

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 INTO ABUSE:
FAITH-BASED INSTITUTIONAL RESPONSE HEARING**

**OPENING STATEMENT IN RELATION TO CATHOLIC EDUCATION
ON BEHALF OF THE BISHOPS AND CONGREGATIONAL LEADERS OF THE
CATHOLIC CHURCH IN AOTEAROA NEW ZEALAND**

17 October 2022: 9am



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Chair and Commissioners

1. Tēnā koutou i tēnei ahiahi Madam Chair, Commissioners. Ko Sally McKechnie ahau.
2. I appear as counsel for Te Rōpū Tautoko, on behalf of the Catholic bishops and congregational leaders. I also appear on behalf of the Board of Proprietors and School Board of St Patrick's College, Silverstream.
3. We acknowledge survivors and survivor networks, Madam Chair, Commissioners, Counsel Assisting, fellow counsel, and all those watching elsewhere.
4. In the public gallery this morning and present throughout this hearing are senior leaders, representatives and members from a number of Catholic entities. Clergy, religious and lay representatives of the Catholic community are present to tautoko the important kaupapa of this hearing.
5. This is the first of two opening statements I will make today. This first session is focused on Catholic education and these opening submissions outline that evidence and a number of key themes for Commissioners, and the public watching, to consider.
6. As part of considering Catholic education, you have asked to hear evidence about St Patrick's College, Silverstream. This College was founded and is still owned by the Society of Mary, sometimes known as the Marist Fathers. As it is a Marist College, you will hear evidence from Fr Timothy Duckworth, New Zealand Provincial of the Society of Mary.¹ This is the second time that Fr Tim has given evidence to the Commission. The second part of this morning's session is the evidence of the current leaders of the College; the Chair of the Board of Proprietors,² the Chair of the School Board,³ and the current Rector.⁴
7. Evidence has also been filed with the Commission from Dr Kevin Shore. Kevin is the Chief Executive of the New Zealand Catholic Education Office. He is here and available to respond to questions the Commissioners may have about more general or technical aspects of state-integrated schools.

1 WITN0253004.

2 Dr Clare Couch (WITN1505001).

3 Sean Mahony (SPS0000008).

4 Robert Ferreira (SPS0000003).

Acknowledgment of harm

8. As they have previously in hearings before you, the bishops and congregational leaders of the Catholic Church in Aotearoa New Zealand acknowledge those survivors who suffered harm and abuse while in the care of Catholic institutions. Some of this harm took place in Catholic schools, including at St Patrick's College Silverstream. Any harm to people in the care of Catholic institutions and entities is unacceptable and indefensible.
9. The current leaders of the College, who are here today to give evidence, also acknowledge harm suffered by a number of past pupils of Silverstream, and the bravery of these survivors to come forward and share their stories. As you will hear in their evidence, the current leaders acknowledge that the abuse that occurred is a part of the College's history that it must carry.

Catholic Education in Aotearoa New Zealand

10. In this opening submission, I will outline some important context for the Commission, to set the scene for the evidence you will hear this morning. This material is covered in more detail in written submissions that have been filed to accompany this oral presentation and also in a range of other evidence provided to the Commission:
 - (a) TRT Briefing Paper **No 13** that has been prepared for this hearing in relation to Silverstream.
 - (b) Evidence regarding integrated education from the Chief Executive of the New Zealand Catholic Education Office, Dr Kevin Shore, dated 18 July 2022.
 - (c) The consolidated spreadsheet regarding historical Catholic education, parishes and care institutions and facilities dated 17 September 2021, filed in Submission No. 34 in response to Notice to Produce No. 204.
 - (d) The briefs of evidence of witnesses previously provided to the hearing which discussed education in the context of the witnesses' own Diocese or congregation, including:

- (i) Evidence from the Society of Mary, from Fr Tim Duckworth, dated 23 September 2020, at paragraphs [14] – [18].⁵
- (ii) Evidence from the Marist Brothers, from Br Peter Horide, dated 12 February 2020, paragraphs [4] – [18], [20] – [21], [24], [40], [124] – [126], and [139] – [140].⁶
- (iii) Evidence from the Nga Whaea Atawhai o Aotearoa Sisters of Mercy New Zealand, from Sr Susan France, dated 12 February 2021, paragraph [42].
- (iv) Evidence from the Archdiocese of Wellington, from Cardinal John Dew, dated 4 October 2022, at paragraphs [16] – [21], and dated 23 September 2020, at paragraphs [41] – [49].
- (v) Canon law evidence regarding relationship between bishops and schools in the diocese run by other proprietors, from Monsignor Brendan Daly dated 23 July 2021. I also refer the Commission to Monsignor Brendan Daly’s article “*The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese*” recently published in “The Canonist” Journal, which gives a more detailed explanation of this relationship.

