

# INQUIRY INTO ABUSE AT DILWORTH SCHOOL

## TERMS OF REFERENCE

1. **Commencement and term:** The Inquiry shall commence its work from 1 July 2022 with the aim of providing its report by 16 December 2022.
2. **The Inquiry:** The Inquiry shall be undertaken by Dame Silvia Cartwright, PCNZM, DBE, QSO, DStJ and Frances Joychild QC, with Dame Silvia as the Chair of the Inquiry.
3. **Purpose:** The purpose of the Inquiry will be to examine and make findings on:
  - (a) the nature and extent of sexual and other abuse (**abuse** as defined in paragraph 6);
  - (b) the factors that caused or contributed to the abuse;
  - (c) the acts and omissions of the School, its trustees, officers and staff in responding to, or addressing, complaints of abuse;
  - (d) the adequacy of the policies and procedures in place at the School today to prevent any future abuse.
4. **Scope:** The matters in scope include, but are not limited to:
  - (a) the nature and extent of abuse that occurred from 1 January 1950 to the end date of the Inquiry;
  - (b) the factors that may have caused, or contributed to, the occurrence of the abuse, including:
    - (i) structural, systemic or cultural causes;
    - (ii) the actions or omissions of the School, its trustees and staff, as well as those other persons referred to in paragraph 6 below, in committing, allowing or encouraging the abuse;
    - (iii) the vetting, recruitment, training, development, performance, management, and supervision of staff and others involved in the provision of care;
    - (iv) the School's policies and procedures available at the relevant times to raise concerns, or make complaints, about abuse;
    - (v) the culture of the School at the relevant times, including the kinds of conduct allowed, enabled or encouraged between students of the School.
  - (c) the acts and omissions of the School, its trustees, officers and staff in responding to, or addressing, complaints of abuse, including:
    - (i) whether those persons were aware, or should have been aware, of the abuse that occurred at the School;

- (ii) what, if anything, they did in response to any complaints of abuse;
  - (iii) whether there were any attempts made to conceal or suppress knowledge or reporting of instances of abuse;
  - (iv) whether the response to complaints of abuse (including pastoral care and redress) was consistent with good practice at the time the abuse occurred.
- (d) the School's current policies and procedures and whether these are fully adequate to protect the health and well-being of current and future students.
5. Matters not in scope include determining criminal or civil liability of any entity or any person or whether any act or omission by that entity or person complied or not with the law.
6. **Abuse:** For the purposes of the Inquiry, abuse means sexual and serious physical abuse (including conduct such as harassment, grooming, bullying and the like leading up to the abuse) to a student of the School, that was committed, allowed or encouraged by:
- (a) a person involved in the provision of care being a member of the Board, a member of the staff of the Board and/or the School, associates, volunteers, service providers;
  - (b) a student of the School;
  - (c) a visitor at the School;
  - (d) any other person who was in a position to interact with students at any time when they were in the care or control of the School.
7. **Inquiry procedures:** The Inquiry will determine its own processes and procedures and make such inquiries as it considers will best achieve the purposes of the Inquiry. The Inquiry will ensure, however, that its processes and procedures:
- (a) support Survivors who wish to participate in the work of the Inquiry;
  - (b) provide flexibility as to how Survivors are able to share their experiences with the Inquiry (for example, through the use of statements provided in other contexts);
  - (c) do not retraumatise Survivors as far as is practically possible;
  - (d) recognise relevant cultural perspectives;
  - (e) are simple to understand;
  - (f) do not prejudice current or future criminal or civil proceedings, or other contemporaneous inquiries;
  - (g) treat the personal information it receives in accordance with the principles of sensitivity, confidentiality, privacy and informed consent, as well as pursuant to any existing suppression orders;

- (h) allow individuals who provide written information to the Inquiry to access their information at a later date on request;
  - (i) inform participants of support, complaints or other processes which may be available to them;
  - (j) effectively manage any overlap between the Inquiry and Redress Programme to minimise stress and trauma to Survivors who engage in both processes.
8. **The Board:** The Board will:
- (a) cooperate with the Inquiry to assist it to hear from people who were formerly, or are currently, associated with, or in the employment of, the Board and the School;
  - (b) make all its current Board members available for interviews with the Inquiry and cooperate with the Inquiry to assist it to hear from all former Board members;
  - (c) ensure that current senior students have confidential access to the Inquiry;
  - (d) enable the Inquiry to undertake its work independently and confidentially;
  - (e) provide to the Inquiry on request any information in its possession or control, including waiving its privilege (but not any other person's privilege) in information predating 1 January 2018, relating to matters in scope and solely for the purpose of the Inquiry;
  - (f) otherwise provide such assistance to the Inquiry as it requests.
9. The Inquiry will carry out its work at such place or places as it considers appropriate having regard to its purpose and the need to support and not retraumatise Survivors. An Inquiry office will be based in Auckland at a location independent from the School.
10. The Inquiry will provide and fund support services for, and the reasonable expenses of, Survivors, as required to assist them with their participation in the Inquiry process. This may include reasonable expenses for travel, accommodation and counselling; and where the Inquiry considers it necessary, legal costs associated with participation in the Inquiry. Such support may also include the continuation of support already provided as part of the Redress Programme, the Listening Service, or any other counselling the Survivor already receives.
11. In particular, where the Survivor has a support person supporting them with the Redress Programme, the Survivor will be given the option of using that same support person to assist him and his family to participate in the Inquiry, and the support person can assist in accessing any of the Survivor's information that the Survivor/support person considers relevant for the purposes of the Inquiry.
12. **Report:** The Inquiry shall deliver to the Board a written report with its findings and recommendations by 16 December 2022 or such later date that the Inquiry considers necessary to complete its inquiry in accordance with these terms of reference. The report shall be made publicly available subject to any redactions to protect the confidentiality of Survivors' identity, existing suppression orders, and information as recommended by the Inquiry.

13. The Inquiry may make any recommendations it considers appropriate, including as to what happened in the past or to ensure that the factors that allowed historical abuse to occur do not persist and are not repeated in the future.

Dated

2022