



## MINUTE 22

### DIRECTIONS ON STATE INSTITUTIONAL RESPONSE HEARING

28 JULY 2022

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1. This Minute sets out directions on the Royal Commission of Inquiry's upcoming public hearing into the institutional responses of State agencies to abuse in State and Faith-based care (**the hearing**).
2. The Royal Commission has decided to delay examination of the institutional responses of Faith-based institutions to abuse in care to a later hearing, to be held in October 2022. Further information about that hearing will be released shortly.
3. The hearing will be chaired by the Chair of the Royal Commission Coral Shaw and all Commissioners will attend.
4. Members of the public are welcome to attend the hearing and it will be livestreamed on the Inquiry's website. [Practice Note 6 – Public Hearings](#) sets out further general information on public hearings.

#### Timetabling

5. The hearing will commence at 9.30am on Monday 15 August 2022 and will run for ten days, finishing on Friday 26 August 2022. It will be held at the Royal Commission's hearing centre located at 414 Khyber Pass Road, Newmarket, Auckland.
6. The hearing will start at 9.30am or 10:00am each day and continue until approximately 5:00pm, with morning and afternoon breaks, and a lunchbreak usually between 1:00pm and 2:15pm.
7. On 15 August 2022 the hearing will begin with a mihimihi starting at 9:30am. For each following sitting day the hearing will begin with a karakia and waiata, and will close each day also with a karakia and waiata.
8. Further timetabling directions may be made by the Chair as required.

## Hearing scope and witnesses

9. A hearing scope is published with this Minute.
10. The Royal Commission will hear evidence from a number of witnesses, addressing some or all of the broad topics set out in the hearing scope.
11. As this hearing will focus on the responses of State institutions to abuse in care, survivors of abuse will not be called to give oral evidence at this hearing.
12. Not all relevant issues or topics can be addressed publicly at this hearing. The fact that there may not be witnesses called at this hearing from a particular State agency within the inquiry's Terms of Reference does not mean that the Royal Commission is no longer investigating that agency, or that it does not intend to make related findings and/or recommendations. The Royal Commission continues to receive information on issues within its Terms of Reference from survivors, State agencies, faith-based institutions, organisations and individuals, including pursuant to notices to produce information under s 20 of the Inquiries Act 2013.
13. Witnesses will be called at the hearing from the following agencies:
  - a. Oranga Tamariki
  - b. Ministry of Social Development
  - c. New Zealand Police
  - d. Ministry of Health
  - e. Ministry of Education
  - f. Department of Corrections
  - g. Office of the Children's Commissioner
  - h. The Ombudsman
  - i. Teaching Council of Aotearoa New Zealand
  - j. Education Review Office
  - k. Te Puni Kōkiri
  - l. Whaikaha – Ministry for Disabled people
  - m. Ministry for Pacific Peoples
14. A final witness list and hearing schedule will be published on or before 3 August 2022.

## Core participants

15. Since 2019, pursuant to the Inquiry's [Practice Note 2 – Core Participants](#), a number of agencies, institutions, organisations and individuals have been designated as core participants to the Inquiry's various investigations.
16. Core participants have the right to give evidence and make submissions to the Inquiry, subject to any directions made by the Inquiry.

17. At the Inquiry's previous hearings, core participants to the particular investigation have been given access to a hearing bundle of documents prior to the hearing, with redactions where required under the Inquiry's [General Restriction Order](#), and subject to confidentiality and any other non-publication orders made under s 15 of the Inquiries Act.
18. However, redacting documents to include in bundles is a time and resource consuming exercise and the Inquiry has decided, having regard to the need to avoid unnecessary delay and cost as required under s 14(2) of the Inquiries Act, to change its practice for this hearing. This also reflects the broad nature of this hearing and that many documents within the overall hearing bundle will only be relevant to some participants. Separate bundles will substantially reduce the need for redactions.
19. For this hearing there will be a common bundle containing briefs of evidence for witnesses giving oral evidence, and core participants and those granted leave to appear will be given access to that bundle before the hearing. These briefs of evidence will be published after the hearing.
20. There will also be separate bundles relevant to institutional witnesses which will contain documents relevant to the questioning of that institution, and which will generally only be made available to that institution. These bundles will not be made available to core participants or those granted leave to appear, and documents will not be published.

