hear today briefly and I will cover that in a little more detail to give you some context
12 to Catholic education before you hear from the four witnesses this morning.

13 But it's important, Commissioners, of course to acknowledge the harm that has
14 taken place in some Catholic educational institutions and I will do that now. The Bishops
15 and Congregational Leaders who have appeared before you have acknowledged this harm
16 and you will hear it again today in the evidence.

17 Sadly, this harm has taken place in a number of Catholic schools, including
18 St Patrick's College Silverstream. And any harm is, of course, unacceptable and
19 indefensible.

20 The current leaders of the College who will be giving evidence in the second
21 session also acknowledge this harm. They acknowledge that this abuse that appeared in the
22 history of the College is part of the history that they must carry forward into the future.

23 Commissioners, on page 3 of the opening submissions I've just outlined, to assist
24 the Commission, the range of evidence that has been filed in relation to education. Some of
25 it has been filed for today's hearing and much of it has been filed for previous hearings, and
26 that in part reflects how important education is to the Catholic Church. So that material is
27 outlined for your and Counsel Assisting's reference.

28 But I want to start, Commissioners, for you and for those listening with some
29 statistics. These are on page 4 of my written submissions. Catholic education is very
30 significant in New Zealand in terms of scale. There are 236 Catholic State-integrated
31 schools in New Zealand. That's 9.3% of all the schools in New Zealand and that's --

32 **CHAIR:** 9.3 of all schools?

33 **MS McKECHNIE:** All schools, and 67%, ma'am, of all the schools that have a religious

1 affiliation are Catholic affiliated. Since 1975, all Catholic schools are now State-integrated
2 schools. They're best described as State schools with a special character. For these schools
3 of course that character is Catholic.

4 Commissioners, there are 334 State-integrated schools. So the Catholic schools
5 amongst those is approximately 70, 71% of all State-integrated schools are Catholic. There
6 are 10 Catholic colleges that currently have boarding facilities and St Patrick's Silverstream
7 is one of those. So there are approximately 66,500 students today being educated in
8 Catholic State-integrated schools and about 1,000 students living in the boarding hostels
9 associated with those colleges. So as you can see, in 2022 it's a very significant part of the
10 New Zealand education system.

11 Commissioners, what I have attempted in the next part of my opening submissions
12 is a very brief history of Catholic education in New Zealand. And I've set this out in some
13 detail for those who may wish to read it afterwards.

14 The first Catholic school in Aotearoa opened in 1840. So as you can see this history
15 has been in play for the length of New Zealand's own history of Pākehā colonisation. There
16 have been 390 Catholic schools since 1950. Prior to 1975 these were all private schools.
17 But the way that they were owned and operated varied very significantly between the
18 schools. So I've set out a few examples to highlight that on page 6 because it's important, I
19 think particularly given the Commissioners' concern around responsibility and
20 accountability, to understand how varied and different those arrangements were.

21 I'd like to highlight four key parts of this history for the Commissioners today for
22 you to have in your mind when you're listening to evidence. The first one is the key
23 regulatory change in 1975. In the mid-'70s, Commissioners, it became increasingly
24 difficult for Catholic schools financially. The upkeep of the buildings and the payment of
25 the staff. Religious and lay Religious staff were not paid salaries in the way that modern
26 teachers are and their numbers began to drop off and the buildings became more expensive
27 to maintain.

28 So in 1975 the pithily named Private Schools Conditional Integration Act was
29 passed. It wasn't just for Catholic schools, Commissioners, it was for any private school
30 that wished to integrate, but all the Catholic schools took that opportunity. And over the
31 next decade all the Roman Catholic schools in New Zealand integrated. So integration is a
32 key feature of understanding Catholic education in New Zealand today.

33 The second point, Commissioners, is that boarding hostels did not integrate.

1 Because they were not part of the core educational function of the school, they did not
2 integrate and remain privately run. Again, the particular structures are different between
3 the different colleges, and Dr Shore's evidence sets this out, but they all in their genesis
4 have a Catholic entity involved in their operation.