11. As this evidence demonstrates, education has always been one of the key priorities for Catholic religious entities in New Zealand. It is a primary charism of a number of religious congregations and an important way they served the Catholic community. Education has also long been a fundamental aspect of the Māori missions.

Catholic Education in New Zealand in 2022: some statistics

12. There are presently 236 Catholic schools.⁷ This is:

- (a) 9.3% of all the schools in New Zealand;⁸ and

5 WITN0253001

6 WITN0257001

7 Consolidated spreadsheet provided in Submission No. 34 in response to Notice to Produce No. 204.

8 In 2021, there were 2536 schools in New Zealand: See <https://www.educationcounts.govt.nz/statistics/number-of-schools>.

(b) 67% of all schools with a religious affiliation.⁹

13. All Catholic schools are integrated into the State education system. They are best described as State schools with a special (in these cases, Catholic) character. As there are 334 state-integrated schools in New Zealand, Catholic schools account for 71% of state-integrated schools.
14. There are currently 10 Catholic Colleges with boarding facilities.¹⁰
15. There are currently approximately 66,600 students being educated in Catholic schools in New Zealand and approximately 1,000 are living in boarding facilities at 10 Catholic schools.¹¹

A very brief history of Catholic education in New Zealand

16. The first Catholic school in Aotearoa opened in 1840. There have been approximately 390 Catholic schools in Aotearoa since 1950. Overtime, some of these schools have closed or merged. Many others existed prior to 1950 that closed or merged.
17. As previously mentioned, it is estimated that there are approximately 66,600 students educated in Catholic schools in New Zealand currently.

Private schools until 1975

18. Prior to the enactment of the Private Schools Conditional Integration Act in 1975, all Catholic schools were private schools.
19. The ownership and governance arrangements for these schools differed.
20. In most cases, the land and/or buildings were owned by the local bishop and the school was staffed by members of a religious congregation. This was always the case for primary schools. For example:

9 In 2021, there were 354 schools with a religious affiliation. After Catholic character, the largest groups are Non-denominational (39 schools), Anglican (31 schools) and Seventh Day Adventist (16 schools). See Ministry of Education data: <https://www.educationcounts.govt.nz/statistics/number-of-schools>.

10 Evidence of Dr Kevin Shore, dated 18 July 2022, at [35] - [36].

11 NZCEO Annual Report 2021 at 16, <https://www.nzceo.org.nz/wp-content/uploads/2022/06/NZCEO-2021-Annual-Report-screen-1.pdf>.

- (a) St James Primary school in Palmerston North was established by the Archbishop of Wellington and staffed by the Sisters of Mercy.¹²
 - (b) St Patrick's Primary school in Invercargill was established by the Bishop of Dunedin and staffed by the Dominican Sisters.
21. In some instances, the congregation staffing the school might change over the life of the school. For example:
- (a) Holy Cross Catholic School (Henderson), where the school was originally staffed by the Sisters of Mercy (1932 – 1971) and then by the Dominican Sisters (1971 - 1985).¹³
22. Amongst Catholic secondary schools, there was a mixture of models. In some cases, the congregation owned the land and buildings and also staffed the school. For example:
- (a) The Marist Brothers owned and operated Sacred Heart College in Auckland. However, in Lower Hutt, the Marist Brothers staffed St Bernard's College, which was owned by the Archbishop of Wellington.
 - (b) The Mission Sisters, who came to New Zealand to educate wahine, owned and operated a number of schools, included Sacred Heart in Napier. Sacred Heart was later transferred by the Trust Board established by the Sisters to be proprietor of the College to the Bishop of Palmerston North. The Bishop of Palmerston North is now the Proprietor of the College.
23. Overtime, as schools merged, the names of the schools changed. In Rotorua, Edmund Rice College and McKillop College schools merged to become John Paul College in 1987.¹⁴
24. Catholic priests, brothers, sisters and lay (both Catholic and non-Catholic) staff were appointed to roles in Catholic schools during this period. Clergy and religious were generally not paid a salary in this pre-integration period. This meant that it was relatively less expensive to staff these schools.

12 This is now a state integrated primary school, and the land transferred to Diocese of Palmerston North in 1980.

13 This is now a state integrated primary school, the school was established by the Bishop of Auckland, who is the current Proprietor.

