

**Witness Name:** Br Peter Hamilton Horide

**Statement No.:** WITN0257001

**Exhibits:** WITN0257002 – WITN0257008

**Dated:** 12 February 2020

**ROYAL COMMISSION OF INQUIRY INTO ABUSE IN CARE**

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**WITNESS STATEMENT OF BR PETER HAMILTON HORIDE FMS**

**FILED ON BEHALF OF  
THE BISHOPS AND CONGREGATIONAL LEADERS OF THE CATHOLIC CHURCH IN  
AOTEAROA NEW ZEALAND**

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I, Br Peter Hamilton Horide FMS, will say as follows: -

### **Introduction**

1. My full name is Peter Hamilton Horide. I am a religious brother in the Marist Brothers (**Brothers**). I am the current Professional Standards Delegate for the Brothers. In this role, I am responsible for responding to complaints of abuse that are made to the Brothers and engaging in any redress processes. I was appointed to the role of Delegate in 2018.
2. I am making this statement in response to a request of the Royal Commission of Inquiry into Abuse in State Care and the Care of Faith-based Institutions (**Inquiry**). The Inquiry asked me to provide evidence on certain topics and themes. I provide my response to this request below. In answering some of the Inquiry's questions, I have referred to the Brothers' collective history and matters which are outside my direct knowledge. I further note that I am unaware of the details of the complaints and redress processes in other dioceses or congregations. Unless stated otherwise, my statement should be read as applying only to the Brothers.

### **Brief history of the Marist Brothers**

3. The Inquiry requested comments setting out a brief history of the Marist Brothers in Aotearoa New Zealand, including their role and geographical distribution.

#### *1838 to 1939*

4. The first Marist Brothers that came to Aotearoa New Zealand were members of a missionary group of the Society of Mary sent to the Pacific by the relevant Vatican Department. These Brothers reached the Hokianga in January 1838. Fourteen Marist Brothers followed from 1838 to 1841, directed principally to work with Māori. These Brothers were intended to accompany the missionary priests primarily as teachers, but they ended up largely providing for the material needs of the mission and its various stations as farmers, builders, tailors, bootmakers, printers, bookbinders, and doctors among other things. From 1838 to 1870, these Brothers worked with and under the administration of the priests of the Society of Mary.
5. From 1870, groups of Brothers were sent out by the Brothers' General Administration in France, at the invitation of the (mainly Society of Mary) missionary bishops to take charge of the mission schools. The first teaching Brothers in New Zealand arrived in Wellington

in 1876. Schools were quickly opened in both North and South Islands and by the turn of the century, the Brothers had responsibility for seven primary schools and a high school spread between Auckland and Invercargill. These early teaching Brothers were of various nationalities: French, English, Irish, German, as well as Australians and New Zealanders.

6. The Marist brothers who came to Aotearoa New Zealand initially worked with the Society of Mary priests amongst Māori. In the mid-1800's, with a large influx of European settlers, the initial project was amended when the Society of Mary moved towards serving the settler communities in addition to their work with Māori communities. The last of the pioneer Brothers who had been linked directly with the initial Catholic (Māori) mission died at Meeanee, Hawkes Bay, in 1898.
7. After the teaching Brothers arrived in 1876, they were occupied in setting up schools in the growing townships. The Brothers taught the boys, and the Marist Sisters (a separate congregation) taught the girls. Māori boys from urban and rural settings did attend some of the new schools, notably Sacred Heart College, which educated some 200 pupils at any one time in the first half of the twentieth century.
8. In 1917, when the New Zealand branch of the Marist Brothers became a separate Province from Australia, the New Zealand sector had 20 schools, either in this country or in the missions of Fiji and Samoa, with 68 brothers teaching some 2,500 students.
9. Primary education remained the focus of the Province for the first half of the twentieth century. All of these Marist primary schools were owned by the local Diocese or parish. The Brothers covered the day-to-day operations and staffing.

*1939 to present*

10. After the Second World War, there was an increasing demand for secondary and boarding schools. Thus, a heavy emphasis was placed on recruiting Brothers and providing them with a university education. Large numbers of boys and young men were trained accordingly. This training took place at the Lavalla College, Tuakau (established 1922), Claremont near Timaru (1932), and a teacher training college in Auckland (1935).
11. From 1946, the Brothers became directly involved once more with the Māori mission. That year they took over the teaching at St Peter's Māori College, Auckland, run by the priests of the Mill Hill Society. The Brothers initially taught in the school while the Mill Hill

Fathers ran the boarding. By 1972 the college, renamed as Hato Petera College (Te Reo Māori for St Peter), and under the complete control of the Brothers, was the largest and one of the best-known Māori schools in the country. The brothers at Hato Petera had a commitment to education that involved the whole family. During the summer holidays, groups of Brothers would travel to the different communities where the boys came from and spent time interacting with their parents and wider whānau. There existed a partnership where the boys gained through education and the Brothers learnt about themselves and Māori through the culture and spirituality that was shared with them.

12. Māori migration to the towns in the second half of the twentieth century led to increased numbers of young Māori in the Brothers' schools. It also drew their attention to the needs of the people in the often remote rural areas from which the students came. To serve our commitment to Māori, Marist Brothers' communities were established in Te Tai Tokerau, at Panguru in the Hokianga (1983), the area associated with the first Marist missions, at Moerewa-Kawakawa (1986) and at Kaitaia (1993); and in Ngāti Porou - East Coast, at Uawa (Tolaga Bay) (1997). Invariably some of the brothers who served in these areas came from Hato Petera.
13. The Brothers who engaged in these smaller ministries were few in number, but they had the satisfaction of knowing that in the course of their service in these locations, they had extended and complemented the mission for which the Brothers first came to this country.
14. The Brothers are not ordained clergy. When Brothers reside and work in local communities, an especially important aspect of their ministry is to 'be there' and to maintain a simple presence. By each Brother's calling, he is to be an accompanier. Brotherhood means being on a journey, in simple friendship and collaboration, alongside those whom we know. It was a lesson learnt by Brothers who worked amongst Māori that giving meant nothing unless we were also prepared to receive.

Nāku te rourou nāu te rourou ka ora ai te iwi

With your food basket and my food basket the people will thrive.

15. By the end of the 1960s, almost 300 brothers were teaching over 10,000 children in 36 schools across the four countries of the Province – that is, New Zealand, Fiji, Samoa, and American Samoa.
16. Sacred Heart College in Auckland is the oldest and best known of the Brothers' colleges and boarding schools still in existence today. For a time, three other boarding schools

were managed by the Brothers, including Saint Paul's College (presently owned by the New Zealand Marist Brothers Trust Board (**Marist Trust Board**) and associated entities), Hato Petera College, which was owned by the Bishop of Auckland, and Saint Joseph's College in Masterton whose Proprietor was the Archbishop of Wellington.

17. Two events in the second half of the twentieth century, one religious and the other educational, had a major effect on the lives and ministries of the Brothers. These events were the Second Vatican Council (1962-1965) with its work of renewal of the Catholic Church, and the Private Schools Integration Act of 1975, which incorporated Catholic Schools into the state education system. Among the notable consequences was a decline in the number of men becoming members, a predominance of lay teachers working in Catholic schools (including many former Brothers), and a much greater diversity of ministries to youth and the poor.
  
