

# Chapter Two

## The Inquiry's approach

### Introduction

- 2.1 The Inquiry was asked to determine the nature and extent of sexual and serious physical abuse at Dilworth School from 1 January 1950 until the end date of the Inquiry<sup>53</sup> and the school's response to complaints of abuse. The Inquiry reports on this chronologically in chapters 3 to 6, under the periods when respective headmasters were employed. Chapter 9 considers the school's response from 2019 through to today.
- 2.2 In each chapter, we consider the issues the headmaster and school board of the time faced, the student voices recounting the nature of the abuse they suffered, and how the school responded. We review school policies for making complaints, discipline, and student health and wellbeing in each era, contemporary standards (where available), and the extent of abuse in that period. Where relevant, we recount what staff or parents said.
- 2.3 The concept of looking to the past to orient the present and future, which is captured in the whakatauki "hoki whakamuri kia anga whakamua", forms the basis of this report in all aspects.
- 2.4 To understand the extent of the abuse, at the beginning of each headmaster chapter, we set out the numbers of students who reported abuse during that era in the context of the total school roll for the same period. The Inquiry is not qualified to determine the statistical significance of the numbers of students reporting abuse compared with the whole school roll or with other boys' boarding schools.

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53 31 July 2023.

- 2.5 The number of former students who reported sexual and serious physical abuse while boarding at Dilworth, however, is deeply concerning as it would be at any school where there are more than isolated incidents of abuse reported over the same period. We are not aware of any other school in New Zealand that has conducted as thorough an investigation into the incidence of historical abuse at its school as the Dilworth Trust Board has commissioned in this Inquiry.

## Registrations and interviews

- 2.6 The Inquiry began on 1 July 2022. 175 former students and 30 family members of former students provided information to the Inquiry.<sup>54</sup> Some family members spoke on behalf of former students, some of whom have died.
- 2.7 The Inquiry also obtained information from over 100 people who were employed by Dilworth or closely associated with it, in the period under review. These people included all living headmasters, namely: Dr Murray Wilton, 1979 to 1997; Mr Donald MacLean, 1997 to 2018; and Mr Dan Reddiex, 2019 to today. The Inquiry spoke to 10 of the 13 living trustees.<sup>55</sup> Others interviewed included deputy or acting deputy headmasters, matrons, tutors, housemasters and teachers. On two occasions, we interviewed the widows of housemasters who had lived on site with them and were aware of some of the matters under review. Interviewees included members of the Anglican Church. Some convicted former staff members also engaged with the Inquiry.
- 2.8 All statements made and information provided have assisted us to understand the matters we report on.

## Terms of reference

- 2.9 The Inquiry's terms of reference are in appendix 1 to this report and define 'abuse' as sexual abuse and serious physical abuse (including conduct such as harassment, grooming, bullying and the like, leading up to the abuse) that was committed, allowed or encouraged by a Board member, staff member, student, school visitor or anyone else able to interact with students when they were in the care and control of the school.
- 2.10 We are required to carry out this inquiry with reference to those terms. The definitions we adopted are provided below.

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54 Some individuals were students as well as having another role in the school (for example, as a student and a staff member). Where information was provided by that individual in both capacities, they are included in each category.

55 All current and six former trustees were interviewed.

## Sexual abuse

- 2.11 'Sexual abuse' is not defined in legislation; it is a term that encompasses more than the offences covered by the Crimes Act 1961. A plethora of definitions of sexual abuse are available. The Inquiry found the World Health Organization's definition of child sexual abuse to be of the most assistance. It provides:

Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violate[s] the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person.<sup>56</sup>

- 2.12 For the purposes of this Inquiry, the term 'child sexual abuse' is interpreted to include acts of physical contact and non-contact behaviour. Physical contact includes touching, fondling, kissing, and penetrative and non-penetrative contact with the anus or genitals.<sup>57</sup> Non-contact behaviour includes exposure of a student to sexual imagery and producing sexual imagery of a student by taking photographs or making artwork depicting the student in a state of undress.

