Research Report into Disability and Abuse:
Catholic Settings and Wider Context

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PUBLISHED
JUNE 2023

> *“Every human life is understood to be equal, inherently sacred and worthy of dignity and respect. In a just society, disabled people are not pushed to the margins and impoverished but are an an integral and full part of social life and so recognised as a valuable part of the human family.*

Acknowledgements

I acknowledge the courage of the survivors who have shared their experiences with the Inquiry.

To the survivors with lived experience of disability, I offer my particular thanks for making visible the serious harm you have experienced and what needs to happen to prevent such abuse happening again.

My appreciation and thanks go to everyone who generously gave their time to share with me their experiences, insights, advice and knowledge. Your help with finding and providing information has greatly assisted with my navigation through the history to current times in approaches to care, safeguarding and responses to abuse in both the Catholic Church and the wider context.

My particular thanks to Lesley Hood, Sister Margaret Anne Mills, Sister Josephine Gorman, Virginia Noonan, Dr John Shore, Dr John Evanglista, Dr John Kleinsman, David Loving-Molloy, Anthea Greaves and Sally Cawston.

My acknowledgements again to Triona Doocey, Archives New Zealand staff in Christchurch and Wellington, and members of the Simpson Grierson legal team involved in the response to the Inquiry for the Marylands case study.

Many thanks and much appreciation go to David Mullin, Project Director at Te Rōpū Tautoko, for all your support throughout my work on the Marylands briefing paper and this project.

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Executive summary

1. This report has been undertaken for Te Rōpū Tautoko with a focus on disabled people's experiences. It contributes to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Inquiry), and to the ongoing work of Catholic leadership in learning from and responding to the themes and recommendations of the Inquiry.

2. Information for this report is drawn from data collected and collated by Te Rōpū Tautoko; descriptions of historic, changing and contemporary Catholic Church involvement in care settings; and wider changes in approaches to care gathered from interviews, written records and research, and publicly available submissions made to and reports by the Inquiry.

3. Differing conceptualisations of disability have shaped and dominated approaches to care and education in different eras. In the period from the beginning of the Inquiry's historic period of interest in 1950 until its end in 1999, there were changes in how disability was viewed and shifts in the direction of social, educational and disability policy and practice. These moved away from segregated institutions and separate services to being in the community and inclusive. These have continued into the 21st century, along with an increasing emphasis on human rights and recognition of cultural identity.

4. The Catholic Church brought a long tradition of work in health, welfare and education services to their early missions in New Zealand and adapted these to local contexts and perceived areas of need. The foundation for the translation of faith into practical life and service is the core belief that every person has value and dignity that derives directly from their creation in the image of God. Catholic social doctrine and theology develop and respond to social issues of the times. In the global Church, Pope Francis has championed social justice and inclusion for disabled people.

5. Changing Catholic involvement in social, health, education and care settings reflects wider societal changes in both policies and practices and within the Church, such as fewer numbers entering religious institutes (congregations, orders, etc.). The wider context of approaches to social, education and disability services is explored, along with the very different landscape for Catholic involvement from 1950 to current times. St Dominic's School for the Deaf, St Raphael's Home of Compassion/St Dympna's Special Needs School and Marylands Residential Special School (all closed in the 1980s and early 1990s) are discussed as illustrative of changes. The small number of Catholic-based or influenced services operating today that include residential support for disabled people are described as examples of changing involvement and approaches to care.

6. Limited information is available about abuse experienced by disabled people in Catholic care settings. What is known from Te Rōpū Tautoko's information gathering is an under-representation, as this only covers reported cases and even if a report was made, disability was not routinely recorded. Most of what is known comes from the abuse by St John of God (SJOG) brothers at Marylands Residential Special School, which was a site of horrific abuse.

7. Throughout the Inquiry, disabled survivors gave evidence about the serious harm done, barriers to reporting and being believed, and many instances of inadequate or no response to reports of abuse. Most were situations that created and perpetuated environments at risk. Systemic and hierarchical features of the Catholic Church added additional difficulties, with a lack of transparency, monitoring and accountability. There was a betrayal of the trust and perception of clerics and religious as only doing good work in providing care and protection.

8. From the early 1990s, the Catholic Church has been working to get more consistent approaches for responses to reports of abuse and improving safeguards. In learning from survivors and the failures and needed changes highlighted in the course of the Inquiry, Catholic leadership has planned for or taken actions to implement change.

9. Work going forward for the Church sits in the wider context of the final recommendations of the Inquiry and the proposed independent entity for redress and an independent process for reviewing and monitoring safeguarding systems of Church institutions. Gaps and ways of strengthening processes and practices for disabled people across Church entities sit alongside needed systemic changes.