14 See <https://jpc.school.nz/our-school/welcome/>.

25. In the period relevant to the Commission, the education sector was governed by the Education Amendment Act 1921. This was followed by the Education Act 1964. Under the 1921 and 1964 legislation, as private schools, Catholic schools were subject to some State oversight for certain aspects, such as registration requirements and school inspections. Inspections of schools were undertaken by the Department of Education, and its predecessors. The areas covered by inspections of schools included the school roll, staffing and standards of teaching, and the school buildings, grounds and equipment.

Integration of Catholic schools from 1975

26. In the early 1970s, many Catholic schools were struggling financially. It was increasingly difficult to fund the maintenance of school buildings. The number of Catholic religious was static or beginning to decrease, and it was becoming harder to staff the growing schools. As the number of lay staff needed to adequately staff the schools increased, the salary costs significantly increased.

Private Schools Conditional Integration Act 1975

27. In 1975, the Private Schools Conditional Integration Act (**PSCIA**) was passed. There is a significant history to the reforms that lead to the passing of the Act that we would urge the Commission to engage with, if it would assist in understanding the context of this fundamental change.¹⁵
28. The PSCIA enabled private schools to become a full part of the state education system. Proprietors of state integrated schools generally retained ownership of the school land and buildings, and the responsibility for preserving and safeguarding the special character of the school.
29. Funding from the Department of Education was provided to integrated school governors for maintenance of buildings and the payment of staff. The proprietor had to meet the cost of upgrading (if required) buildings to the level determined by the state to be suitable for integration.

¹⁵ Assistance for schools that wished to integrate had been a 1972 Labour Party manifesto promise and there was a significant policy process leading up to the passing of the Act, including a 3 day public conference and the establishment of a steering committee, with state and private school representatives, led by the Director General of Education.

30. At this time, for secondary colleges, Boards of Governors became responsible for the governance of Catholic schools and included members appointed to them by the Department of Education. For primary schools, diocesan education departments worked with the Department of Education to govern. From integration, the State had responsibility for school operations.
31. Existing Catholic schools were integrated into the state education system from 1976 onwards. This is done for each school, agreed through an integration agreement between the proprietor of the school and the Crown.¹⁶ The last Catholic private school was integrated in 1984, 39 years ago.

Boarding hostels

32. Boarding hostels, since they are separate to the core educational function of the school are not integrated and remain privately run. Hostels are funded by fees paid by parents, scholarships, or grants received. However, for all schools with boarding hostels, even though responsibility for governance differs to the school component, they are seen as an integral element of the life of each school.

Education Act 1989

33. In 1989, the Education Act and Tomorrow's Schools Reforms established the Ministry of Education and the Education Review Office.
34. Under this legislation, the governance of schools became the responsibility of Boards of Trustees, which are now named School Boards. These are Crown entities and accordingly, each Catholic school is governed and managed by a Crown entity.
35. Proprietors continued to own or lease school land and buildings of state-integrated schools and were responsible for the preservation of the school's special character. For schools with boarding hostels, proprietors retained responsibility for the governance and operation of the hostel, sometimes establishing other entities for this purpose.

16 St Patrick's College Silverstream Integration Agreement, dated March 1983. 017.0007.0014.

Catholic special character state-integrated schools

36. Catholic state-integrated schools are run and managed in a very similar way to State schools.¹⁷

The role of the Proprietor in a state-integrated school

37. The key difference turns on the concept of 'proprietorship'. The Proprietor of a school is the entity that:
- (a) own or lease the land and buildings of the school; and
 - (b) are responsible for preserving the special character of the Catholic school.¹⁸
38. Amongst Catholic state-integrated schools a variety of different legal structures are used for the 'proprietor'.
39. The School Board (the Crown Entity that runs the school) and the proprietor have responsibilities for different aspects of the School.
- (a) The School Board is responsible for day-to-day operational matters concerning the school, and are responsible for the wellbeing of those on the school site. For the school, it is the School Board that is the entity responsible for ensuring safety.
 - (b) The proprietor's responsibilities are codified in law and in the integration agreement. They relate to the preservation of the school's special character, the school's land and buildings, and (if present) any boarding facilities. In the hostel, the proprietor is the entity responsible for ensuring safety.

Regulatory oversight of schools

17 Dr Kevin Shore's evidence, dated 18 July 2022, sets out the differences, and their statutory basis in considerable detail for the Commission.