18. The Marist Trust Board is a charitable trust which operates under the Trusts Act 2019. The Trust Board was incorporated in the High Court in 1924. It is registered under the Charitable Trusts Act 1957 and is registered with the Charities Commission. Its Deed of Constitution is dated 12 December 1996 with a variation dated 12 July 2017. The Marist Trust Board's purpose is to act as the civil body for the Brothers' work providing education in the Catholic faith and education more generally.

#### **Current status of the Marist Brothers in Aotearoa New Zealand**

19. The Inquiry has requested a description of the status of the Marist Brothers with respect to numbers and functions in New Zealand.
  
20. In the twenty-first century, a declining and ageing membership restricts most Brothers' options for active ministry. For those who are in active positions, the focus is still on the schools. Brothers are only minimally involved in classroom teaching, though many assist in administration, remedial work, sports coaching, and so forth. Many of the Brothers are retired or are working part-time as they are approaching retirement.
  
21. An effective contact programme has enabled continued relationships between the Brothers and the schools we formerly managed. Both formal and informal relationships are maintained with former students through alumni associations and sporting clubs with Marist connections.

- 22.** At present there are 55 Marist Brothers in New Zealand. Their median age is in the 70s. At a high-level:
- (a) seven Brothers are involved in administration;
  - (b) six Brothers are involved in spirituality and volunteer work;
  - (c) four Brothers are teaching part-time and providing teaching assistance;
  - (d) four Brothers are providing youth ministry; and
  - (e) three Brothers are teaching full-time.
- 23.** There are currently eight Brothers overseas who are New Zealand citizens or permanent residents. The rest are retired.
- 24.** The Brothers in Aotearoa New Zealand maintain one community based in a small rural town called Kaikohe. The other communities are located in Auckland (seven communities), Lower Hutt (one community), and Christchurch (one community). Sacred Heart College and Marcellin College are the only schools that maintain communities of Brothers on-site.

#### *Leadership*

- 25.** The Brothers are led by a Provincial. The Provincial chairs the District Council.
- 26.** The District Council is the canonical leadership team of the district. It is responsible for the wellbeing, spirituality, ministry, and day-to-day needs of all Brothers within the district. The Council also sets the priorities and long-term plan for the district.
- (a) It is made up of the Leader and an elected group of five other elected Brothers. These Brothers are elected by delegates, who are in turn elected by the Brothers. Every Brother casts a vote for their delegate.
  - (b) The Brothers on the Council serve a three-year term.

27. The Leader is obliged to consult the Council on certain topics, such as significant spending, opening a new foundation or community, or when considering which new members to accept into the congregation.

#### **The role of the Professional Standards Delegate**

28. The Inquiry requested information about the history and the role of the Professional Standards Delegate (**Delegate**) including his reporting lines and responsibilities in deciding redress claims. The evolution and role of the Delegate, his office, and redress for complainants of abuse within the Brothers' organisations can be summarised in the following two stages.

#### *Process for complaints prior to establishing the Delegate*

29. Prior to the mid-1990s, there were minimal formal processes for addressing complaints of historic abuse. The Delegate role did not exist until the early to mid-1990s. Instead, it was common practice of the Marist Brothers Institute worldwide for the Brothers' leader in the particular Province to directly engage with queries or complaints personally.

#### *Process from the mid-90's until 2016*

30. In the early 1990s, public complaints of abuse began to surface and receive media attention. In 1993, the New Zealand Catholic Bishops and the Leaders of the Religious Orders (an organisation which has since become the Congregational Leaders Conference of Aotearoa New Zealand or CLCANZ) published an agreed protocol for attending to sexual abuse complaints. This protocol was the first iteration of the document that would become *Te Houhanga Rongo - A Path to Healing (APTH)*. This was intended to guide the Church in how to respond to and deal appropriately with complaints of abuse.
31. In line with that document, the New Zealand Marist Brothers formed a small Professional Standards Committee (**Committee**), also known as a Protocol Committee, to receive and respond to any complaint involving a Marist Brother or staff member. The Committee was chaired by a Marist Brother who had the delegated authority of the Province Leader to respond to complaints, hence the name "Delegate".
32. All deliberations and the results of the Committee's investigations were reported back to the Province Leader. The Leader was responsible for acting on the recommendations of the Committee. That included redress processes with the complainant and the

application of penalties, restrictions, and other action deemed appropriate on the respondent.

- 33.** Usually, at least one of the committee members was not Catholic, but all were appointed because of their long experience or professional expertise in dealing with matters such as complaints of abuse, treating offenders, or organisational leadership and management. For many years, one of the women in the Committee was an experienced psychotherapist and not a Catholic.
- 34.** The Delegates prior to myself were Br Richard Dunleavy (1997-1999 and 2004-2018) and Br Henry Spinks (2000-2003). My appointment began in 2018 so I have held this role for only a short term.
- 35.** As stated above, there are only twenty-four Brothers in Aotearoa New Zealand who are engaged in active ministry. I was appointed to be Delegate from this diminishing pool of active Brothers and seek to serve my community as best I can in this role.

#### *Complaint process*

- 36.** In the past, when a complaint was received, the Committee's standard practice was for the Delegate to offer the complainant a course of counselling, paid for by the Marist Trust Board, and invite the complainant to consider taking the allegations of abuse straight to the Police. Police involvement depended on the nature of the allegation brought to the Committee. From my understanding, the majority of complainants who came forward during this period preferred to avoid bringing the Police into the matter and instead dealt directly with the Brothers.
- 37.** For complainants, confidentiality was of the utmost importance throughout the process and the Committee sought to always uphold requests for confidentiality. Historically, there was no written confidentiality policy, but it was viewed as the core value which was foundational to the complaints process.
- 38.** In cases where the complainant had put their complaint in the hands of a lawyer, the Committee stood aside and engaged the Marist Trust Board's lawyer to conduct the appropriate negotiations. Where a Brother was accused, he was provided with his own personal legal advisor, paid for by the Brothers. The provision of counsel for the accused Brother was seen as part of the Brothers obligations to provide for the necessary expenses of each member and recognised that Brothers do not own personal property or



have cash assets that could be used to pay their own counsel. The respondent's lawyer acted solely in the interests of the accused and the Marist Trust Board's lawyer acted solely in the interests of the Brothers. Thus, the responsibilities, accountability, and legal representation of both the Marist Trust Board and the Brother, as a civilian accused of potentially criminal conduct, were kept separate.