10. Central to the recommendations made in this report is the inclusion and greater visibility of a disability perspective at parish, diocese and national levels across all ministries, and reviews of safeguarding practices and responses to reports of abuse and in training. This should be guided by disabled people and their whānau as to how this is best achieved. Ensuring equal access to justice, improving safeguarding and responses to reports of abuse includes needed supports for decision-making, access to independent advocacy, and increasing skills and knowledge of disability and human rights in formation and training.

Chapter 1: Introduction

This work has been undertaken for Te Rōpū Tautoko. Te Rōpū Tautoko was formed to co-ordinate Catholic engagement with the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Inquiry).

The purpose of the report is to contribute to the Inquiry's disabled people's investigation and ongoing work of the Catholic Church in listening and responding to the themes and recommendations of the Inquiry as outlined in Te Rōpū Tautoko's Roadmap of actions.[1]

Internationally and since arriving in New Zealand, the Catholic Church,[2] through its various entities, has a long history of working with marginalised groups, undertaking welfare activities and providing care, health, social and educational services that continues to current times.[3] These have been grounded in the fundamentals of the Catholic faith. How involvement is arranged has been shaped by the formal structures of the Church, alongside the mission and work of individual clergy and lay people, religious institutes (known as orders or congregations[4]) and lay organisations.

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[1] https://tautoko.catholic.org.nz/roadmap/

[2] The Catholic Church is both a global entity under the leadership of the Bishop of Rome (the Pope), sometimes referred to as the "universal" Church, and a grouping within New Zealand of many local or "particular" churches, each under the leadership of its own bishop (or Ordinary), which are all united with one another and with the Bishop of Rome. The most common form of a particular church is called a diocese or archdiocese. In addition to the dioceses, several independent Catholic religious institutes (congregations, orders, etc.) provide Christian community for their members (known as religious) and undertake work consistent with their congregation's charism (or inspiration for their congregation). There is no legal entity called 'the Catholic Church in New Zealand'. See https://tautoko.catholic.org.nz/wp-content/uploads/2019/09/Appendix-Structure-of-the-Catholic-Church-in-Aotearoa-New-Zealand.pdf.

[3] The Sisters of Mercy, for example, were originally invited in 1850 by wāhine Māori (through Bishop Pompallier) to tautoko (support) their children in faith and education.

[4] This paper will use "religious congregations" or "congregation(s)" to denote religious institutes to distinguish between the congregation as an entity and the institutions that the entity ran or managed. The leaders of dioceses are bishops, and the leaders of congregations are known as "congregational leaders". Members of congregations are known as "religious".

Disability is a broad term and disabled people are diverse. Different ways of seeing, being with and talking about persons with disabilities, their families, whānau and communities can open or close opportunities and lead to valued lives or, conversely, to discrimination and stigma. How disability and disabled people are viewed and positioned by society impacts on where power and authority lie; how much agency and choice people have; policy and funding decisions; what are deemed to be needed services, supports and safeguards; and how or even whether these are provided. These wider factors interrelate to create environments and situations that are riskier for and/or perpetuate abuse.

Limited historical data is available on the number and proportion of disabled people in either state or faith-based care in New Zealand. Further, many of this cohort moved between settings. Additionally, the Inquiry has identified major gaps in available data about numbers and experiences of abuse for disabled people.[5] What is known, however, and is increasingly being made visible, including through the work of the Inquiry, is that disabled people experience high rates of abuse. They are disproportionately represented in those experiencing abuse and neglect in comparison to non-disabled New Zealanders (New Zealand Human Rights Commission, 2021).

At the beginning of the Inquiry's historic period of interest of 1950–1999, the Catholic Church, through its constituent parts, ran several care settings, services and activities for or that included disabled children and young people. By the end of the 20th century, the landscape of Church entities' involvement was very different. In part, this was as a result of changes in the Church, such as fewer numbers entering religious congregations and difficulties with funding and staffing. This changed landscape also occurred in the context of and was responsive to wider societal and policy shifts in approaches to care and education. Many of these changes were the forerunners of the policies and practices of today that promote a model of care based on inclusion rather than segregation. These changes recognise and respond to disabled people's rights and calls for nothing about us without us.