## Serious physical abuse

- 2.13 The Inquiry interprets 'serious physical abuse' as physical acts that created a serious physical or emotional injury or impact, such as more than momentary pain, discomfort, hurt, shock or upset. Examples are given in each chapter.
- 2.14 Most instances of serious physical abuse were perpetrated by older or larger students against younger ones. Other serious physical assaults on students were perpetrated by house tutors, house masters and teachers. Most of these arose from caning. We discuss when caning crossed the threshold into serious physical abuse from para 2.30.

<sup>56</sup> WHO, Report of the Consultation on Child Abuse Prevention, World Health Organization, Switzerland, 1999.

<sup>57</sup> Oranga Tamariki | Ministry for Children, Practice Centre: Sexual abuse (webpage), last updated 1 July 2019. This closely mirrors the sexual abuse definition in appendix 4 to Dilworth's current Student Protection Policy.

## Bullying and harassment

- 2.15 The Ministry of Education’s definition of ‘bullying’, in a guide to parents, says it has four components: there is a deliberate intention to harm someone; the bully is misusing power based on physical size, age, gender, social status, digital capability or access; the behaviour is usually repeated; and the behaviour is harmful to the recipient and not a normal part of growing up. Examples given include persistent name calling, physical abuse and sending abusive messages online.<sup>58</sup>
- 2.16 The guide describes bullying as a serious and distressing experience, and that many children and young people carry the effects of bullying into their adult lives.
- 2.17 Many former students who registered with the Inquiry described significant physical bullying at the school. Examples are given in the following chapters. Most bullying had an element of serious physical abuse.
- 2.18 The Inquiry views harassment as similar to bullying but the behaviour is more in the nature of psychological and emotional bullying than physical. A harasser acts in an emotionally harmful or intimidating way to another person.

## Grooming

- 2.19 While grooming has recently become criminalised under New Zealand legislation, it has yet to be legally defined.<sup>59</sup> Academics working in this area note the difficulties of definition, “Grooming is a transient process that is difficult to capture and virtually impossible to pinpoint when it begins and ends”.<sup>60</sup>
- 2.20 At its simplest, grooming includes an offender’s preparatory actions that are designed to gain the victim’s trust and enable sexual abuse. Our analysis of grooming is informed by former students’ descriptions of the behaviour they experienced, which was clearly designed to engender closeness with an offender and a sense of loyalty to him. For some, the grooming experienced led to physical contact; for others, the conduct did not go beyond the grooming stage because, in almost all cases, the student took steps to avoid further contact.
- 2.21 Many former students described the absence of a father figure or male role model in their lives when they entered Dilworth and how this made them particularly vulnerable to grooming.

58 Ministry of Education, For parents and whānau: Secondary school 13–19 years old (website), 2023.

59 A new offence of “grooming for sexual conduct with young person” was inserted into the Crimes Act 1961 on 13 April 2023 (section 131AB). Before this, the only related offence criminalised the meeting with or attempting to meet a young person following sexual grooming (Crimes Act 1961, section 131B).

60 A Gillespie, ‘Grooming’: Definitions and the law, *New Law Journal*, vol 154, 2004, pp 586–587, cited in A Mcalinden, ‘Setting ‘em up’: Personal, familial and institutional grooming in the sexual abuse of children, *Social and Legal Studies*, vol 15(3), 2006, pp 339–362, p 341

2.22 One former student who was abused by a tutor said:

I have previously spoken about the grooming that went on between staff and students. Tutors were about 8–10 years older than us. They deliberately cultivated a big brother relationship with students, which was how the grooming occurred. You were living in a vacuum with no older male relationships, and they were filling that vacuum. We were like moths to the flame.<sup>61</sup>

2.23 In practical terms, we were told grooming took many different forms but involved creating a close relationship with a student that was different in nature to those with other students and often included the student being given special treatment, gifts or the opportunity to spend time away from the school. Staff members would invite students to their home to participate in hobbies. Others recall the lure of flying lessons or the chance to ride in a sportscar. The final aspect of grooming involved introducing intimate physical contact such as having the student sit on the adult's lap, tickling, wrestling or hugging.

2.24 There is a growing understanding that grooming often goes beyond an individual child to include their families and the wider community;<sup>62</sup> in this case, school staff and management. Some students described their offender establishing a relationship with their mother and coming to visit or have dinner with them at home.<sup>63</sup> This contact would be used to build trust before the staff member took the student on outings in the weekend or on overnight trips away from the school.