39. Where the complainant made their complaint directly to the Police, the Committee and the Delegate stood aside and co-operated fully with any Police investigation. In some cases, the Police sought permission from the complainant to ask the Delegate to release their file. The Committee complied with any such Police request. If a complaint was made to both the Police and Brothers, the Brothers would stand aside to allow the complainant to engage with the Police process only.
40. After schools were integrated in the early 1980s, complainants could take complaints of abuse directly to a school's Board of Trustees (**BoT**). Any investigation and redress process would then be handled by the BoT. The Brothers would co-operate with any investigation and provide any requested information, however, the investigation itself was conducted by the schools. Safeguarding and complaints policies were, and still are, required in all these schools as part of State integration. As stated below, the investigation process would be handled by the BoT, but if the complaint was against a Brother and was upheld, the Brothers would put in place safeguarding measures.
41. During this period, the majority of complaints were brought directly to the Committee. The process adopted was to make an immediate response face-to-face or voice-to-voice with the complainant if possible. The complainant would be asked how they would prefer to meet. A written response was only made if either of the other options were not possible or if requested by the complainant.
42. Standard practice was for the Committee to send two members to interview the complainant. At any interview, there were always two members of the Committee attending and the complainant was always encouraged to have a support person with them. The Brothers paid any travel and accommodation expenses required for such meetings. If the complainant was a woman, then one of the Committee listeners would be a woman.
43. Following this interview, the respondent would be approached, have the allegations put to him, and be asked for a response. If he accepted the allegations and responsibility for

his behaviour, the complaint was upheld and the Committee deliberated what recommendations should be made to the Leader.

- 44.** If the respondent denied the allegation, the Committee would investigate the complaint further to decide whether, on the balance of probabilities, the complaint would be upheld. The investigation were approached on a case-by-case basis but often considered factors such as: opportunity, location, timing, and the presence of any previous accusations.
- 45.** Most of the complaints the Brothers received concerned abuse that had occurred in schools. When a complaint was received, the respondent was instructed to suspend their ministry during the investigation until a final decision was made. If the respondent admitted the behaviour, he would be withdrawn from any further contact with children and young people. In the case of a respondent admitting to a physical abuse allegation, there was not a clear-cut policy of withdrawal from active ministry. These complaints were approached on a case-by-case basis.
- 46.** In hindsight, we recognise that this process was inappropriate and insufficiently stringent. There was an absence of clearly defined policies and processes, an excess of discretion, and potential for an abuser to deceive the Marist Trust Board and remain in ministry. The Brothers deeply regret this and, as set out below, are striving to improve our processes.

*Redress for upheld complaints*

- 47.** Where a complaint was upheld, the complainant was given a formal letter of apology on behalf of the Marist Trust Board, commonly written by the Leader, and a legal document offering an ex-gratia payment or some other gift or action requested by the complainant.
- 48.** When the agreement was offered, the complainant was always advised to seek their own legal advice before accepting the offer. In some cases, the Marist Trust Board paid for further ongoing counselling for complainants if this was deemed appropriate following the advice of the councillor and where the complainant wished for it to continue.
- 49.** The Brothers usually offered an ex-gratia payment of up to \$10,000. This figure was decided during our first settlement agreement in 1999 with support of a professional counsellor who was assisting with the ex-gratia process. Further advice from legal advisors in the late 1990s and early 2000s reiterated that this figure was consistent with the amount paid by ACC and other agencies.

50. The settlement agreement also contained a mutual commitment to confidentiality and a “full and final” settlement clause. By the end of the 1990s, the confidentiality clause was removed from the agreement as it was deemed to be inappropriate to be seen to prevent the complainant from speaking freely of their experience. In any event, the Brothers agreed that legal action would never be taken in the event of a breach, making the clause meaningless.
51. An ex-gratia payment is and has been used to show the Brothers’ deep regret for the abuse and to assist, as far as possible, with healing. An ex-gratia payment is not intended as “compensation” as the Brothers recognise that no monetary amount could compensate a person for the harm and trauma of being abused. Instead, it is intended as a recognition of the harm and to contribute towards the person’s healing.

### ***Process from 2016 to present day***

#### *Sexual abuse complaints*

52. In 2016, the Brothers accepted the invitation of the Catholic Church’s National Office for Professional Standards (**NOPS**) to have all sexual abuse complaints go straight to them, rather than being dealt with initially by the Committee. NOPS handle sexual abuse complaints only. Those complaints, once made to NOPS, are then investigated by a specialised team contracted by NOPS.
53. At this point, the Committee was disbanded, and the Brothers’ Professional Standards Office (**PSO**) remained in place. The PSO continues to handle complaints outside of NOPS’ jurisdiction (for example non-sexual abuse complaints), receives and referring on initial complaints to NOPS, and receiving and implementing NOPS recommendations. The PSO applies the processes set out under APTH to all complaints that fall outside NOPS’ jurisdiction.
54. From 2016, NOPS has had the initial discussions with complainants and appointed independent, qualified investigators who conducted the interviews and investigations. The investigators passed on their recommendation to the NOPS Complaints Assessment Committee (**CAC**) which reviewed the findings of the investigation. The CAC would then make redress recommendations to the leader of the Brothers, who would be ultimately responsible for ensuring that the recommendations were implemented. Although the CAC makes broad recommendations of redress, it does not specify quantum or conditions. These matters are left to the Brothers.

**55.** Where the recommendations include making an ex-gratia payment to the complainant, the quantum of the payment is ratified by the Marist Trust Board on advice from the Leader, who is advised by the Delegate and PSO. The Marist Trust Board considers a range of factors and has as an overarching consideration the aims of the Marist Trust Board's charitable trust deed. Thus, there are multiple layers of approval required in this process.

**56.** This has, at times, had the unfortunate consequence of delaying settlement, in some cases extending the timeline of the redress process significantly. In more recent years, the layers of:

- (a) reporting the initial complaint up to NOPS;
- (b) NOPS engaging its investigator;
- (c) a report being made back to the CAC;
- (d) the CAC making its recommendation to the Brothers; and
- (e) the responsible Delegate working with the complainant, District Leader and in consultation with the Marist Trust Board to seek and approve the final redress outcome;

all contribute to some delay in reaching an appropriate outcome for a complainant.

**57.** More recent complaints in 2020 were also affected by the various consequences of COVID-19 throughout the year.

**58.** I acknowledge that delay in resolution for the complainant is, and will always be, difficult. We continue to work towards minimising any delay in the process and its effect on complainants. Steps taken include:

- (a) increasing staff within the PSO;
- (b) increasing the frequency of meetings; and
- (c) better documentation for tracking and reviewing case progress.

59. Delays and inefficiencies have been a sad feature of our processes. We have recognised, especially after hearing the evidence of the witnesses in the Inquiry's December 2020 hearing, that the Brothers' performance in this regard is not acceptable. I have no doubt that our lack of promptness has failed the complainants. Regrettably there have been a number of occasions in the past year where this has been particularly evident. The Brothers are committed to working to improve the timeliness of our responses to complainants.

*Other abuse complaints*

60. Consistent with NOPS' mandate, categories of inappropriate or abusive behaviours that clearly fall outside the realm of sexual abuse are not investigated by NOPS. Such complaints are addressed and dealt with by me, as the Delegate. I then make a recommendation to the Leader as to redress, informed by the considerations listed above. The exact form of any investigation depends on the nature and seriousness of the complaint but generally follows the processes in APTH.

**Payment of costs and other expenses**

61. The Inquiry has requested evidence about lump sum and periodic payments made to complainants, costs associated with the provision of legal advice and representation of claimants and respondent, and costs associated with the investigation of complaints.