Chapter two provides background context to conceptualising disability and approaches to care, terminology and vulnerability. This is followed with a more detailed consideration of disability in chapter three, as expressed in and through the Catholic faith community's beliefs, teachings and practices. Chapter four looks at changing involvement of Catholic entities and influence in disability care and educational settings from 1950 to current times. This is examined in the wider social

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[5] https://www.abuseincare.org.nz/library/v/194/tawharautia-purongo-o-te-wa-interim-report; https://www.abuseincare.org.nz/library/v/197/research-report

context and relationship with the State and focuses in particular on services that included or include residential care.

Chapter five examines what is known about disabled people's experiences of abuse in Catholic settings and the recognition of and responses to reports of abuse. Systemic and structural factors that may have contributed to abuse and barriers to reporting are explored.

The final chapter draws on what has been learnt from the Inquiry, and in particular from survivors, to inform improved safeguarding and responses to reports of abuse for disabled people. These are considered in relation to the changes made to date by the Catholic Church, areas that need strengthening and gaps that need to be addressed.

Appendix A provides an outline of the research questions addressed; methods and information sources used; limitations; and my background as author of the report. Other than this report, I have no personal or professional affiliation with the Catholic Church.

I acknowledge the serious harm of the abuse that occurred in some of the institutions and settings that are mentioned in this report. Discussing and giving the historical context does not justify the harm caused but is given to address some of the Inquiry's questions in order to gain a better understanding of what took place and the lessons to be learnt.

I recognise the bravery of survivors who have spoken to the Royal Commission. Your evidence about indefensible abuse has fully exposed the disparity between the public façade of many state and faith-based care settings and the reality of your experiences and their life-long impact.

Chapter 2: Approaches to disability, terminology and vulnerability

Differing conceptualisations or models of disability have implications in shaping people's perceptions, expectations and definitions that are used, especially with laws, policies and practices. These arise in historical, social and political circumstances and reflect the changing and evolving standards of different eras, cultures and communities. Disability models and terms used are not value neutral (Retief & Letšosa, 2018); underlying assumptions can define needs or perceived needs in different ways. These can also contribute to prejudice and discrimination and the creation of environments where there is even greater risk of abuse.

The following sections discuss differing and prevailing models and perspectives about disability, terminology and vulnerability. These are drawn on and expanded in the next three chapters on Catholic faith and disability, the Church's changing involvement in care and educational settings, and the experiences of abuse by disabled people and the responses of the Church.

2.1 Conceptualising disability: Models and changing approaches

A perspective on disability, which has its origins in a number of religious traditions including Judeo-Christianity (and which also came to be seen in secular narratives), is that which has been termed a **moral model**. Although less frequent in more recent times, such conceptualisations still occur in depictions and positioning of disabled people, particularly in the media. Disability is seen as reflecting a certain meaning about a person’s or family’s character, deeds, thoughts and karma (Olkin, 2002). This is often negative in terms of stigma, shame or blame, and may even be regarded as a punishment for a particular sin or sins of an individual or family, or acts of transgression. Alternatively, it can be viewed positively, being seen as a sign of honour, faith and strength and positioned as a metaphysical blessing or as being inspirational.

A dominant model in the works of Christian churches has been that of charity. The **charity model** is an older complement to and underpins the medical model (discussed next). Charity had its beginnings in medieval Christendom and references a generous love which by generous giving ameliorates the ‘tragic’ conditions of the poor, the sick and the impaired (Clifton, 2020). In the practices that members of the Catholic Church brought to New Zealand in the 19th century and that continued into the 20th century, disability was often equated with disease and illness and associated with poverty. The vehicle of charity was also adopted by voluntary secular groups whose approach was heavily influenced by the work of religious groups.

The period from the beginning of the Inquiry’s period of interest in 1950 to its end in 1999 saw wider societal changes in how disability was viewed and significant shifts in the direction of social, educational and disability policy and practice. In the years preceding and at the beginning of this time period, prevailing views about disability drew largely from a **medical model**, whereby disability was characterised as an individual deficit. People were defined and categorised by their impairments and deviation from normative standards and positioned as ‘other’, ‘objects of pity’, ‘tragic victims’, ‘a burden’ and ‘passive’ recipients.

There were also classifications within classifications that delineated expectations about those who were deemed more ‘worthy’ and would benefit most from resources and services. ‘Educable’ and ‘trainable’ were two such terms that were used. This is illustrated in the 1937 eligibility criteria for the Wilson Home (run by the Auckland Hospital Board) as being “services for crippled children who were not mentally deficient and not ineducable" (Tennant, 2007, p. 101). Experts, typically medical professionals, defined which disabled people were seen as fitting where.