#### **Leave to appear at the hearing**

21. Core participants, individuals or groups may apply for leave to appear at the hearing. Applications for leave to appear should be made by email as soon as possible and before 5pm on Friday 29 July 2022 to: [counselassisting@abuseincare.org.nz](mailto:counselassisting@abuseincare.org.nz)
22. An application for leave to appear should address the matters set out in para [12] of the Inquiry's [Practice Note 6 – Public Hearings](#).
23. Decisions on applications for leave to appear will be made and notified as applications are received, but no later than Monday 8 August 2022.
24. The agencies listed in paragraph [13] above are granted leave to appear at the hearing.

#### **Opening statements**

25. Core participants and individuals/groups granted leave to appear, or their counsel, are permitted a maximum of 15 minutes to make an opening statement. Given the number of agencies represented, counsel for the Crown Response Unit is permitted a maximum of 30 minutes to make an opening statement.
26. A timetable for opening statements will be advised after the witness list has been finalised. The time limits are subject to any further direction of the Inquiry.

## **Oral evidence**

27. The Inquiry has limited public hearing time available. Under s 14 of the Inquiries Act the Inquiry must balance fairness and the need to avoid unnecessary delay or cost when considering which witnesses will give oral evidence, and the manner and form of their evidence. Consistent with those principles, the maximum time possible should be available to the Inquiry to examine topics of particular interest through Counsel Assisting and Commissioners.
28. The agencies in paragraph [13] above are still finalising their witness briefs of evidence at the time of issuing this Minute. Once these are received, the Inquiry will issue further directions as to:
  - a. Whether witnesses will be called individually and/or together with other witnesses;
  - b. the time available, if any, for evidence in chief for each witness or group of witnesses;
  - c. whether there are topics that a witness will not be required to give oral evidence on;
  - d. decisions on any applications for leave to question witnesses.

## **Applications to question witnesses**

29. Counsel Assisting the Inquiry will question all witnesses. Core participants or those granted leave to appear and their lawyers may suggest lines of questioning to Counsel Assisting and should do so in writing well in advance of a witness being called.
30. Additional questioning of witnesses by lawyers for participants requires the Inquiry's permission. Practice Note 6 - Public Hearings\_ sets out the process for applications for leave to question witnesses. Applications should be made by email to [counselassisting@abuseincare.org.nz](mailto:counselassisting@abuseincare.org.nz) as soon as possible but no later than 5pm on Wednesday 10 August 2022, and should set out the proposed area/s of questioning and the estimated time required for questioning.
31. Decisions on applications for leave to question will be notified as soon as practicable.
32. This process does not exclude participants making oral applications to the Chair for leave to question a witness during the hearing, but this is not encouraged given the time constraints.

## **Closing statements**

33. Core participants and individuals/groups granted leave to appear, or their counsel, can make oral closing submissions on Friday 26 August 2022. Further directions as to order and time limits will be made as soon as practicable.

34. Should counsel for core participants and those granted leave to appear wish to file written closing submissions, they should be filed no later than 5pm on Wednesday 24 August 2022.

#### **Protocol for document management in hearing**

35. The protocol for document management in this hearing will be different from that in previous hearings.
36. The Inquiry will be using hearing presentation technology to enhance access to documents referred to at the hearing for Commissioners, witnesses and counsel. However, for natural justice and privacy reasons, and due to time constraints, any documents referred to will **not** be published to the public via livestreaming or published on the Inquiry's website at the conclusion of a witness's evidence. Relevant portions of the documents referred to in questioning will be included in the evidence transcript that will be publicly available.

#### **Section 15 Inquiries Act Orders**

37. The provisions in the Inquiry's [General Restriction Order](#) and [Practice Note - Section 15 Orders - Anonymity and Redactions](#) apply. They are publicly available on the Inquiry's website.

#### **Religious attire and uniforms**

38. The Inquiry directs that religious attire or uniforms are not worn by anyone attending the public hearing, including witnesses. Such attire may be triggering for survivors, and survivor well-being is integral to the work of the Inquiry

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



**Coral Shaw – Chair**

Date: 28 July 2022