2.25 The clearest example of a multi-dimensional approach to grooming is that employed by Mr Ross Browne, who was the school chaplain from 1980 to 2006 and was convicted of sexual offending against Dilworth students. Chapters 5 and 6 set out the various ways he groomed not only individual students and their families, but also the staff and leadership of the school so he could undertake activities or roles within the school that provided him with opportunities to sexually abuse students.

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61 Student CW statement to the Inquiry.

62 A Mcalinden, 'Setting 'em up': Personal, familial and institutional grooming in the sexual abuse of children, *Social and Legal Studies*, vol 15(3), 2006, pp 339–362, p 341.

63 Student GT talks of Mr Ian Wilson visiting him at home, having tea and wine with his mother, and getting approval to take the student on camps. His mother thought Wilson was a good role model for her son. Student HR had Mr Peter Taylor befriend his grandparents and stay with them before he took HR flying and abused him. Student CX recalled a teacher "really got his hooks into our family" and invited them all to join him on holiday. Richard Galloway was also said to have created friendly relationships with family members of boys who then entrusted him with their son and brother allowing him to spend unsupervised time with them.

## Approach taken by the Inquiry

### Policies

- 2.26 The Inquiry's terms of reference require us to look at policies in two areas. First, when considering factors that may have caused or contributed to abuse, we are required to examine what policies and procedures the school had in place to raise complaints of abuse.<sup>64</sup> Second, we are required to look at the school's current policies and procedures and make findings on whether they are adequate to prevent any current and future abuse.<sup>65</sup>
- 2.27 In addition to meeting those two aspects of our terms of reference, consideration of the school's development of policies and procedures is an important window into how the school's leadership considered issues of child protection and welfare, abuse, punishment and other matters relating to the school environment. We reviewed policy documents the school provided to the Abuse in Care Royal Commission as well as additional policy documents we sourced from Dilworth's archives.

### Legislative change, guidelines and circulars

- 2.28 Since 1950 there have been several legislative changes to the education framework. In addition, the then Department of Education sent out circulars with important information relevant to schools.
- 2.29 Where contemporaneous standards and practices are available, we compared them with Dilworth policies. We have focused on legislative change and guidelines in periodic circulars issued by the Department of Education or other departmental documents.

### Caning – when it becomes serious physical abuse

- 2.30 Caning was abolished by legislation in 1990.<sup>66</sup> Before 1990, every schoolmaster or person in place of a parent was justified "in using force by way of correction towards a pupil as long as the force used was reasonable in the circumstances".<sup>67</sup>

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64 Inquiry into Abuse at Dilworth School, *Terms of Reference*, 2022, clause 4(c).

65 Inquiry into Abuse at Dilworth School, *Terms of Reference*, 2022, clause 3(d).

66 Education Act 1989, section 139A (effective from 23 July 1990).

67 Crimes Act 1961, section 59. Earlier iterations of the legislation authorised the use of corporal punishment in a similar way.

2.31 National and regional guidelines and bylaws governed the use of corporal punishment in state schools. As a fully private school, Dilworth was not subject to these and was bound only by the criminal law, which required that the force used was “reasonable in the circumstances”. Whilst the guidelines and bylaws are not binding, the Inquiry has taken account of them in determining what caning could be considered to fall outside ‘reasonable force’ in the circumstances. We took this approach on the basis that Dilworth students should not have been subject to any more severe punishment than students at other schools at that time.

### Regional Education Board bylaws

2.32 Before the enactment of the Education Act 1989, state schools were required to comply with bylaws made by the relevant regional Education Board. Each bylaw from 1930 to 1980 for the Auckland area (which is the area Dilworth falls within) noted that corporal punishment should:

- not be used for trivial breaches, failure or inability to learn, or neglect in preparing home lessons
- be reserved for deliberate breaches and wilful faults
- restrict the use of instruments to only a strap (of particular dimensions)
- be administered across the hand only
- be recorded, and those records kept for a period of at least six months.

2.33 From 1968, the bylaw was amended to allow secondary schools to establish an alternative policy within the spirit of the corporal punishment bylaw for inflicting corporal punishment by means other than the strap on the palm of the hand.