*Ex-gratia payments*

62. The cumulative estimate for the New Zealand Marist Brothers' ex-gratia payments is approximately \$540,000 over 57 cases, in the period since the mid 1990's to present day. Several sources were investigated in compiling this figure, including:
- (a) the Brothers' solicitors' records.
  - (b) minutes of meetings of the Committee; and
  - (c) summaries of Brothers Professional Standards files.
63. In 2020, three ex-gratia payments were made, totalling \$40,000.

*Payments of complainants' therapeutic and other expenses*

- 64.** Some additional payments have been made to individuals subsequent to settlement. These payments have been for counselling, or in some cases medical expenses and other therapies. These arrangements are infrequent as most complainants prefer for the matter to be resolved and do not seek ongoing contact with the Brothers.
- 65.** Non-counselling costs have also included travel that was deemed necessary for healing, a donation to a nominated charity, children's school fees, or a particular request that came as the result of the complainant's thoughtful reflection as part of their healing journey.
- 66.** In some cases, these supplementary payments were recorded as part of the settlement and are included in the cumulative \$540,000 already mentioned. Recent additional payments that were not recorded as ex-gratia, but separately, were in the order of \$1000 to \$2000.

*Legal expenses*

- 67.** The Marist Trust Board receives legal advice on Professional Standards complaints. In the last two years, legal services have included:
- (a) legal correspondence;
  - (b) general legal advice on claims;
  - (c) drafting deeds of settlement and other documents; and
  - (d) engaging with counsel for complainants.
- 68.** Since 2019, the cost of legal services has totalled approximately \$25,500. Due to a change in accounting software and systems, we are unable to retrieve costs from prior to 2019.

*Investigations of complaints*

- 69.** In the last two years, a total of \$52,500 was paid to a private investigation company, contracted through NOPS, for their investigative services in respect of two complaints. When a complaint about a Brother is made to NOPS and NOPS hires an investigator, the

Brothers cover NOPS' costs for the investigation. This is part of the agreement between NOPS and the dioceses and congregations.

#### *Summary of costs*

70. A summary of costs is provided below:

<b>Cost Type</b>	<b>Period</b>	<b>No of Years</b>	<b>Average Payment per year</b>	<b>Total</b>
Ex-gratia	1999-2020	21	\$25,700	\$540,000
Therapy and Counselling	2019-2020	2	\$7,500	\$15,000
Legal Expenses	2019-2020	2	\$12,750	\$25,500
Investigations	2019-2020	2	\$26,250	\$52,500
Administration	2019-2020	2	\$2,850	\$5,700

71. Like the legal expenses, data for all payments other than ex-gratia payments are only held for the last two years due to a change in accounting software and practices.

#### **The process of receiving, recording, and storing complaints**

72. The Inquiry has requested an explanation of how complaints were received, recorded, and stored prior to 2000 and prior to the current system of being locked in a safe at the Brothers' office.

#### *Process pre-1995*

73. Until the mid-1990s, any complaints against Brothers would have been handled by the Leader. The Leader held the responsibility for the pastoral care and welfare for the Brothers.

74. Complaints would have been investigated discretely and on a case-by-case basis. Guidelines for managing the process are not presently known to have existed. The Leader, or a person who was designated by the Leader to address the matter, would have treated the issue from a "confessional" or professionally confidential perspective.

- 75.** This “confessional” perspective was based on a view of abuse as a personal moral failing of the respondent rather than a criminal matter. This view sees the offending as a private matter between the Leader and the offender, rather than as a matter of which other Brothers or people need to be aware. This view is not the same as being covered by the seal of the confessional in a sacramental sense; as non-ordained religious, the Brothers do not have the authority to hear confession. As part of this approach, what records are kept (if any records were kept at all) would be fully at the discretion of the Leader.
- 76.** There were protocols for each Leader to use his discretion at the end of his term and to pass some notes to his successor that would enable a smooth transition to be made. But there are no indications that notes about abuse complaints were kept, or have been successfully retained or archived. In the Brothers’ archives, there are no indications that any records about complaints from pre-1995 were kept. I do not personally know of historic Leaders’ practices, but my understanding is that the general historical trend would be for minimal or no records to be kept. The process and storage of these complaints would vary from Leader to Leader.
- 77.** Up to 1995, interventions with accused Brothers would have been deemed to have been completed when the Brother had been advised of the complaint and admonished. Whatever initiatives had been taken, they would have been intended to signify that the moral fault had been corrected, and that re-offending was not expected to arise. Matters were rarely talked about, once ‘dealt with’. The focus of this process was disproportionately on the respondent, where this person received pastoral support without the requisite level of accountability. This approach failed to realise the true nature of abuse and the potential for abusers to deceive and manipulate others to continue their offending.
- 78.** While, historically, the matter may have been dealt with from the Brothers’ perspective, it is now recognised that this approach did not always adequately take into account a complainant’s needs or their ongoing pain and trauma. In particular it failed to acknowledge the longer term consequences of abuse perpetrated against complainants. It also did not hold the offender accountable for their harm nor place adequate safeguarding in place to prevent further abuse. The approach was insufficient and caused harm. The Brothers deeply regret that our process was not what it ought to have been. We are committed to continuing the work done already to rebuild this process and place the survivor at its centre.



*Process post-1995*

- 79.** From 1996, when the Committee was established:
- (a) Systems for recording and investigating abuse complaints were gradually formalised.
  - (b) Complaints were tracked.
  - (c) Notes about the complaints included details of the allegations.
  - (d) Correspondence was sent and received, with copies held on file.
  - (e) The Leader received advice and input from the Committee.
- 80.** At the outset, when the Committee was first established, its systems and protocols were based on various guidelines from Aotearoa New Zealand and abroad, which preceded the local publication of APTH.
- 81.** Since the implementation of the Committee, complaint files have been kept in a locked archive, the only key to which is held by the Delegate. Brothers' personnel files are held by the Leader in his office. This remains the system to this day.

**Training and policies**

- 82.** The Inquiry has asked for a description of trauma-informed training provided to Brothers or staff who deal with survivors and visit their homes, policies relating to any such training and names of individuals trained and when.

*Trauma-informed training*

- 83.** Brothers and staff have not received trauma-specific training for dealing with complainants or survivors, or for meeting with people who have experienced trauma. This has recently been recognised as an area where the Brothers can improve our work and our knowledge. As a result of this, all three members of the current PSO have enrolled for trauma-informed care training, through Phoenix Australia. This internationally recognised organisation specialises in offering training on trauma-related mental health and wellbeing. It offers a number of programmes for organisations who fund or provide

services to trauma-affected populations. Phoenix Australia is a civil, not faith-based organisation.

- 84.** The Professional Standards team are also actively seeking a training programme tailored to our specific requirements at present. This is intended to focus on improving our communications with victim and survivors of abuse and ensuring the highest level of support is provided to all complainants.