5 And then, Commissioners, the changes in 1989 which brought in Board of Trustees
6 is the other key regulatory feature, and Ms Schmidt-McCleave outlined that in some detail
7 so I don't propose to do that this morning.

8 I would highlight, however, very recently Boards of Trustees have now been
9 changed to be called School Boards, which can be somewhat confusing and I suspect this
10 morning we may slide back and forward a little bit between School Boards and Boards of
11 Trustees.

12 **CHAIR:** I think if we say "boards" we know, if everybody knows that when you say "board" in
13 whatever way that's what we're referring to.

14 **MS McKECHNIE:** Unfortunately, ma'am, Board of Proprietors is the other key feature so it can
15 be confusing. I think my own clients didn't know they were now called a School Board
16 until we started to prepare this work, ma'am, they still thought they were called the Board
17 of Trustees, it's a very, very recent change.

18 But that Proprietor point, ma'am, is the other key feature that is important to
19 understand before we commence this morning, and I've briefly outlined that on page 9.
20 Catholic State-integrated schools are managed in a very similar way to other State schools,
21 but for this feature of proprietorship. And the Proprietor of the school, again structured
22 differently depending on the school, their role is to own or lease the land and buildings of
23 the school and they're responsible for preserving the special character of the Catholic
24 school, or indeed if it were a Presbyterian school, the special character of the Presbyterian
25 school.

26 The School Board, formerly Board of Trustees, runs the school and is responsible
27 for the day-to-day operations of the school. They employ the staff and the staff are funded
28 by the State. They are State teachers in a State-integrated school. The Proprietor's
29 responsibilities are for land and buildings and special character, and for safety of the hostel
30 if the college has a hostel.

31 And those features, Commissioners, mean that the history of the last 60 years or 70
32 years of Catholic education is in two distinct parts; prior to integration where they were
33 private schools run by a number of different Catholic entities and after integration where

1 they are run by the State and the Proprietor has a role for their special character. And that's
2 very significant in the context of responsibility for staff and any harm or abuse that happens
3 in the school.

4 Now Commissioners, we have undertaken a survey as part of this work of harm in
5 schools and as part of the commitment of the Catholic Bishops and Congregational
6 Leaders, all of that harm information about records of harm held by Catholic entries has
7 been publicly published. It was published earlier this year in two parts and it's publicly
8 available for anyone who wishes to see it.

9 We are not aware, Commissioners, of any statistical analysis done about harm in
10 State schools or in other religious integrated schools or in private schools, so we are not
11 aware of whether those records are more, less, or the same than harm in any other
12 educational environment.

13 Commissioners --

14 **CHAIR:** Can I just take you back to one point, sorry I didn't pick it up at that moment. You've
15 made it clear that the big changes in organisation to becoming a State-integrated school are
16 significant in terms of organisation, and you said that the State is now responsible for
17 anything that goes on in those schools in terms of education and indeed if there are
18 problems with the school, if there's harm it's the State's responsibility, is that what you're
19 saying?

20 **MS McKECHNIE:** Yes, ma'am, in relation to the teaching and the curriculum, these schools
21 teach the New Zealand curriculum and the teachers are appointed by the government.

22 **CHAIR:** I'm really -- of course we're focusing here, aren't we, on abuse and things that go wrong.

23 **MS McKECHNIE:** Sadly yes, ma'am.

24 **CHAIR:** Yes, absolutely, and I want to know does the Catholic Church accept any responsibility
25 at all now for those matters, notwithstanding what you have just said, given that they are a
26 special character focused on the Catholic Church?

27 **MS McKECHNIE:** Ma'am, they certainly accept all responsibility for actions of their own
28 members and for when the school was integrated. Those things don't completely overlap,
29 in some instances priests or Religious continued to work in schools after integration, so it's
30 not a hard deadline.

31 **CHAIR:** So if a priest is still working in a school and does something wrong, the Church accepts
32 responsibility for the actions of that individual?