### Department of Education guidance on corporal punishment

2.34 From as early as 1960, the Department of Education’s official position was to discourage corporal punishment. It maintained that in almost every case of discipline, a more appropriate form of punishment could be found.<sup>68</sup> The 1971 Department of Education handbook for teachers urged schools to consider alternatives to corporal punishment and noted that dependency on corporal punishment in teaching was a serious professional weakness. It encouraged schools to create an environment that gave students the opportunity to control themselves, rather than be controlled.<sup>69</sup>

68 Department of Education submission to the 1960 Commission on Education in New Zealand.

69 Department of Education, *School Administration Handbook for Head Teachers*, 1971.

- 2.35 We make two comments on the bylaws and Department of Education guidance. First, although caning was not permitted until 1968 under the Auckland bylaws, we have taken notice that many boys' secondary schools used the cane for discipline before then. Secondly, the bylaws consistently distinguished between "trivial breaches" of school discipline and more serious breaches. The cane was not to be used for the former.

### Inquiry view of when caning becomes serious physical abuse

- 2.36 The Inquiry considers that punishment administered in excess of a bylaw or guidelines would fall outside the bounds of what could be considered reasonable force in the circumstances as provided for by the Crimes Act 1961 or its predecessors and would constitute serious physical abuse under the Inquiry's terms of reference. In each chapter, we examine the incidents of caning against this standard.

## Privacy, confidentiality and anonymity

### Privacy policies

- 2.37 Privacy policies were developed and finalised before any interviews were conducted. The handling of very sensitive material required careful thought to comply with the Privacy Act 1993 and to reinforce the importance of the undertaking the Board had given that the Inquiry would be completely independent of it. Before potential interviewees would engage with the Inquiry, many sought guarantees that the Inquiry was fully independent and that the Board would not have access to its documents and statements.
- 2.38 The Inquiry retained a privacy consultant to develop privacy policies and procedures in relation to the obtaining, retention and use of information and to provide assistance on specific issues involving more complex privacy considerations throughout the Inquiry.

### Confidentiality

- 2.39 Confidentiality is a fundamental principle underpinning the Inquiry's work. We were made aware that without confidentiality, fear of a breach of privacy and its consequences would prevent many from engaging with the Inquiry. From the outset, therefore, an undertaking that former students' identities would be protected was included in the Inquiry privacy statement.<sup>70</sup> For other witnesses, confidentiality was considered on a case-by-case basis.

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70 Refer to Appendix 2 for the Inquiry's privacy statement.



## Anonymity

- 2.40 The Inquiry allocated anonymous identifiers to former students, family members, and former and current staff members whose statements are cited in the report. A two-letter code was randomly assigned to each individual and does not reflect a person's initials. We have named those who were or are in senior leadership positions when events took place such as headmasters and deputy headmasters, Board chairs and members, and Anglican Church bishops.
- 2.41 Convicted staff, alive or dead, have also been named – except where there are name suppression orders in place. Staff members who are alive have been named only in respect of accounts of abuse for which they have been convicted.<sup>71</sup> In almost all cases, we received more accounts of abuse by a named (or anonymised) offender than have been outlined. Former staff who were charged, but not convicted before death, have been named and examples of their abuse also outlined. Former staff and students who were named by Inquiry participants as sexual offenders or engaged in serious physical abuse but have not been charged are not named. Deceased uncharged people are named only if there is more than one complaint against them.

## Obtaining and handling of information – information systems

- 2.42 Information systems were contracted to ensure the safe retention, management, analysis and protection of information held by the Inquiry. The information technology system called ClaimsView was used to track progress and engagement with individuals registered with the Inquiry, and a system called Relativity was used to assist in the analysis of information.
- 2.43 Requests were made throughout the Inquiry as it became clear what information was needed to answer the terms of reference. The Inquiry issued 10 information requests to the Board seeking a variety of documentation, such as headmaster reports to the Board, Board minutes and boarding house record books.
- 2.44 The Inquiry also sought information from the New Zealand courts, lawyers for former students and former staff, the Anglican Church, Scouts Aotearoa, the New Zealand Police, Oranga Tamariki, the Ministry of Social Development, the Ministry of Health, the Ministry of Justice, the Teaching Council, the Education Review Office, Archives New Zealand, the National Library, the New Zealand Defence Force and the Ministry of Education.