Families and whānau were often advised to place their disabled family member in institutional care because it was seen as best for the child and for the family. Even when this was not the initial family or whānau preference, a lack of options in the local community for services and schooling could lead to an away-from-home placement. Submissions from families to the Inquiry's Disability, Deaf and Mental Health hearing evidenced difficult and often fruitless searches for support leading to painful and heart-wrenching decisions being made to place their son or daughter in institutional care. The messages conveyed to families then, and too often still seen today, are that normal family life, or at least an undisrupted family life, is a space where children do not have disabilities (Murray, 2011).

While elements of this way of positioning disability remained, the latter decades of the 20th century saw a rise in activism led by disabled people. There were increasing challenges to the normative and paternalistic assumptions of medical and charity models and institutional care. These were articulated in terms of what is commonly referred to as the **social model**. In this way of positioning disability, while people may have impairments, it is the negative attitudes and social, economic and political responses to impairment by a society built by and for the non-impaired that is disabling.

Within the social model, the solutions required are those of changes to societal values and structures and the promotion and protection of rights. Addressing inequities and barriers to participation, such as lack of accessibility, are cornerstones. Decision-making, be it at a personal, policy or governance level, must include the lived experience and voice of disabled people.

Human rights and ecological models of disability and frameworks for policy and practice overlap and share a close affinity with the social model and also with each other. A **human rights model** emphasises human dignity and embraces positive civil, political, economic, social and cultural rights along with human rights protections. **Ecological models** of disability emphasise the interconnection of person and environment and the contextual experience of disability. They encompass interrelated factors at individual, relational, community and societal levels.

Disability as a concept is not one that is easily related to by Māori. Definitions of disability in a modern western paradigm have no equivalent in Te Ao Māori (Kaiwai & Allport, 2019). Compared with dominant individualistic western world views of health and well-being, Māori draw on holistic concepts that locate individuals in a whānau context (King, 2019). The emphasis within Te Ao Māori is on interdependence, with a recognition of cultural and spiritual determinants and the continuity between past and present. The term *Whānau Hauā* has been developed as an umbrella term designed to encapsulate the concept of disability in a way that comes from Māori understandings and experiences (Hickey, 2019). The term *Tāngata Whaikaha* is used to describe a Māori person with a disability. The meaning given is to have strength, to have ability and to be enabled.

Coloniality[6] has seen mindsets and imposed policies and practices that displaced, suppressed or sought to eradicate disabled persons in ways that are an antithesis to Te Ao Māori. These not only continued but were enhanced in the mid-20th century, with the growth of the welfare state and a subsequent increase in secular and faith-based community and social services. As with government agencies, the constructs underpinning much of the work of these non-government groups was of European origin and did not and does not always sit comfortably with Māori culture and values (Tennant, 2007). In a report prepared for the Waitangi Tribunal (King, 2019), it was noted in a review of current disability policies and funding contracts that disability was predominantly framed within an individual context. This impoverished mindset places constraints on the ability to include or foster a place for collectivism and interdependence.

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[6] Coloniality refers to continuity of colonial forms of domination after the formal end of colonial administrations (King, 2019).

2.2 Terminology

Dominant terms change across eras and both influence and are influenced by the dominant perspectives of the time. Even within the same time period, different terminology can be used to identify the same population group. Many terms that were used to describe disabled people in past generations were offensive and devaluing and are now almost universally understood as such. The 2008 United Nations Convention on Persons with Disabilities (UNCRPD) provides the basis for much of the way disability is referred to today, both internationally and in New Zealand. The UNCRPD draws from both a human rights model and a social model of disability to recognise that impairment is an important part of human diversity, that disability is created by the lived environment rather than inherent in the person, and that persons with disabilities are rights holders.

The UNCRPD talks about persons with disabilities as those who have a long-term physical, mental, intellectual, or sensory impairment which in interaction with various barriers may hinder their full and active participation in society on an equal basis with others (New Zealand Human Rights Commission, 2021). Impairments may be cognitive (the way people think, learn and experience the world), physical (affecting muscular or mobility functioning), sensory (such as blindness, reduced vision, deafness or a hearing impairment that affects perception and communication), and those of mental distress and that are age-related.

Disabled people are members of every gender, ethnicity, culture, class and community of identity or interest (New Zealand Human Rights Commission, 2021). As seen in the previous section, disability is a broad, dynamic, evolving and, at times, contested term. This is reflected in changes in and preferences for terminology such as people first and identity first. *People/person first* emphasises that people/a person with a disability/disabilities are people first just like everyone else and should not be defined by labels given or imposed on them by others. *Identity first* denotes disability as integral to individual identity as part of a group who have shared experiences.