*Further comments*

- 85.** Other steps historically taken to deal with abuse within the Brothers included:
- (a) Brothers' during the 1990's brought Psychologist Dr Robert Grant, author of *Healing the Soul of the Church (Ministers Facing Their Histories of Abuse and Trauma)* 1994, to conduct a three-day in-service course for all Marist Brothers in Aotearoa New Zealand. This course focused on how to address abuse and trauma when complaints are made.
  - (b) Members of the Committee attended seminars provided by Doctors in Sexual Abuse Care.
    - (i) These seminars were hosted annually in New Zealand in the 1990s. Doctors in Sexual Abuse Care was an organisation of medical professionals who worked with survivors of sexual abuse, primarily those who were abused as children.
    - (ii) Doctors in Sexual Abuse Care is now known as Medical Sexual Assault Clinicians Aotearoa or MEDSAC. MEDSAC is the acknowledged expert body in the medical approach to sexual assault and sexual abuse by the Ministry of Health, ACC, New Zealand Police, and the Health and Disability Commissioner. It is also recognised by the World Health Organisation.
    - (iii) The seminars, which featured international expert speakers, covered a range of topics including how to respond to people who had been sexually abused as children, the proper way to approach survivors, and best practice in working with sexual abuse survivors.

- 86.** In overseas contexts:
- (a) In 2012, representatives from Aotearoa New Zealand participated in a week-long International Marist Brothers' symposium. The leading speakers were from UK, USA, and Ireland.
    - (i) The symposium was focused on taking a proactive and mindful approach toward dealing with historic sexual abuse complaints. It examined how sexual abuse complaints were being addressed across jurisdictions.
    - (ii) It presented consolidated research on effective resolution of sexual abuse complaints and was focused on aiding Marist provinces to develop best-practice approaches to dealing with sexual abuse.
  - (b) In 2019, the District Council attended a seminar on clerical child sexual abuse, facilitated by the Pope's advisor, Hans Zollner, SJ. Hans is a professor at Gregorian University in Rome, President of its Centre for Child Protection and one of the leading experts on safeguarding and prevention of sexual abuse. He is a member of the special committee on sexual abuse established by Pope Francis.

### **The evolution of the Delegate's role**

- 87.** The Inquiry has requested an overview of how the role of the Delegate has evolved.
- 88.** When the Professional Standards Committee was first formed, the Delegate was the chair until it was dissolved. That role then evolved into the current responsibilities. The Delegate is responsible for implementing professional standards initiatives and manage all complaints about Brothers in Aotearoa New Zealand.
- 89.** Further to the description of the Delegate's role offered above, the role and responsibilities of the Delegate are described as follows:
- (a) Advises and reports to the Leader on all matters associated with abuse complaints and professional standards.

- (b) Manages the operations of the professional standards team, which comprises the Delegate and two assistants.
- (c) Follows and implements the guidelines of APTH as closely as possible, and communicates and works with NOPS in cases involving allegations of sexual abuse.
- (d) Reports to the District Council and Marist Trust Board.
- (e) Acts as a conduit of communications between complainants, lawyers, and advisors.
- (f) Meets with complainants where appropriate in response to allegations or implementing a redress recommendation from NOPS, the Marist Trust Board or otherwise. The Delegate or another member of the Professional Standards team may chair these meetings.
- (g) Formulates recommendations for safeguarding and training for the Brothers in matters pertaining to the protection of children, young persons, and vulnerable persons.
- (h) Formulates recommendations for the management of those respondents.
- (i) Investigates complaints deemed not to be sexual abuse.
- (j) Liaises with Police where appropriate or where requested by a complainant.
  - (i) There are two situations where I, as the Delegate, would always approach the Police – where the complainant asked me to do so or if there was a current risk to safety, in particular a risk to child safety.
  - (ii) Outside of these situations, if the complainant did not want the Police to be contacted, I would be less likely to do so. In my time as Delegate, I have never approached the Police against the wishes of a complainant.

### **Informing the Bishop of a Diocese**

90. The Inquiry has asked about the practice or policy of informing the Bishop of a Diocese of a complaint of abuse by the Brothers operating within that diocese.
91. As an independent congregation, there is no explicit requirement for the Brothers to inform the Bishop of any complaints or abuse. As such, there have not been any formal processes or protocols in place to ensure a clear line of reporting such complaints, nor was there clarity as to what types of complaint should automatically be escalated to the Bishop.
92. Historically, when an allegation of abuse was received by the Brothers, there was some flow of information to the Bishop in the relevant diocese, although this was not always the case.
93. Since 1994, it was common practice for the Brothers to inform the relevant Bishop when a Brother who had a complaint upheld against him was moved into his diocese. Prior to 1994, records do not exist on the extent to which Bishops were informed of this. From my own understanding, I consider it unlikely that Bishops were always told of all offenders with an upheld complaint against them being moved into their Diocese. The practice likely would have varied between the Brothers' Leaders of the time.
94. From my memory and records, Bishops were informed as a matter of practice for the periods of 1994-99 and 2004-2016. I cannot comment on whether Bishops were informed as a matter of practice at other times.
95. Policy could have, and should have, been tighter and clearer. This practice has been improved over time.
96. In the present day, when the Brothers receive a complaint against a Brother in active ministry, we inform the Bishop of the Diocese in which the alleged abuse occurred. We would also inform the Bishop if a contemporary complaint of sexual abuse was upheld. This is done to ensure the Brothers and the Bishop can work together to ensure all people within the diocese are kept safe from the abuser.
97. We would not inform the Bishop if the Brother was deceased or retired as there is no ongoing safety risk and, therefore, the matter can be dealt with solely by the Brothers. When a complaint of historic abuse is upheld, the Bishop may be told, depending on the

circumstances. We would consider the number of complaints and the potential for there to be other historic victims of abuse in the Diocese, among other matters.

### **Brothers' decision-making process**

98. The Inquiry has requested a description of the process and who is part of the Brothers' decision-making process once a NOPS investigation is completed and returned to the Brothers for resolution with the survivor.

#### *Actions taken in response to receiving a letter of recommendation*

99. In each case the Leader receives the report that is prepared by CAC on behalf of NOPS. The report indicates whether the complaint is upheld. The CAC report also typically includes several recommendations for redress where the complaint is upheld. The Leader and I as the Delegate discuss the report. I take responsibility for implementing the recommendations of the CAC and managing the redress process.
100. The recommendations and proposed actions are then considered by the Brothers' Professional Standards team.

#### *Communication with the complainant*

101. Communication with a complainant is initiated either directly by the Delegate or through a third party depending on the complainant's preferences. This third party may include a person with a cultural connection to the complainant, a counsellor, or the complainant's advocate.
102. Where the complaint is upheld, the complainant will initially receive an official letter of apology from the leader of the Brothers.
- (a) Historically, if the complainant requested a letter of complaint from the Bishop or the Cardinal, the Brothers would explain that we are an independent entity and are not controlled or managed by the Bishop. The dioceses and congregations are distinct entities and therefore the Bishop is not an appropriate person to make an apology.
- (b) The evidence presented in the Inquiry's December 2020 hearing changed this approach. Upon hearing evidence about how complainants perceive the

Church and the importance placed on the meaning of an apology from a Bishop, the Brothers have changed their approach. Now, if a complainant sought an apology from a Bishop, we would write to the Bishop explaining the situation and setting out the complainant's request, asking if he was prepared to make an apology. If he was willing to do so, we would facilitate this apology being made in a way that is meaningful for the complainant.