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<sup>71</sup> We are aware of some instances where the police investigated but did not prosecute, including where particular offending was time-barred. Some limited examples of abuse that fall into this category have also been included.

- 2.45 Former students who gave information to the Inquiry consented to their school files, statements to police and the Abuse in Care Royal Commission to be provided to the Inquiry.

## Participation in the Inquiry

- 2.46 Those who indicated an interest in talking with the Inquiry could do so through its online website or by posting a hard copy form to the Inquiry. Internally, these forms were divided into two groups: those from former students and those from other witnesses. Former students were the first to be engaged. Of the other witnesses the priority order was family members of students, school staff, Anglican Church personnel, former board members and, finally, current Board members.
- 2.47 In a small number of cases, the Inquiry contacted former students it had reason to believe had relevant information about other former students' experiences. For example, some former students told the Inquiry they had disclosed their abuse to a school friend. There were also families of deceased former students who were concerned that their relative may have experienced abuse and believed the son's school friends might have relevant information. The Inquiry contacted former students in these cases to see whether they had corroborative evidence.

## Provision of support during Inquiry process

- 2.48 The Inquiry sought to be trauma-informed and survivor-focused in all its procedures. It was well understood that many former students who had been historically abused would be experiencing the trauma of reliving memories. Others who had known something of what was happening or who had other traumatic memories from their school life may also have been dealing with unsettled feelings and strong emotions.

## Wellness navigators and registration

- 2.49 The role of wellness navigators was critical to enabling Inquirers and others to work sensitively and efficiently with the survivors and other witnesses in the knowledge that the interviewees' wellbeing needs were being met. All three wellness navigators were trained and widely experienced registered nurses and all specialised in mental health. Two of the three had recent experience in providing wellness support to survivors through similar inquiry processes.

- 2.50 Wellness navigators contacted by phone each person who had filled out a form. In the process of registering the person for the Inquiry, the navigator had a holistic wellness check in with them. The purpose of this was to understand whether they had wellness needs and, if they so identified, to formulate a plan of support while they went through the Inquiry process. The conversation included the navigator understanding what supports the person already had in place, reinforcing and developing wellbeing strategies with them, and facilitating referrals to other agencies as required.

## Wellness supports provided

- 2.51 All registrants were offered contact with the Dilworth Listening Service, which provided access to an independent psychologist free of charge. Many accepted and found this service helpful. Others, however, advised that talking would not assist them. As appropriate, they were then supported in a variety of ways through the Inquiry process by activities they identified would assist them. This support included gym memberships, swimming passes, various types of massage, equine therapy, yoga and gardening. Other witnesses under considerable stress as a result of the Inquiry were also offered individualised wellness support, which some accepted.

## Provision of accounts to the Inquiry

- 2.52 The Inquiry was aware many former students, and some former staff, had already been interviewed by police and the Abuse in Care Royal Commission before registering with this Inquiry.<sup>72</sup> Guided by a survivor-focused approach, we were flexible about how former students could share their experiences with the Inquiry.<sup>73</sup> Often their accounts of sexual and physical abuse were placed before the Inquiry by the participant providing an earlier statement made with the police or the Royal Commission, and their Inquiry interview focused on other relevant aspects of their school experiences. Some former students wanted the Inquiry to take into account their earlier statements, but did not wish to be further interviewed.
- 2.53 It was a cornerstone of the Inquiry's approach that this decision was made by each former student individually and with the support of a wellness navigator if they so wished.

<sup>72</sup> Such a statement is referred to in this report as a 'statement to external agency'.

<sup>73</sup> Inquiry into Abuse at Dilworth School, *Terms of Reference*, 2022, clause 7(b) and (c).