33 **MS McKECHNIE:** Absolutely ma'am.

1 **CHAIR:** But not of the entire school if something happens, a lay teacher or something else, the
2 Church does not accept responsibility for that?

3 **MS McKECHNIE:** The principal responsibility sits with the Crown entity that runs the school.

4 **CHAIR:** Just wanted to be really clear about that.

5 **MS McKECHNIE:** Yes, ma'am. The Church doesn't employ or vet or in any way have any
6 influence over who's employed in the school and accordingly has no responsibility directly
7 for those individuals. It is different in the boarding hostel of course ma'am.

8 **CHAIR:** Yeah, thank you. Thanks for clarifying that.

9 **COMMISSIONER ERUETI:** So the boarding school, the hostels, the staff working there, that
10 falls within the responsibility of the Church?

11 **MS McKECHNIE:** Of the Proprietor of the boarding hostel which ultimately will be a form of
12 Church entity structured in a number of different ways, yes.

13 **COMMISSIONER ERUETI:** Yes, and the Proprietor can appoint trustees to the Board of
14 Trustees?

15 **MS McKECHNIE:** Yes.

16 **COMMISSIONER ERUETI:** And that's generally the case?

17 **MS McKECHNIE:** Yes, as I understand it. Dr Shore would be the expert there, Dr Erueti, but
18 yes, as I understand it. And certainly for Silverstream there is a Board of Proprietors, as
19 you'll hear, a number of those representatives are also appointed on to the Board of
20 Trustees, or now the School Board, as part of the integration agreement for the school.

21 **COMMISSIONER ERUETI:** Yes, thank you.

22 **MS McKECHNIE:** Ma'am, the special character of the school does somewhat blur the lines
23 because, as the Proprietor responsible for special character, the Proprietor and the
24 Proprietor Board have an interest in a range of elements that are relevant to special
25 character, and for a special character like the Catholic faith and for the school the Marist
26 faith, that is a wide-ranging interest; but specifically if a teacher were to harm a student in
27 2022, that is the responsibility of the School Board, the Crown entity that employed the
28 teacher.

29 **CHAIR:** Thank you for clarifying that.

30 **MS McKECHNIE:** Commissioners, you have asked to hear from St Patrick's Silverstream today
31 and you will do so. But they are, of course, just one example and as a result cannot really
32 be a particularly representative example of Catholic education. But they are here at your
33 request to answer your questions and will do so to the best of their ability.

1 Silverstream, to briefly introduce the school, is a secondary school boys' boarding
2 college, was founded and remains owned by the Society of Mary and accordingly Father
3 Duckworth will be giving evidence this morning. It was established in 1931 and integrated
4 in 1983. At the moment, Commissioners, it has a role of approximately 700 students and of
5 those 80 approximately live in the boarding hostel.

6 It has a long history of educating Māori and Pacific boys and young men. The
7 Society of Mary has long connections with Māori through its Māori Missions and with the
8 Pacific Islands and boys from those communities have long come to the school. It's quite
9 striking looking at the old school books how many Māori and Pacific boys in the '40s and
10 '50s attended the school. Presently, the roll is just under 21% of the students identify as
11 being Māori and 27.5% identify as having Pacific heritage. It's a very significant part of
12 the school and its cultural identity.

13 The special character of Silverstream reflects that it is Catholic and that it is Marist.
14 And this is recognised in the integration agreement. And those three things, that this is a
15 school providing State education, that it's a Catholic school and that it's a Marist school, all
16 are part of the school's identity and hold value for the College. And we've provided a
17 briefing paper to the Commission to lay out that history in some more detail.

18 The day-to-day operations sit with the Rector as they always have and you will hear
19 from Rob Ferreira later who is the present Rector of the school. He has only been in the job
20 for 20 weeks, but he will answer the questions you have to the best that he can.

21 To briefly summarise to close these opening submissions, again in the spirit of
22 transparency and openness so everyone listening can hear the information, we have
23 undertaken a review of the reports of harm and abuse that are held in the school records and
24 in the Society of Mary's records.