- 103.** Following the apology, the complainant would be asked, when he or she is ready, whether a meeting could be arranged to begin the redress process as described in APTH. The aim is to meet with the complainant at a time and place that is well-suited to their comfort level. The complainant is encouraged to involve someone else in the meeting as a support person. It is in this meeting that the offer of counselling and possibly an ex-gratia are discussed.
- 104.** Counselling is always recommended and encouraged by the Brothers. All other recommendations, including an ex-gratia payment, are approached on a case-by-case basis depending on the complainant's wants and needs.
- 105.** The resolution process may be brief or it may be complex and take some time. Ultimately this all depends on what redress the complainant seeks, how far the Brothers can assist with their requests, and what discussion of the desired redress is required.

#### **The redress decision-making process**

- 106.** The Inquiry has requested an explanation of the decision-making process in deciding the amount of any ex-gratia payments offered or to be offered.

#### *Offer of ex-gratia payments*

- 107.** As a general principle, a strong emphasis is given to helping the psychological and holistic healing of a person, alongside the offer of any ex-gratia payment. Where the Delegate can facilitate this process in addition to any payment in correspondence with the complainant, this is done.
- 108.** The following people are involved when an ex-gratia payment offer is being quantified:
- (a) Myself as the current Delegate as the conduit for communications with the complainant.

- (b) The Leader.
  - (c) Other members of the Professional Standards Team (currently, there are three team members – the Delegate and two others).
  - (d) A member of the Marist Trust Board may also be consulted.
  - (e) Guidance and input may be sought from others, including people with relevant professional knowledge, such as cultural advisor, lawyer, or a counsellor.
- 109.** The ex-gratia offer is not intended to reflect a subjective position or assessment of the 'relative severity' of the abuse. Nevertheless, the results of the investigation are kept in mind. It is only to a very limited degree that the complainant's personal or family circumstances may influence the offer that is made.
- 110.** The amounts offered, and settled, have ranged from less than \$5,000 to approximately \$23,000. The majority of these payments were made in the period between 2002 and 2012. Most ex-gratia payments have been between \$8,000 and \$12,000.
- (a) For most of the 2000s, the Brothers had a policy that ex-gratia payments would be capped at \$10,000. The reason for this was because, following the first ex-gratia payment being paid in 1999, the Brothers sought legal advice. This advice canvassed the equivalent compensation that would be paid by ACC for survivors of sexual abuse, the fact that the Brothers were not thought to be legally liable in most cases, and the desire to ensure consistency in ex-gratia payments made. Delegates and Leaders during this period followed this cap in almost every situation.
  - (b) Over approximately the last five years, the Brothers have increased this cap to slightly over \$20,000. This was done based on the amount of time that had passed since the original advice was received and, more importantly, the feedback the Brothers have received over time from complainants, their advocates, counsellors, and other third parties. When raising the cap, the Brothers received advice on comparable amounts paid by ACC. While there is no simple way to measure appropriate payments, the advice stated that this range was within the realm of what is reasonable.



(c) This amount is frequently less than complainants were hoping to receive, in some cases it is much less. Complainants sometimes see media about complainants in the United States or Australia receiving millions of dollars of compensation and come to the Brothers expecting a comparable amount. The New Zealand system is not comparable to these jurisdictions, in part due to the ACC scheme. This is, understandably, disappointing to complainants and means that at times, the Brothers are unable to reach a mutually agreeable ex-gratia payment.

111. When the ex-gratia payment is offered, the Delegate advises the Leader, the District Council and the Marist Trust Board. At the time of acceptance or the rejection of the offer, these people are informed.

112. If the initial offer is rejected, the Brothers enter into a negotiation in good faith to attempt to reach an agreement. While this is often successful, in some cases agreement cannot be reached as the complainant's request is significantly in excess of what the Brothers could pay. When this occurs, the Brothers' offer remains open should the complainant change their mind. Regardless of whether agreement is reached on the ex-gratia payment, other redress such as the apology and counselling remain available to the complainant.

113. The Deed of Settlement formalising resolution of the complaint has remained largely unchanged for all settlements from 1996, with the exception of the removal of requirements mentioned above regarding confidentiality and legal proceedings. A blank template deed of settlement is as exhibit [WITN0257002].

ACC

114. The Brothers also encourage the complainant to seek counselling through ACC.

115. Should the individual agree to counselling, the Marist Trust Board's financial support is readily offered for this. This is in addition to any ex-gratia payment.

#### **Brothers' response to those accused of abuse**

116. The Inquiry has requested a summary and explanation of the disciplinary or the therapeutic responses taken by the Brothers regarding the respondents in complaints of

abuse, including an explanation of how any criminal convictions or prison sentences affect any disciplinary action.

*General statement regarding the Marist Brothers' past*

- 117.** Thirty years ago, very little was known by the Marist Brothers about sexual abuse and how to address it appropriately both for the victim's sake and the perpetrator's sake. The focus was on providing pastoral support for the respondents.
- 118.** When the Brothers started receiving complaints of abuse being perpetrated by individual members, the structure in place at the time meant that Leaders tried to deal with the offender personally and with discretion. Even then, and still currently, it was mandatory for an offending Brother to be referred to a psychotherapist or psychiatrist. To the best of my knowledge, there are no records of this held on the personnel files of the Leader.
- 119.** In making a referral to a psychotherapist or psychiatrist, the intention was always to confront the Brother and not to appease him. What was, and still is expected, is that the respondent will participate in any such treatment with a high level of commitment. Other programmes such as one-on-one accompaniment or 'spiritual direction' may have been offered to help him confront what was regarded as a spiritual malaise. If a person is broken or troubled in a spiritual sense, that needs to be dealt with and the person should not be left to their own devices. There was a risk of depression and suffering for the respondent and the Brothers were concerned to protect against this as far as possible, while ensuring safeguarding was in place as a top priority.
- 120.** By way of example, in the 1990s, a member was referred to a programme in the UK, and in the early 2000s, two attended a Sydney-based programme that was designed to prevent re-offending. At the time, there was no question about the suitability and reputation of the respective courses, namely Our Lady of Victories UK, and Encompass Australasia. Also, in the 2000's, a Brother was referred to an intensive course run by SAFE and provided in Aotearoa New Zealand.
- 121.** It is now acknowledged that if a pattern of abuse is allowed to be kept secretive, the offender will not be given sufficient motivation to change. It is far more widely known and recognised by the Brothers that perpetrators minimise their actions, rationalise offending, deceive, lie, and project blame. The Brothers are committed to ensuring that steps are taken to confront all forms of abuse, both historical and new.