## Interview process

- 2.54 After registration, and for most of the former students who wanted to be interviewed, appointments were made for interviews with an investigator or Inquiry lawyer. Initially, those who had made an earlier statement went straight to an interview with the Inquirers. Later, given the large number registering and the concern to avoid time delays in the provision of the report, prospective interviewees were assessed, with some being interviewed by an investigator or lawyer and others by the Inquirers. Those who had expressed a wish to meet the Inquirers and those considered to have specific relevant information were interviewed by the Inquirers.
- 2.55 Typically, wellness navigators contacted the participant before a scheduled face-to-face meeting to ensure emotional support was in place for them for their interview and to help them make practical travel and other arrangements. When the participant arrived at the Inquiry office, they were met downstairs, brought up to the office, and taken into the dedicated wellbeing room where they had access to food, hot drinks and a quiet space before the interview. If they expressed a wish to have the navigator present at the interview, then the navigator sat in with them. They could also bring their own support people, and many did. After the interview, they could unwind and debrief in the same wellbeing room and again had access to hot drinks and food. Wellness navigators followed up with them by phone after the interview to respond to any queries or concerns they had.
- 2.56 Some interviews with former students in Europe and Australia were conducted online, but where at all possible at least one face-to-face interview was arranged with all former students wanting to speak with the Inquiry.

## Interviews with convicted former staff

- 2.57 All those former staff charged by police were invited to meet with the Inquiry. As a result, the Inquirers visited two convicted former staff in prison and an Inquiry staff member met with a third convicted staff member before his sentencing. Two more communicated with the Inquiry in writing.

## Preparation of witness statements

- 2.58 The interviewer prepared a statement for each participant, and it was signed off once the participant was satisfied with the statement. A small group of participants did not complete an Inquiry statement. They had either provided their earlier statements, made to the police or the Abuse in Care Royal Commission of Inquiry, or were interviewed directly by the Inquirers, who prepared notes. Wellness staff would contact participants during this process to check their wellbeing, emotional state and strategies.

- 2.59 While for most this was the extent of the wellness support needed, for about 10 percent of the group regular contact was maintained. Some were particularly fragile as a result of the memories that had arisen, and two required referral to secondary services.

## Prior to publication of the report

- 2.60 The wellness team developed a focus group from among the former students to assist the Inquiry on matters such as the best way to disseminate the report to former students, the report cover design, and methods of support to former students and families on reading the report. Before publication, the wellness navigators contacted each former student to check their current wellbeing status and needs. As time for publication of the report drew near, some expressed the need for more support.

## Information and document analysis

- 2.61 As the Inquiry report makes clear, in many incidents of reported sexual abuse of Dilworth students, the only witnesses were the offender and the victim. For reasons we have discussed in the report, many victims did not complain at the time or even discuss what had happened to them.
- 2.62 The Inquiry sought and obtained a large amount of information and took other steps that assisted in the corroboration of former students' accounts. Steps taken included:
- contacting former staff members the Inquiry believed had relevant knowledge of abuse accounts provided by former students
  - contacting past and present police officers who conducted investigations into abuse of former students to discuss their investigations
  - cross-checking statements of former students and staff members registered with the Inquiry for corroborative accounts
  - obtaining statements from relatives of former students who complained to the school about the abuse of their relative or otherwise knew about it
  - reviewing headmaster reports to the Board and minutes of Board meetings for any complaints of abuse or concerns raised about students or staff behaviour
  - reviewing headmaster and Dilworth Friendship Club newsletters to the Dilworth community for any complaints of abuse or concerns raised about students or staff behaviour

- reviewing, with the student's authority, student files for letters of complaints of abuse or deterioration in a student's emotional well-being or academic performance that might indicate the aftermath of abuse; parents sometimes referred to these noticeable changes in behaviour in letters to the school or staff did in memoranda or school reports
- reviewing the personnel files of named Dilworth offenders for any records of complaints or concerns about their behaviour
- listening to interviews conducted by Dr Wilton during the research for his history of Dilworth, *The Dilworth Legacy*<sup>74</sup>
- reviewing newspaper articles dating back to the 1960s
- reviewing past editions of the school magazine *The Dilworthian* for information on departure dates of named offenders and dates of camps or trips on which the Inquiry was told abuse had occurred
- reviewing boarding house diaries for records of complaints or former students being signed out by offenders who went on to abuse them
- reviewing Dilworth punishment books for evidence of canings some former students said they received
- seeking evidence of offending and records of complaints made about named Dilworth offenders to the external agencies listed above
- obtaining sentencing notes and court-held information such as affidavits in support of suppression orders and decisions
- reviewing Department of Education circulars and files relating to teacher registration and disciplinary cases.

