

**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

Royal Commission: Judge Coral Shaw (Chair)
Dr Anaru Erueti
Ali'imua Sandra Alofiavae
Paul Gibson

Counsel: Mr Simon Mount KC, Ms Kerryn Beaton KC, Ms Katherine Anderson, Ms Tania Sharkey, Mr Michael Thomas, Ms Kathy Basire and Ms Alisha Castle for the Royal Commission

Ms Rachael Schmidt-McCleave and Ms Julia White for the Crown

Ms Sally McKechnie and Ms Brooke Clifford for Te Rōpū Tautoko, the Catholic Bishops and Congregational Leaders

Mrs Fiona Guy-Kidd and Ms India Shores for the Anglican Church

Ms Maria Dew KC, Ms Kiri Harkess and Mr Lourenzo Fernandez for the Methodist Church and Wesley Faith

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

Ms Sarah Kuper and Mr Matthew Hague for the Presbyterian Church

Venue: Level 2
Abuse in Care Royal Commission of Inquiry
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AUCKLAND

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TRANSCRIPT OF PROCEEDINGS

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1 **CHAIR:** Welcome back, everybody, to our final session of the day and welcome to all the new
2 faces in the room. We'll get to those shortly. But in order to avoid extreme confusion,
3 instead of just minor confusion, I am going to ask for some appearances of those who have
4 not appeared before, and if you could say your name clearly and who you're representing
5 I'd be most grateful. So...

6 **MR BARKER:** Andrew Barker appearing with Honor Lanham for Dilworth School and Dilworth
7 Trust Board.

8 **CHAIR:** Thank you, Mr Barker.

9 **MR VAN DER PLAS:** Karl van der Plas and Jaiden Gosha for the Dilworth Class Action Group.

10 **MRS GUY-KIDD:** Fiona Guy-Kidd, Jeremy Johnson and India Shores for the Anglican Church.

11 **CHAIR:** Thank you. That gets us all back into line again. Thank you, Ms Anderson.

12 **MS ANDERSON:** Madam Chair, the order is the opening address from the Dilworth Class Action
13 Group to begin, followed by Mr Barker's opening address in relation to the Dilworth Trust
14 Board and school, and then we'll move on to the evidence of Dr Murray Wilton who's here
15 in the witness box with his support people.

16 **CHAIR:** All right. I just say thank you, Mr Wilton, for coming in early, you're going to have to
17 sit through the opening addresses, I hope that's all right for you. Are you comfortable
18 doing that?

19 **DR WILTON:** Perfectly.

20 **CHAIR:** Thank you. Very well.

21 So, Mr van der Plas, I think it's for you to open, thank you. Good afternoon,
22 Mr Harding, welcome back.

23 **OPENING STATEMENT BY THE DILWORTH CLASS ACTION GROUP**

24 **MR VAN DER PLAS:** Ko te whare e tū nei tēnā koe, mihi atu ki te mana whenua o te rohe nei
25 Ngāti Whātua Ōrākei tēnā koutou. Ki te hunga mate, haere, haere, haere e te hunga ora kua
26 tae mai nei. Ko Karl van der Plas tōku ingoa. Ki Te Horo ki te rohe. Ki Pukemoemoe(?)ki
27 te maunga, ki Ōtaki ki te awa.

28 Esteemed members of the Commission, Madam Chair, my name is Karl van der
29 Plas and I appear alongside with Mr Neil Harding one of our clients on behalf of the
30 Dilworth Class Action Group. This is the first opportunity that you've heard from us during
31 this Commission of Inquiry.

32 I am a Pākehā male in my late 20s with blonde brown hair, I am wearing a black
33 suit and turquoise tie.

1 I acknowledge the house in which we stand. I acknowledge those who hold mana
2 whenua, I acknowledge those who have passed and those who are present and living.

3 I wish at the outset to also acknowledge the many courageous survivors who have
4 engaged with this Commission of Inquiry and continue to engage with this Commission. In
5 particular, I specifically want to acknowledge those who we have the privilege of
6 representing, -- Mr Harding who's beside me, and Mr HS, who isn't present today, and
7 along with the full class of Dilworth survivors that they both represent.

8 Mr HS has automatic name suppression and because of that we refer to him as HS
9 and only by those letters.

10 In addition to appearing with me, Mr Harding will separately address this
11 Commission later during the hearing to present a survivor led initiative and petition.
12 Mr Harding and HS both jointly brought the Dilworth class action, both are survivors of
13 sexual abuse at Dilworth and both have courageously put themselves forward in the
14 interests of survivors for the benefit of survivors. They are supported by a team of
15 professionals, all of whom have given up their time to act pro bono in their assistance.

16 Our team has been brought together and is supported by LPF Group, a well-known
17 and renowned litigation funder, Rachael Reed, an experienced King's Counsel, who won't
18 need any introduction to this Commission, leads our team. Ali van Ammers is an
19 experienced barrister and is also instructed as counsel.

20 The solicitors for the class action are Wilson Harle and our team is made up of Ian
21 Denton, Andrew McCombie, Jaiden Gosha, our law clerk who is seated behind me, and
22 myself.

23 Finally, Bronwynne Howse, communications expert with Joyce Howse Consulting,
24 has led survivor and public communications.

25 The Dilworth Class Action Group was established in early 2021 in response to
26 Dilworth's failure to adequately apologise to and redress survivors of sexual abuse at the
27 school. Our clients commenced the class action by filing a detailed complaint with the
28 Human Rights Commission on 24 June 2021.