- 122.** It is fair to say that the Brothers directed more of our energies towards the respondents and offenders than providing appropriate care for victims. This was wrong. Now that the Brothers know and understand more, our focus has shifted to providing pastoral support for victims and survivors. This is ongoing work and the Brothers are grateful to the Inquiry and the witnesses who are giving evidence for providing insight in how these processes can be improved.
- 123.** The Brothers accept and acknowledge their past, including the abuse which forms part of this past. It is important that the Brothers:
- (a) Take moral ownership over and unequivocally condemn the past offending of its members.
  - (b) Respond effectively to all allegations.
  - (c) Continue working towards reconciliation with victims and survivors.
  - (d) Remove any accused Brother from ministry, regardless of how long ago the offending occurred.
    - (i) If a contemporary complaint was made against a Brother in active ministry, and the complaint was not upheld, the Brother would not be returned to ministry where there was any risk of offending, such as ministry in a school. The Brother may be able to work in an environment where there is no risk, for example as an archivist.
  - (e) Continue to cooperate with the Police and civil authorities, as well as the Church's own investigative and safeguarding bodies.
  - (f) Ensure that safe environments are created for children and young and vulnerable people.
  - (g) Communicate and show leadership, internally and externally.
  - (h) Address its safeguarding responsibilities effectively.
  - (i) Maintain good systems of accountability.

- (j) Seek to constantly improve our processes.
- (k) Support offenders where appropriate, by providing safeguarding, counselling, and pastoral support.

*The movement of Brothers around the country*

- 124.** Historically, the Brothers filled roles as teachers in Catholic schools. Brothers were routinely rotated between schools after a number of years in each one. At the end of each year, the Leader would publish a list showing where each Brother was being moved to. The Brothers had a small amount of input into this process, but transfers would generally only be prevented when there was an exceptional reason such as the Brother providing care for sick parents near the school.
- 125.** The maximum tenure for a principal of a school was six years, while teachers were moved according to need. While some Brothers remained in the same school teaching for decades, these were exceptional cases. In general, a teaching Brother would be moved every three to eight years.
- 126.** There were many reasons for this system. They included:
- (a) ensuring that the communities did not stagnate and avoiding clashes of personality;
  - (b) preventing any one Brother from accumulating power or influence in a particular school or area;
  - (c) ensuring Brothers were challenged to professionally and personally develop through gaining a range of different experiences;
  - (d) providing experienced teachers to schools which may be struggling; and
  - (e) sending Brothers to different locations, both within Aotearoa New Zealand and overseas, for personal, professional, and spiritual developments, including on sabbaticals and on retreats. The Brothers that were sent on these courses were then replaced by moving Brothers to fill their roles from other locations.

- 127.** To our deep regret and shame, we now realise that this system was vulnerable to exploitation by abusers and those who sought to cover up their abuse. The system of moving Brothers regularly around the country meant that it was not unusual for Brothers to spend as few as two or three years in any location. This system would allow an abuser to move around Aotearoa New Zealand undetected, continuing their abuse and avoiding their actions being reported. It also allowed members of the Brothers' leadership to move a Brother subject to complaints rather than deal with the conduct. This meant that abusers were not stopped when they should have been and people were abused when this abuse was avoidable.
- 128.** The Brothers recognise that this was wrong and that inadequate safeguards were in place to protect against the vulnerabilities of this system. We sincerely apologise for the abuse that was allowed to happen because this system was in place. The Brothers are committed to learning from these past experiences and ensuring that errors are not repeated.
- 129.** The Brothers currently have only three Brothers teaching and four in youth-ministry. The system of regular rotations no longer occurs. All seven of these Brothers have been carefully vetted and safeguards are in place to ensure that abuse does not occur. If a complaint was made against one of these Brothers, he would immediately be removed from his ministry.

*Responses to Brothers accused of an offence*

- 130.** The Marist Brothers have sought to abide by, and implement, statements of principle such as the following:

*The individual Brother has a personal responsibility to set appropriate boundaries to protect him from any further accusations of sexual abuse of young people. The Congregation has a corporate responsibility to monitor the welfare and well-being of all its members. We have a duty to protect all young people as is our charism inherited from St Marcellin Champagnat.*

– New Zealand Marist Brothers Trust Board, Policy for the Continuing Care of Brothers Accused of Sexual Abuse / Paedophilia (2003). A copy of this policy is provided as exhibit [WITN0257003]

- 131.** The absolute priority in all cases of abuse is to safeguard and ensure that there is no risk of the Brother offending against anyone else. Safeguarding takes a variety of forms. It can include requirements for the Brother not to engage in ministry, to live only in a community with other Brothers, to not live or travel near a school, or any range of other requirements deemed appropriate by the Leader and Delegate.
- 132.** Once safeguarding is put in place, the Brothers' pastoral needs are considered. Providing pastoral support to a respondent means ensuring that measures are put in place to rehabilitate the Brother as far as is possible. The emphasis is on ensuring the Brother is supported and monitored. What is provided depends on the individual situation. It often includes providing the Brother with counselling, a support person, or an environment where they can safely confront the cause of the offending and seek to better themselves. Pastoral care would always be seen as secondary to safeguarding and would not be permitted to interfere with full cooperation with a Police or other investigation.
- 133.** Providing pastoral support is seen as a core part of the Brothers' purpose as a Catholic congregation. The Brothers have an obligation to all of our members and that obligation includes providing pastoral support to a Brother, subject to appropriate safeguarding, when that Brother is subject to a complaint of abuse. The ultimate purpose of this care is to assist the Brother come to terms with the harm he caused and prevent future harm.
- 134.** Safety plans are monitored by the Leader or the Professional Standard Group and other people such as a counsellor or psychotherapist. In some cases, Brothers are asked to form a support group to ensure the Brother who committed the abuse complied with the safety plan and any risk of potential breaches was mitigated.
- 135.** If a Brother finds the conditions of their safeguarding requirements too arduous, he is free to leave the Brothers at any time. If a Brother consistently failed to comply with the conditions of his safeguarding agreement, or deliberately violated it, he would be asked to leave the congregation by the Leader. If a Brother refused to leave, there are canonical processes which can be used by the Leader to expel the Brother. These processes have never been invoked in Aotearoa New Zealand, to the best of my knowledge, as all Brothers told to leave or face this process have chosen to leave of their own accord.

#### *Policies*

- 136.** Policies have evolved and adapted over the years. They are provided alongside this statement. These include:

(a) Policy for the Continuing Care of Brothers Accused of Sexual Abuse / Paedophilia [2003];

- (i) This policy addresses safeguarding plans for Brothers accused of abuse and sets out remedial procedures designed to ensure no further abuse is perpetrated.

A copy of this document is provided as exhibit [WITN0257003].

(b) Procedures and Criteria for Withdrawal from, or Returning to Ministry, Following a Complaint of Sexual Abuse [2003];

- (i) This policy is focused on keeping both potential victims, particularly children, safe as well as keeping the respondent safe from himself. It addresses the rights of all parties during a complaint process, including natural justice rights during an investigation or finding of abuse.
- (ii) The policy also set out in what situations, if any, a Brother could return to some form of ministry if the complaint was not upheld.

A copy of this document is provided as exhibit [WITN0257004].

(c) Policy for Brothers on School Campus [2020];

- (i) This policy states that the Leader must move any person who has had a current or historic complaint made against them off any school campus. This is focused on ensuring the safety of children and the school and ensuring that the Brothers do not expose anyone to any risk of abuse by the respondent.

A copy of this document is provided as exhibit [WITN0257005].