2.63 On an ongoing basis, documents were analysed by the Inquiry's investigation and legal teams, legal research was undertaken and issues identified for the report. As information gaps were identified further information was sought. Two additional lawyers were appointed to assist with data analysis and coding all statements received by the Inquiry within the data management system, Relativity, to assist with report preparation.

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74 M Wilton, *The Dilworth Legacy: The first one hundred years of Dilworth School 1906–2006*, Dilworth Trust Board, 2007. This is a two-volume history of the school from its foundation in 1906 to 2006. Its author, Dr Wilton was headmaster of the school from 1979 to 1997.

## Assessing credibility

- 2.64 The Inquiry was asked to consider the scale and extent of abuse and how the school responded to complaints over the 73-year period from 1950.
- 2.65 We spoke with and received statements from former students aged from their 20s to their 80s. A similar age range applies to other witnesses spoken to such as former staff members from each era and family members of the students (siblings, parents, aunts).
- 2.66 We are mindful that memories are not always reliable, even when events are reasonably recent, and that several of those who spoke to us and had to respond to the complaints about their governance or management of the school are in their older years, so, for them, many of the events are a distant memory.
- 2.67 While we have not been asked to determine criminal or civil liability of any person or entity, assessment of credibility and reliability of statements made has, nonetheless, been a necessary and important aspect of our inquiries.
- 2.68 We know that where a person, even one of advanced years, has been a victim of a particularly traumatic event, the event will be imprinted on their memory more vividly than if it had been an everyday event. We also understand that some details surrounding the event may have been forgotten, are now not completely accurate or are only partially recalled. We have been acutely conscious that many to whom we have spoken, although of an age to recall important events, were very young when the abuse occurred, often sexually ignorant and sometimes unaware of the ramifications of the abuse. Their adult recall is shaped by their greater maturity and knowledge and the trauma that has ensued. Sometimes they discussed their abuse with friends or family or in a therapeutic setting. These discussions will also have had an impact on their memories of the abuse. Many, however, had not discussed the abuse until interviewed by the Inquiry. Our approach has been in line with recent research from Australia on the effects of child sexual abuse on memory and complainants' evidence.<sup>75</sup>

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<sup>75</sup> Empirical Guidance on the Effects of Child Sexual Abuse on Memory and Complainants' Evidence, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2017, [www.childabuseroyalcommission.gov.au/research](http://www.childabuseroyalcommission.gov.au/research) (in the list of reports under "Government responses").

- 2.69 Although those who work in the area of childhood abuse, particularly sexual abuse, are trained to accept at face value what a child is telling them for therapeutic reasons, we have had a different focus. It remained our responsibility to assess the reliability of the now adult memory and to filter it through the information gathered from other sources. We have had the advantage of speaking with many students from each decade (often scores of students), and through this process we have received independent confirmation of many aspects of the surrounding events and incidents referred to. Staff and Board members' responses have also been helpful as have statements of family members and school documentation kept by them.
- 2.70 We have also had the opportunity to review documentary material from school archives, including registered students' files. While we note that many important documents and records of events are missing, nevertheless, we reviewed a large amount of documentary material that has been of considerable assistance. House diaries (which in some cases provided circumstantial evidence of abuse that occurred) together with correspondence with the school kept by mothers and other family members have provided compelling corroboration of important aspects of former students' accounts. Headmaster reports to the Board and Board minutes have been helpful in assessing the school's response and confirming the school environment in some eras. *The Dilworth Legacy* has been valuable in understanding the issues of the time and confirming names.<sup>76</sup> The school's annual magazine, *The Dilworthian*, has also been useful in placing recalled incidents in a period.<sup>77</sup>
- 2.71 In relation to missing documentation, former staff told the Inquiry there had been documented investigations into sexual abuse allegations against Mr Peter Taylor (1978), Mr Rex McIntosh (1979), Staff Member UE (1981), Mr Howard Wynyard (1983) and Mr Leonard Cave (1984). The Inquiry could locate documents related to only one of these investigations – of Mr Wynyard in 1983. Notably, in this instance, the documents had not been kept by the school but by the staff member who conducted the investigation. The Inquiry was also told that the Taylor staff file was accidentally destroyed in a cleanout around 1992 or 1993. It appears other records, such as complaints students made at the time, that should have been created were not.