People with intellectual disability is the term most used in New Zealand's legislation. *People with learning disability* is the preferred term for People First New Zealand, Nga Tāngata Tuatahi and is increasingly being used in New Zealand, including in much of the material produced by the Inquiry. This use of the term *learning disability* is distinguished from specific learning disabilities or learning difficulties such as dyslexia or dyscalculia.

Deaf with a capital 'D' indicates identification with Deaf culture, a culture that has its own language in New Zealand Sign Language. This reflects a rejection of historical medical model perspectives seeing 'deaf' as an individual deficit and not recognising – and in past times actively suppressing and banning – the teaching of sign language in schools.

The recently released Autism Terminology Guide[7] uses the identity first language of autistic, rather than a person who is autistic, and autism, instead of autism spectrum disorder. This underscores that autism is inseparable from the person and influences their way of experiencing the world.

The term *neurodiversity* was first coined in the late 1990s[8] and refers to the diversity of and variation in cognitive functioning. The neurodivergent community includes autistic people and those with intellectual/learning disabilities, specific learning disabilities/difficulties, ADHD, epilepsy and acquired brain injury.

In this report I use both person first and identity first language and, where possible, current preferences of different groups within the disabled population. I use the terms of the relevant time period when referring to descriptors and classifications in legislation, policies and eligibility criteria and when citing a direct quote.

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[7] Autism Terminology Guidance from the Autistic Community of Aotearoa New Zealand, April 2022. https://autismnz.org.nz/

[8] https://reframingautism.org.au/introduction-to-autism-part-5-neurodiversity-what-is-it-and-why-do-we-care/

2.3 Vulnerability

The Inquiry's terms of reference recognise the general vulnerability of a person who is under the responsibility of another person or entity. Vulnerability may also arise in relation to other factors such as ethnicity, age, gender, gender identity, physical or intellectual disability, or mental health status. Vulnerable adults for the purpose of the Inquiry are people over the age of 18 who need additional care and support by virtue of being in state or faith-based care that may involve deprivation of liberty. These definitions acknowledge the individual, relational, community and societal factors in an ecological framework that interrelate and impact to create environments that pose greater risks for abuse (Araten-Bergman et al, 2017; Fitzsimons, 2009; Mirfin-Veitch et al, 2022).

Disabled people are not inherently vulnerable; however, when vulnerability like dependency is used to define marginalised populations it can become a stigmatising term. Locating the problem of disability in the individual along with devalued status can serve as justification of ableist attitudes, practices and systems that reinforce discrimination and prejudice and may be factors in perpetuating abuse (Gibson, 2020). It is critical to consider power and control at relational and structural levels. Being subject to limits on personal agency, denial of opportunities and needed services, and being isolated from family, whānau and other supports can generate risks for abusive relationships, situations and environments.

The hierarchical systems of the Catholic Church are acknowledged as the source of increased risk of abuse. For example, the second edition of the Australian National Catholic Safeguarding Standards[9] released in December 2022 gives explicit recognition to situational factors and the power imbalance in many Church contexts that constitute risk factors for abuse.

The first edition of the Australian Catholic safeguarding standards in 2019 focused on children and young people, with the intent for the next edition to include safeguarding practices for the group referred to at that stage as 'vulnerable adults'. At the beginning of the consultation process for the second edition, it was decided to use the term *adults at risk* rather than vulnerable adults. This better captures an ecological framework and key risk factors associated with the abuse of power by someone in authority. It is noted that in New Zealand, adults at risk is the term used by The Personal Advocacy and Safeguarding Adults Trust[10] and in the New Zealand Human Rights Commission 2021 report.

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[9] https://www.acsltd.org.au/national-catholic-safeguarding-standards-edition-2-published/

[10] http://www.patrust.net.nz/home-page/

Chapter 3: Catholic faith in Church and community: Disability and visibility

The essential elements of what is known as the Catholic faith's moral tradition are encapsulated in a number of key principles that provide the foundation for the translation of faith into practical life – the social doctrine of the Church. Central is the principle that every person has an intrinsic value and dignity that derives directly from their being created in the image and likeness of God. In this tradition, every human life is understood to be equal, inherently sacred, and worthy of dignity and respect. In a just society, disabled people are not pushed to the margins and impoverished[11] but are an integral and full part of social life and so recognised as a valuable part of the human family.[12]

A long history of theological reflection and social teaching sits behind the expression of faith and practices of the Catholic Church. More recently within theology, a distinct disability theology is emerging that explores the juncture between the experience of people living with disability and sources of theological insight. Disability theology has grown as an interfaith field of study with practical application (Duke, 2015).