**137.** Following the Brothers' international symposium in 2012, a Handbook for Provincials was finalised which set out guidelines for managing complaints of abuse. A copy of this document is provided as exhibit [WITN0257006]. This document was a template, with an expectation for each Province and District, including the expectation to develop these

communities to develop their own guidelines and policies. These policies emphasised the need for solid structures and sound protocols for child protection. Key features are:

- (a) the Leader is required to bring a team together and clearly define separate roles for people who are responsible for contact with the complainant, the respondent, and the school or ministry where the alleged abuse occurred;
- (b) the requirement for a safety plan and a treatment plan to be written and put in place for the respondent to address their offending and eliminate risk of further abuse;
- (c) the need for a Brother accused of abuse to be stood down from active external ministry (meaning ministry with members of the public) until an independent investigation has been concluded, unless it is evident that the allegation has no substance;
- (d) the responsibility on the Brothers to care for the complainant and their family;
- (e) the pastoral need to treat the respondent with compassion;

**138.** This policy also states that if a Brother either admits to, or is found to have, abused a child, the Brother must not be permitted to engage in any ministry or activity involving children or young people. It also states that any lay employee or volunteer who admits to, or is convicted of, abusing a child must be immediately dismissed from any role with the Brothers.

*Brothers at state integrated schools*

**139.** Since 1989, when *Tomorrow's Schools* was implemented, addressing abuse complaints in Marist Brothers' schools has become the responsibility of the BoT. If a complaint about a Brother was made to the BoT, the Brothers would not have a role in the investigation though of course we would co-operate with and support any investigation. This is because he is employed by the BoT and his support would come from his union.

**140.** The decision on any complaint would be made by the BoT and it would apply the appropriate legal penalty. If the complaint was upheld, the Brother would be subject to the same pastoral cases and safeguarding as if the complaint had been made to the



Brothers, Any instructions made by the BoT in respect of the respondent would be enforced by the Brothers.

*Response to criminal convictions*

- 141.** Historically, in the event that a Brother was convicted of a criminal offence, the first step was for the Brother to re-join a community. On occasions and where appropriate, this could be in the same community in which the Brother had been previously. There, the other Brothers, local Bishop, and local Catholics would know their history and be able to ensure appropriate safeguarding was in place.
- 142.** This applies regardless of the specific sentence. A conviction is what triggers the safeguarding and reporting obligations. If a Brother was sentenced to imprisonment, the pastoral care would be applied following his release.
- 143.** Alternatively, in some instances, the Brother withdrew from the community. When this was formalised, which involved a ratification from the Brothers' authorities in Rome, the Brother transitioned out of his church role, he came a private citizen, and he was no longer a member of the Congregation. This process of leaving the Brothers or "religious life" is similar to, but less formal than, the laicisation process for an ordained priest.
- 144.** For a Brother who chose not to leave the congregation, appropriate tasks were assigned to him. These would include secretarial or administrative role, but not in a school or in contact with children or young people. A safety plan and monitoring was integral to these arrangements. The Brother was expected to adhere to the plan, attending courses and counselling while avoiding situations that presented any degree of risk. Written safety plans became standard practice from the early 2000s and became mandatory from 2011. Modern safety plans broadly follow the template example of a safety plan which was issued following a seminar in Rome in 2012. A copy of this document is provided as exhibit [WITN0257007].
- 145.** This approach to convictions has now changed. Following an amendment to the global constitution of the Brothers, any Brother convicted of any child sexual abuse offence or offence relating to child pornography is immediately expelled from the Brothers. There is no discretion whatever in this decision. This constitutional amendment came into force from 1 November 2020. It applies to any conviction that takes place after that date, regardless of when the abuse occurred. This clause came into force very recently and

has not yet been used in Aotearoa New Zealand. A copy of this document is provided as exhibit [WITN0257008]. The specific provision is Article 86.

- 146.** A Brother convicted of physical abuse, would be subject to many of the arrangements previously mentioned. The response would in part depend on the nature and circumstances of the physical abuse. The recent constitutional amendment would not be triggered on a conviction of non-sexual abuse. Instead, the Brothers would respond with appropriate discipline and safeguarding measures as appropriate to the specific case. A conviction for physical abuse, such as assault, would mean the Brother would be permanently removed from ministry and other conditions would be imposed as appropriate.
- 147.** Any Brother convicted of sexual abuse of children or possession of child pornography today would be immediately expelled regardless of sentence. If a Brother was convicted of non-sexual abuse that was sufficiently serious to receive a sentence of imprisonment, the Brother would be subject to rigid safeguarding measures or may be asked to leave the congregation, depending on the particular facts.

### **Apology**

- 148.** As set out in this statement, there are numerous instances where harm has occurred. The actions of our members have caused distress, suffering, and, in some cases, have had lifelong effects on peoples' lives. As an individual asked to give evidence to this Inquiry on behalf of the Brothers, and as a member of the Catholic Church, I would like to apologise for these actions. I would also like to apologise for the Marist Brothers' shortcomings, failings, and mistakes. I apologise to the people present in this room, to those viewing this via the live-stream, to those who will watch this later, and to those who have passed on.
- 149.** For some, I acknowledge that hearing my words and even hearing this apology will be distressing. I speak to you with deep humility. For you who have been abused by Brothers, the terrible truth is that you were deeply hurt and the harm will never be forgotten. For your suffering, your memories, and the consequences this abuse had in your lives, I apologise and I am sorry.
- 150.** That all of this harm was caused by fellow-members of our brotherhood leaves all of us deeply ashamed. It also appals us. The horrific damage that was done to many young people has caused damage to the Marist Brothers and we accept that. The abuse that

occurred, and that we now know about to a much fuller extent, has diminished us as a congregation.

**151.** Integral in our belief system is our calling to serve a higher purpose and seek to bring out the best in everyone we encounter. We are devastated to learn of the dreadful ways in which our members have failed in their calling. This is particularly the case for all of the Brothers who are still working to uphold the Marist Brothers' original aims and intentions. There are members who have spoken to us about seeking the forgiveness of survivors. However, we understand that it is unreasonable of us to expect forgiveness from anyone.

**152.** As Brothers, we must now address these very difficult realities, among others:

- (a) great harm was done by members of our congregation;
- (b) for many innocent people who were abused, their pain and suffering is ongoing;
- (c) the best-intended apologies will be cheapened by a lack of change on our part;
- (d) the Marist Brothers can reasonably expect to be reminded about the abuse that was done and by whom;
- (e) in 2021, the highest priority of the Marist Brothers is to ensure the safety of children, young people, and vulnerable adults;
- (f) there is an obligation to listen attentively to all sources of learning and to see what changes must be made;
- (g) particular obligations come as outcomes from our learnings, especially obligations to move forward and mend what is broken; and

- (h) that we, as Brothers, we must mahi tahi, work together, and fully implement all necessary changes.

**Statement of Truth**

This statement is true to the best of my knowledge and belief and was made by me knowing that it may be used as evidence by the Royal Commission of Inquiry into Abuse in Care.

Signed:

**GRO-C**

Br Peter Hamilton Horide FMS

Dated: 12.02.2021