18 Evidence of Dr Kevin Shore, dated 18 July 2022, at [10] - [11].

40. State integrated schools are subject to oversight by other state entities, including the Ministry of Education and the Education Review Office (**ERO**). This is the same for all other state schools.
41. The ERO, since 1989, has undertaken reviews of the processes, policies and practices of all State schools, including state-integrated schools. As part of these reviews, the ERO reviews the special character of state-integrated schools as a core part of the integration agreement of the school.

Regulatory oversight of hostels

42. Reviews by the ERO also extend to school boarding hostels. Review reports prepared by the ERO inform the proprietor, hostel staff, parents, students, and the Ministry of Education of the provision of a safe physical and emotional environment for students in hostels.
43. For Catholic schools with boarding facilities, like Silverstream, the boarding hostel is regulated to ensure the safety of students who board. Since 2005, hostels have been regulated under the Education (Hostels) Regulations. They require a license to operate, which is administered by the Ministry of Education.

Harm in Catholic schools

44. As part of responding to the Royal Commission, the dioceses and congregations have reviewed the records they hold in relation to incidences of harm or abuse. This includes records, where they are held, of harm in schools.
45. Catholic entities respond to allegations of harm that relate to the pre-integration period in every school, and for the post-integration period, any allegations or incidents which relate to clergy or religious.
46. After a school has integrated, any harm or incidents relating to staff and volunteers in the school are the responsibility of the School Board (as it is now called). In the boarding hostel, any incidents are responded to by the proprietor of the hostel.
47. Te Rōpū Tautoko has conducted an extensive information gathering/research project regarding reports of abuse (as defined by the Commission) made to

Catholic entities in Aotearoa. This statistical information has been consolidated and reported in two *fact sheets*, which were published by Te Rōpū Tautoko on 1 February and 1 June 2022.¹⁹

48. We are not aware of any statistical material in relation to harm or abuse in state schools, in state-integrated schools of other faiths or in private schools.
49. Given this lack of comparative data, it is not known whether these rates are higher than other educational environments, or consistent with the experience in other schools.

Example of a Catholic special character school: St Patrick’s College Silverstream

50. The Commission has asked for evidence about St Patrick’s College Silverstream, as an example of a Catholic Boarding school.
51. Silverstream is a secondary school boys’ boarding college, founded and owned by the Society of Mary. It is one of nine schools the Society of Mary is affiliated with, and one of three Society-owned schools.
52. The College was established in 1931. It was integrated into the state education system in 1983. Silverstream has a current roll of approximately 700 students, with a maximum roll of 720 students.²⁰
53. Silverstream was initially established as a solely boarding college and over the decades, the percentage of ‘day boys’ has steadily increased. The boarding house, named Redwood House, is integral to the school but is not ‘integrated’. Approximately 80 students currently board at the College hostel.
54. Silverstream has had a long history of educating Māori and Pacific boys and young men. The Society of Mary has long connections with Māori through its Māori Mission and with the Pacific Islands and many boys from these communities attended Silverstream. Currently, the roll consists of 20.76% of students who identify as Māori and approximately 27.6% who identify as having Pacific heritage.²¹ Te Ao Māori and fostering cultural identity in all its students is very important at the College.

19 See <https://tautoko.catholic.org.nz/info-gathering-project-data/> for both fact sheets.

20 Te Rōpū Tautoko, Briefing Paper No. 13, dated 5 October 2022.

21 Te Rōpū Tautoko Briefing Paper No. 13, dated 5 October 2022.

55. The 'special character' of Silverstream reflects that it is a Catholic and a Marist School, and this is recognised and safeguarded by its integration agreement with the State.²² In practice, the College embodies three identities: it is a school providing a State education; it is a Catholic school; and it is a Marist school. All of these hold value for the College.
56. Te Rōpū Tautoko has provided a briefing paper to the Commission on the history of the College's establishment and operation.²³

An "example" of one

57. Silverstream does not, and cannot, in itself, represent all state-integrated Catholic schools in New Zealand. It is one of 10 schools with a boarding hostel and one of 236 Catholic schools.
58. However, the Commission has asked that St Patrick's College Silverstream present to give evidence today and they are here to do so. The school leaders can speak only to their knowledge of Silverstream. Fr Tim, given his own career and experience, has a wider knowledge of education in the Society of Mary. Together, this is only a small part of the Catholic education network.
59. If Commissioners have questions about the wider system, we encourage you to direct them to Dr Kevin Shore.

Oversight of St Patrick's College Silverstream

60. The Rector has always, throughout the history of the College, had responsibility for the day-to-day management of the College, both the school and the hostel. This is still the case.
61. From Silverstream's establishment in 1931 to 1993, all Rectors at the College were members of the Society of Mary. This position has been held by lay people ever since.