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76 M Wilton, *The Dilworth Legacy: The first one hundred years of Dilworth School 1966–2006*, Dilworth Trust Board, 2007.

77 *The Dilworthian* was first issued in 1927 and covers activities at the school for the entire period under review.



- 2.72 In response to the not uncommon reaction of disbelief when details of allegations of abuse have been at issue, we have regularly reminded ourselves that those who sexually abuse, do not do so in front of others who can see the abuse. They work to gain the trust of the victim and often of those who surround him. Several of the students we interviewed did not know of others being abused by the same person and thought they alone had been singled out. We note that several students who were themselves abused had not known that another staff member who they liked or admired was abusing students and had found it deeply shocking to learn this.
- 2.73 We are also aware that allegations against trusted and well-liked adults are often met with incredulity, while recollections of children may not be believed. We have received robust argument to this effect from a former student who heard that one of his teachers had been reported as a sexual offender. He wrote saying:
- My recollection is that [name of teacher] is just not the sort of person to molest anyone. I know, as will you, that even the most unlikely people offend. Even so, one has a reasonable instinct for these things as a student ... I feel compelled to describe this allegation as an outright lie and am certain it would be perceived to be so by every other student at the time ... [the Inquiry should] treat this allegation as a red flag of blatant dishonesty.<sup>78</sup>
- 2.74 The strength of shock and emotional commitment to the person concerned mirrors that shown by school leadership in relation to other trusted and liked figures including Mr Ian Wilson and Mr Ross Browne, and demonstrates that assessment of credibility requires an objective and disinterested consideration of the facts. That has been our responsibility and we reject the approach that places loyalty and respect for any person above the detailed and credible information we have received.
- 2.75 Finally, we have used our combined experience to assess the likelihood and reliability of the statements made to the Inquiry. We were assisted by an investigation team of experienced investigators, two of whom have specifically trained in interviewing victims of sexual abuse, and a legal team including two members who have acted in prosecutions of those accused of sexual abuse.

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78 In a later statement, the former student said he would unhesitatingly retract his statement if there were more than one complaint against the teacher he had so admired.

## Terminology

### Former students

- 2.76 We have often used the term ‘former students’ rather than ‘survivors’ or ‘old boys’. This is to respect the wishes of those former students who did not like being referred to as survivors and those former students who do not want to be referred to by reference to an ongoing relationship with the school.

### No narking, pimping or snitching culture

- 2.77 The expressions no narking, no pimping and no snitching were used in different eras to describe the same culture. Most former students described a code of silence as being part of the culture of the school until well into this century. Students were unable to report any other student to a staff member, despite what they had done or were doing. If the student broke the code, they were relentlessly bullied and punished for it by other students. Some said the code extended to not reporting on a staff member.

### Operation Beverly

- 2.78 Operation Beverly is a police operation that began in April 2020 to investigate historical sexual abuse of boys by multiple former staff at Dilworth.<sup>79</sup>

### Predation

- 2.79 The Inquiry uses the term ‘predation’ to refer to the seeking out of sexual contact in a predatory or abusive manner. It includes grooming and attempted or actual sexual abuse.

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<sup>79</sup> A preliminary Police investigation of complaints initially against Ross Browne only commenced in December 2019. The investigation became Operation Beverly when it became clear there were multiple offenders operating at the school.

## Paedophile or sexual abuser

- 2.80 The Inquiry uses the term 'sexual abuser' rather than 'paedophile' to describe a staff member or volunteer who sexually abused a boy. The reasons are twofold. First, it is a person acting on their paedophilia rather than the paedophilia per se that has caused the damage. Second, most definitions of paedophile include a sexual attraction or sexual obsession with prepubescent children. Both pre-pubescent and post-pubescent students were sexually offended against.

## Description of abuse

- 2.81 The penetration of a person's anus is covered by the offence of sexual violation by unlawful sexual connection.<sup>80</sup> However, the Inquiry has deliberately used the term 'rape' to describe the act as it is widely understood (that is, to include penetration of another's anus) noting that many former students described the assault using that term.

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80 Crimes Act 1961, section 128. Before May 2005, the offence was captured by section 142 of the Crimes Act 1961 (anal intercourse).