Catholic social doctrine commits Catholics to the welfare of others by applying gospel values such as love, peace, justice, compassion, service and community.[13] A core tenet is that of promoting participation, as everyone has something unique and important to contribute. As such, there is a responsibility for churches, workplaces, neighbourhoods and decision-making processes to be inclusive. This is reinforced by the more recent call from Pope Francis for the Church to become more 'synodal', by which he means a journey of spiritual discernment that involves listening to all the faithful. In the current era Pope Francis has been seen as a

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[11] Impoverished references not only that in a material sense but in experiences and opportunities.
[12] Justice and Peace Office, Agency of the Catholic Diocese of Sydney
[13] Caritas Aotearoa New Zealand, https://www.caritas.org.nz/catholic-social-teaching

champion of inclusion (Duke, n.d.), welcoming and listening to everyone and ending discrimination against the disabled, which he called a social sin.[14]

The manifestation of faith is also shaped by the formal institutional structures of the Church, including that of canon law, which sets out the rules and regulations that govern life in the Catholic Church. A particular problem that arises in and through the institutional structure of the Church, identified by many people, is that of what is known as clericalism. Clericalism refers to the social and religious distinctions between Church hierarchy – officials of the Church, especially that of clerics (priests and bishops), and non-ordained lay religious (particularly those who hold positions of seniority in religious congregations). It is a form of elitism that enshrines clergy and religious with a sense of privilege, control and entitlement that can enable the abuse of power. This can be compounded by public perceptions of priests and religious as set apart and entitled to deference because of the God-given nature of their vocational calling. In a 2018 letter, Pope Francis condemned the sins of sexual abuse and the abuse of power in the Church and linked those sins to clericalism.[15]

The following sections of this chapter outline the establishment and evolution of the Catholic Church in New Zealand with particular reference to disability. They discuss Vatican II and some Catholic Church and interfaith developments in New Zealand in the period post Vatican II, and enablers and challenges across the themes of visibility, accessibility, inclusion and belonging are identified.

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[14] https://www.catholicnewsagency.com/news/42984/pope-francis-disabled-people-are-not-in-humanitys-minor-leagues

[15] https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2018/08/20/180820a.html

3.1 Establishing and evolving in New Zealand

In the 19th century, the Christian Church brought its long history of traditions in missionary work and health, welfare and education services to New Zealand and adapted these to the conditions, identifying areas of need. Catholic, Anglican and Methodist churches provided the first missions to and voluntary sector involvement with Māori (Tennant, 2007). The first Catholic priests and religious missionaries arrived in New Zealand in 1838 and began their work in Northland under the leadership of Bishop Pompallier. With the arrival of more European settlers, many of whom were Irish Catholics, the Church expanded its works to that of a settler Church.

Catholics believe it is important to educate their children, both in the Catholic faith and with that faith imbuing through the wider educational spirit of the school. The first Catholic school was established by lay people in Auckland in 1841, and the first teaching orders arrived in New Zealand in the 1850s. After the withdrawal of government assistance to Catholic schools in the Education Act of 1877, New Zealand's bishops invited a number of religious congregations from overseas to set up and staff schools here. This was the foundation for an extensive network of Catholic schools.

Some of New Zealand's earliest welfare organisations were orphanages run by churches.[16] As with other denominations, Catholic entities saw running orphanages as a fundamental form of Christian practice. Orphanages were not only for children whose parents had died but also took in children whose parents were not able to care for them, who had been neglected or abused, or had committed crimes. In the 19th century the Christian charitable aid system also played a large part in providing for the disabled, especially those with long-term needs. Although changing in form and difficult to quantify in numbers and effect, Christianity was a dominant motivating force in voluntary social services until World War II (Tennant, 2007).

The Catholic tradition of caring for children is illustrated in the origins and distinct character of three institutions run by Catholic religious congregations who were involved in disability care and education during the Inquiry's historic period of interest of 1950–1999: St Dominic's School for the Deaf (run by the Dominican Sisters); St Raphael's/St Dympna's (run by the Daughters of our Lady of Compassion); and Marylands (run by the Hospitaller Order of St John of God). While

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[16] https://teara.govt.nz/en/childrens-homes-and-fostering/page-1

other congregations have provided care of this type, the focus in the next chapter on Church involvement in care and education is on these three.

The **Dominican Sisters**, who established St Dominic's School for the Deaf (in 1942 in Wellington and then moved to Feilding in 1944), first arrived in Dunedin in 1871 (Pilkington, 2008). They brought with them a history of work in teaching and soon after their arrival, they were teaching in local schools. Their tradition of work in education also included schools for the Deaf, having established a school in Ireland in 1846 and in Australia in 1875 (Pilkington, 2008).