²² St Patrick's College Silverstream Integration Agreement, dated March 1983. 017.0007.0014.

²³ Briefing Paper No. 13, dated 5 October 2022.

62. From the time of integration, the Rector has reported to the Board of Governors, and subsequently the School Board. The Rector also reports to the Board of Proprietors for the day-to-day management of the boarding hostel and any associated responsibilities.
63. As you will shortly hear from the Provincial of the Society of Mary, the Society is not involved in the governance and day-to-day management of the College, beyond appointing trustees to the Board of Proprietors and providing support to the College via funding and other initiatives.
64. The Archdiocese of Wellington has minimal interaction with the College. Silverstream is not a diocesan school, and therefore the governance and day-to-day management of the School is not within the direct oversight of the Archbishop, and never has been.

Abuse and responses to abuse at Silverstream

1950-1984

65. Silverstream has a rich history of accomplishments and has pride in its past. However, the Society of Mary and the College acknowledge that the College's history also includes incidences of abuse. Fr Duckworth's evidence outlines the records about the nature and extent of abuse held by the Society of Mary relating to Silverstream.²⁴
66. Briefly summarised:
 - (a) For the period from 1950 to 1984, there are records of 22 reports of harm or abuse, against seven known individuals, in relation to the College. These seven men were all members of the Society of Mary and relate to events in the 1950s, 1970s and 1980s. These reports vary from sexual harm to inappropriate physical punishment (being "*boxed around the head*").²⁵
 - (b) There were three respondents to reports of abuse at Silverstream from the 1950s to the 1980s who account for the majority of the reports. These men

24 WITN0253004.
25 007.C632.0003.

are either deceased or no longer belong to the Society. The most serious of these offenders, Alan Woodcock, was convicted and imprisoned in 2004 for having committed a number of sexual offences against boys between the years 1978 and 1987, including against students at Silverstream.

67. There are a small number of records of complaints made at, or close to, the time the harm occurred. Fr Tim addresses in his written evidence that the records from that time highlight the inadequacies of the Society's responses in that era.²⁶ Many of the other reports made to the Society of Mary were made from 2002 onwards.
68. All allegations of harm by members of the Society have been reported to and managed by the Society and their processes. As Fr Tim acknowledged in his earlier evidence in the Redress Hearing, some survivors have had positive experiences with the redress process, while others have not.
69. The abuse that occurred at the School and its boarding hostel is unacceptable and indefensible. As you will hear, the College and the Society of Mary deeply regret the failure to keep these children safe while they were in their care at Silverstream.

Post-integration: 1983 to present day

70. The College has an absence of records for the period from integration to 2004. The College has followed its obligations of document retention procedures, in accordance with standard operating procedure for schools, and does not hold this material.
71. There are some records of harm occurring at the College from 2005 to the present day. These records largely relate to disciplinary matters for staff members. There are approximately 10 incidents which required an employment disciplinary response recorded between 2005 and the present day. These incidents related to, at the most serious end, alleged assault and sexual fondling by an adult on a student. The majority relate to allegations of the use of inappropriate and discriminatory language by staff towards students.²⁷

²⁶ WITN0253004.

²⁷ See Appendix A to Witness Statement of Sean Mahony (SPS0000008), dated 5 October 2022, at [20] - [24].

72. As you will hear from the Silverstream leadership today, their goal is for the young men at the College to be just, compassionate citizens. This involves being compassionate with each other, holding each other to account for things when we get it wrong, and treating people with respect. These are the core values that the College have always endeavoured to instil in their young men, and which reflect the special character of the College.
73. The Board of Proprietors, School Board, and Rector/Tumuaki, along with their staff members, work together to protect and encourage this character, through providing a safe and nurturing environment for all students and staff at the College.
74. The College has in place policies and procedures to ensure the safety, wellbeing and welfare of students, and to prevent the occurrence of abuse. These policies and practices are detailed in the written evidence of the college representatives filed with the Commission.²⁸

Conclusion

75. To conclude, Catholic education in New Zealand is extensive and its history is complex. Since 1975, both the State and Church entities have held both distinct and overlapping responsibilities. Continuing to enhance the protection of children at Catholic schools, will ultimately require the joint participation and coordination of the State and the Catholic entities.
76. We encourage the Commission to engage with this history and complexity and consider what recommendations you can make to further improve the education of our young people into the future.

Date: 17 October 2022



²⁸ SPS0000008 - Witness statement of Sean Mahony; SPS0000003 - Witness statement of Robert Ferreira; WITN1505001 - Witness statement of Clare Couch.

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