29 This alleged that the widespread institutional sexual harassment of vulnerable
30 students breached the Human Rights Act 1993. The complaint seeks to hold Dilworth
31 accountable for knowingly failing to protect all survivors in its care between the 1950s and
32 as recently as the last 15 years.

1 Since filing, over 130 survivors and numerous witnesses have registered with the
2 class action. However, the total number of Dilworth survivors far exceeds this and the
3 class action has been brought for all of their benefit.

4 For Mr Harding, the class action was borne out of his realisation that many boys had
5 been abused before he was and had any one of their complaints been acted on by Dilworth,
6 his abuse simply would not have happened. For HS it was the shock of the scale of the
7 abuse uncovered and his desire to ensure that what happened to him never happened to
8 anyone else again.

9 But for both of them it was the disconnect between Dilworth's inadequate redress
10 response and the scale of the abuse and the suppression of it that galvanised their resolve.

11 The complaints sought that Dilworth establish an independent inquiry and an
12 independent programme to provide comprehensive redress. At the point of filing the
13 complaint, Dilworth had not apologised for its role in the abuse, or its suppression of it, and
14 it had not offered or even publicly expressed a desire to explore redress or commission an
15 independent inquiry.

16 Now, a year later we have gathered for this important hearing to consider both
17 Dilworth and the Anglican Church's institutional response. We understand that the
18 Commission is particularly interested in exploring, amongst other things, how these
19 institutions responded to abuse at the time and how they have since responded and, in
20 particular, looking at Dilworth's independent inquiry redress programme and listening
21 service.

22 In considering these issues, we ask the Commission to consider the following
23 kaupapa. He waka eke noa. He waka eke noa.

24 This whakataukī translates at its simplest to, "We are all in this boat together". It is
25 underpinned by the principles of partnership, working together, shared values, recognition
26 and mutual respect. These principles are at the core of a best practice approach to
27 complaints of abuse and redress, and we say are therefore at the core of the Commission's
28 consideration of the institutional response.

29 Like many institutions that harboured abuse, the power imbalance between
30 Dilworth, the Anglican Church and survivors was immense.

31 Dilworth is a private boarding school that was established to provide education and
32 care for vulnerable and disadvantaged boys. It was entrusted with their guardianship and
33 their pastoral care. Instead, from at least the 1960s, a culture of violence, fear and silence
34 developed in the school in which this abuse occurred. Despite many brave boys

1 complaining, Dilworth suppressed knowledge of the abuse, quietly moved on perpetrators,
2 did not investigate, alert parents or authorities and sought name suppression when offenders
3 were brought before the courts.

4 Regrettably, this power imbalance is still present today. Dilworth is a prominent
5 and a wealthy school. Its net assets as of last year exceeded \$1 billion and it made a surplus
6 exceeding \$50 million. It is anticipated that the school may suggest that its redress
7 programme is world leading. This is simply not accepted.

8 While it has taken some positive steps, the school initially resisted establishing an
9 inquiry and the redress programme that has now been commenced is neither comprehensive
10 nor best practice.

11 The Commission may wish to consider in particular the school's approach to
12 including student on student abuse within the terms of the inquiry in the redress
13 programme, imposing a financial cap on redress payments and to provide redress before the
14 inquiry is complete.

15 While changes were made by Dilworth following consultation with survivors,
16 including the Dilworth Class Action Group, the manner and the process in which these
17 changes occurred was akin to a commercial negotiation. And not all of those changes were
18 made.

19 Survivors feel that Dilworth's approach was to limit its own financial exposure and
20 they consider that this process caused them further trauma.

21 **CHAIR:** When you say not all changes were made, do you mean not all changes suggested the
22 group, by your action group?

23 **MR VAN DER PLAS:** By the group, that's correct, ma'am.

24 **CHAIR:** Thank you.

25 **MR VAN DER PLAS:** And it's specifically to the redress programme.

26 **CHAIR:** Right.

27 **MR VAN DER PLAS:** The process by which redress is -- the process by which appropriate
28 redress, including a full apology for all actions is reached, is just as important as the end
29 result. To be truly best practice the institution needs to work with survivors in a partnership
30 and good faith rather than paddling in a different direction that might better serve its own
31 interests.

32 As the Commission hears from the witnesses for Dilworth and the Anglican Church,
33 we ask that it keep in mind and consider five factors. First, the Commission is only hearing

1 from witnesses from these institutions, not the survivors who have engaged with these
2 entities on redress. The evidence to be heard will therefore be an incomplete picture.

3 Second, Dame Silvia Cartwright and Frances Joychild KC are comprehensively
4 considering the abuse and Dilworth's responses both then and now as part of their
5 independent inquiry. The Commission should be cognisant of this inquiry and the fuller
6 detail it is receiving when considering this evidence it hears over the next couple of days
7 and when making its findings.

8 Third, we ask that the Commission consider how many vulnerable boys could have
9 been spared and how many decades of abuse could have been prevented had Dilworth acted
10 appropriately on numerous occasions.

11 Fourth, when considering whether Dilworth's current redress response is truly
12 comprehensive and truly best practice, we ask that it be assessed against present day
13 standards and expectations, rather than by comparison to past attempts by other institutions.

14 Fifth and finally, we ask that the Commission in particular consider whether
15 Dilworth's approach to engaging with survivors on redress was itself truly survivor focused
16 and best practice. Survivors have joined together in the same waka, he waka eke noa, but
17 has Dilworth and has the Anglican Church?

18 Commissioners, Madam Chair, may it please the Commission.

19 **CHAIR:** Thank you very much.

20 I'll now invite you, Mr Barker, for your opening statement, thank you.