Sister Suzanne Aubert, who was to become the founder of New Zealand's first home-grown religious congregation the **Daughters of Our Lady of Compassion** (Compassion Sisters), came to New Zealand from France in 1860.[17] After first working in the Auckland diocese, she moved to Hawke's Bay for a period of approximately 14 years before moving to the Whanganui area, where the Jerusalem community of Compassion Sisters was formed on the Whanganui River. In 1899 she founded a home for incurables in Whanganui, and in 1907 she opened the first home of compassion for all 'needy' or disabled adults or children in Wellington. In the language of the times, 'incurables' included those with impairments such as spina bifida, cerebral palsy hydrocephalus and epilepsy, or terminal illness. Suzanne Aubert was one of the few to speak out against eugenics[18] in New Zealand at that time.

The **Hospitaller Order of St John of God** (SJOG) originated in the 16th century in Spain. The congregation followed the example and teachings of its founder John of God. The SJOG brothers devoted their lives to the service of the sick and socially disadvantaged.[19] Across the centuries, the congregation has undertaken a range of health and social service activities across many countries. Their activities in Ireland in the 19th century included helping people with disabilities and on their arrival on Australia in the 1940s, they established the residential facility for the 'mentally retarded' in Morriset, New South Wales.[20]

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[17] Jessie Munro. (1997). The Story of Suzanne Aubert.

[18] Eugenics ideology perceives disabled people as 'subnormal' beings who should be segregated from society for the betterment of the rest of the population. (Royal Commission of Inquiry into Abuse in Care, Interim Report – Tāwharautia: Pūrongo o te Wā (Tāwharautia) The Interim Report – Tāwharautia: Pūrongo o te Wā (Tāwharautia) 2020, p. 41).

[19] Hospitaller Order of St John of God Oceania Province, https://www.oh.org.au/

[20] Claire Stewart, Te Rōpū Tautoko Marylands Briefing Paper #3 – Marylands Residential Special School: Contextual Analysis, 30 July, 2021.

3.2 Vatican II

Vatican II was pivotal in highlighting key concepts for living as a Catholic in a modern world, being described as “a sea change in the breadth of social justice teaching” (Buckley, 2014, p. 172). The Vatican Council documents and statements that were issued ranged from general guidance to specific instructions. Although none were specific to disability, these were foundational in how the Church was to organise and operate going forward in responding to the changes and complexities of modern society (Duke, n.d.). Of particular significance was the emphasis on the dignity of the person as illustrated in the Council’s Gaudium et Spes (The Pastoral Constitution on the Church in the Modern World): “There is a growing awareness of the sublime dignity of human persons, who stand above all things and whose rights and duties are universal and inviolable. They [persons] ought, therefore, to have ready access to all that is necessary for living a genuinely human life” (cited in Duke, 2015).

The thinking that emerged from the Council talked of Church as communion. Seeing the Church as communion means recognising the central importance of relationships. This image of the Church as communion emphasises the gifts that are present in all people and the richness of collaborative work between them.[21] In turn, the social works of Catholic entities – be they in care facilities, social service agencies, pastoral ministry, education or any number of areas that the Church is involved in – are understood as expressions of that faith and those relationships.

Wellington Catholic Social Services documents[22] written in the 1980s signal some of these shifts in the Church’s direction along with wider changes in what were considered to be best practice in social services. Examples are seen in the following quotes: “We have to complete the transition already begun in some agencies from an old charity model base to a modern social work agency”; “the manner in which others are helped must be guided by their rights as a person and we must move from making decisions for the client to working with them to empower them to make their own decisions”; and “[a] move away from dependency and solving individual problems to a more modern world, helping build up support systems.”

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[21] https://tautoko.catholic.org.nz/wp-content/uploads/2019/09/Appendix-Structure-of-the-Catholic-Church-in-Aotearoa-New-Zealand.pdf

[22] Wellington Archdiocese Archives

3.3 Catholic Church and interfaith developments in disability ministry

From the 1960s to current times there have been a number of influences on and developments in care and supports for disabled and Deaf people as well as interfaith collaborations in wider social service and policy groups.

3.3.1 Vanier and L'Arche

L'Arche began in 1964 in France in response to the inhumane conditions of large institutions for people with mental illnesses and intellectual disabilities. Jean Vanier, the founder of L'Arche, was a Canadian Catholic philosopher and theologian. Vanier originally took in two men who had been in an institution to live with him. From these beginnings, L'Arche has grown into an international federation with over 150 communities in 38 countries.[23] In addition to his work with L'Arche, Vanier co-founded Light and Faith in 1971 to support families with children with an intellectual disability.