25 Between 1950 and 1984 there are 22 reports of harm of abuse against seven known
26 individuals. Those men are all members of the Society of Mary or were. These vary from
27 at the most serious end sexual harm -- for which Alan Woodcock, the most serious of these
28 offenders, was convicted -- through to inappropriate physical punishment. The description
29 in one of the documents is being boxed around the head.

30 Father Tim will give evidence in relation to the processes that the Society of Mary
31 uses in responding to those allegations and claims when those young men, a number of
32 them, have come forward to the school later.

33 In the post-integration period the records are not as strong. The school holds

1 records from 2005 and that's in part because they had the ordinary approach of State
2 schools which is only to hold records for a certain period.

3 So from 2005 to the present day, there are approximately 10 incidents that we can
4 find in the school's records that required an employment disciplinary response. And again,
5 these vary significantly. At the most serious end, there is an allegation of sexual fondling
6 by an adult, by a staff member on a student. But the majority of the allegations we have
7 records for are the inappropriate use of language or discriminatory language against
8 students. And these records are predominantly in the employment files of the teachers who
9 were warned, or censured, and in some cases lost their jobs in relation to the matters
10 depending on how serious they were.

11 You will hear evidence in relation to those processes today, Commissioners. But
12 particularly for the Rector, having only been in the school this year, necessarily there will
13 be limited detail that can be provided in this forum, because the people involved in those
14 incidents remain part of the school.

15 We anticipate the school community is watching today and so the witnesses will be
16 very careful about how they respond to your questions to respect the privacy of the
17 individuals involved. And to ensure that the students feel comfortable to come forward and
18 to raise these issues, which is very much the intention of the school leadership.

19 So to conclude my opening on education, Commissioners, as that very brief survey
20 of Catholic education I hope has outlined, the history of Catholic education in New Zealand
21 is significant and it's complex. And since 1975 it has been very closely intermeshed with
22 government and with the Crown, both in regulatory regimes and in control and ownership.

23 So today, Commissioners, we really encourage you to engage with the witnesses
24 this morning to get an understanding of that complexity. Albeit St Patrick's Silverstream is
25 an example of one, they are happy to answer any questions that my friend Mr Thomas or
26 the Commissioners have to try and assist. Anything more technical and more specific,
27 Dr Shore has been warned he may be karaoke from the end of the bench and he can step in
28 to answer your questions.

29 **CHAIR:** Thank you.

30 **MS McKECHNIE:** Do you have any other questions for me, Commissioners, or should I ask
31 Father Duckworth to make himself available?

32 **CHAIR:** Nothing more. Just before he starts, thank you Ms McKechnie, you can be seated.

33 There's reference by Ms McKechnie to the fact that certain people won't be mentioned,

1 their names won't be mentioned out loud, and I am sure that some people will feel that this
2 is some sort of cover-up, that somehow things are being hidden away.

3 I have to say that the Commission is bound by rules of natural justice and that it is
4 unfair to name people who are in the middle of having allegations made against them when
5 there's been no conclusion. But I just want to make it quite clear that it does not mean that
6 it ends here. So behind the scenes people are being investigated, incidents are being
7 investigated, and allegations are being put to those people in writing and responses are
8 sought. And the outcome, and I'm sorry to have to say but wait there's more, it will come in
9 our reports.

10 So I know that won't satisfy a lot of people who will want everybody to be named at
11 this stage. It can't be, out of the interests of fairness. But it does not mean that we are not
12 looking at closely and investigating.

13 So that's all I wanted to say on that point and now might I say -- how are we going
14 to refer to all our witnesses today, will they want to be called by their first names?

15 **MS McKECHNIE:** Yes ma'am, Tim.

16 **CHAIR:** Father Tim, thank you very much for joining us via the AVL and sitting patiently
17 through the beginning. We appreciate your attendance from the other side of the world. So
18 thank you so much and I'm going to leave you now once I've taken the oath.