A month before Vanier's death in 2019, an investigation into reports of his inappropriate behaviour was begun. The 2020 report found that he had had coercive sexual relations with six non-disabled women. A comprehensive independent report commissioned by L'Arche and released in January 2023 found and substantiated 25 claims of sexual and spiritual abuse from non-disabled women. International responses by L'Arche and others recognised the harm done and the betrayal by someone who was seen as a moral exemplar. In a letter from L'Arche leaders on the release of the 2023 report,[24] "institutional responsibility for failing to spot these abuses, report them and forestall them" was recognised. They added: "What justifies L'Arche is not its founder, but the life of its members, with and without disabilities, at the service of a more humane society. This task of re-reading our past will help us remain faithful to this commitment." Further responses by L'Arche International to improve safeguarding are discussed in the next chapter.

While L'Arche and Faith and Light started from a Catholic basis, they have become interfaith or faith-based communities rather than of a particular denomination. The mission of L'Arche is to make known the gifts of people with intellectual disabilities that are revealed through mutually transforming relationships in communities where disabled and non-disabled live together. There are L'Arche communities in New

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[23] L'Arche Federation, https://www.larche.org/

[24] https://www.larche.org/about-larche/news/study-commission-2023/

Zealand in Kāpiti and Auckland and a L'Arche-inspired community in Christchurch. These had their origins in a visit from Vanier to Christchurch in the 1970s at the invitation of the Sisters of Mercy and from associations with the Faith and Light network. While these are not formally associated with the Catholic Church and describe themselves as faith-based or Christian communities, they are discussed further in the next chapter as illustrations of Catholic influence and changing involvement in disability care settings.

3.3.2 Catholic Deaf Ministry

The sisters at St Dominic's in Feilding kept in touch with past pupils and by the 1970s there was a network of young adults. Around that time there was also a sense that little had changed for Deaf adults in the Catholic Church since Father Philip's[25] survey 30 years before. "There was a feeling of good will and charity towards deaf people but education of deaf children at St Dominic's was the only active involvement of Church in working with the Deaf community" (Pilkington, 2008).

The concentration of Deaf people in the Feilding area because of St Dominic's made it a natural home to the first Chaplain to Deaf, who was appointed in 1976. In 1977 St Dominic's became the base for the National Training and Resource Centre for the Deaf Ministry. Four Dominican Sisters were appointed to work in community in Wellington and Auckland, as well as Feilding. A 1978 New Zealand Tablet article (cited in Pilkington, 2008, p. 331) stated:

> **"Those who hear should not make the mistake of regarding this new Ministry as some sort of charitable extra on the part of the Church. It is not. It is something that is undertaken as a requirement of justice – the same justice that requires the Church to minister to the hearing majority."**

The first Catholic Deaf Association in New Zealand was established in 1978 through St. Dominic's School for the Deaf. It was called the Manawatu Catholic Deaf Association. The Auckland Catholic Deaf Association was established in 1979 and soon after a New Zealand Catholic Deaf Association was set up. At the official launch of the New Zealand Association in 1980, the first aim listed was to be the voice of Deaf people in the Church (Pilkington, 2008). As Catholic Deaf ministries became more established, the need for Catholic Deaf associations was no longer as great and the Association is no longer active in its original historical form.

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[25] Father Philips had been influential in gathering the initial information about the need for a Catholic School for the Deaf.

After the Dominican Sisters left Feilding, the Resource Centre transferred to Palmerton North, as did the base for the Deaf Ministry. This is now known as the St Dominic's Catholic Deaf Centre and is home to the only full-time Catholic Deaf Ministry covering both the Palmerston North and Wellington diocesan regions. There are two other part-time Deaf ministries currently operating. One is in the Auckland diocese, where pastoral care workers are responsible on behalf of the bishop for the pastoral care and support for the Deaf, hearing impaired and those involved with them. The other is in the Hamilton diocese. Each of the three ministries is accountable to their respective dioceses.

In 1984 the Vatican approved a Eucharistic prayer for Deaf in New Zealand, recognising that New Zealand Deaf have a language and culture of their own. Catholic Deaf are part of a worldwide Deaf community with common bonds and in New Zealand, Deaf ministries contribute to the promotion of New Zealand Sign Language as central to Deaf culture.

3.3.3 Interfaith and faith-based groups

The New Zealand Christian Council of Social Services (NZCCSS) represents six Church networks: the Anglican Care Network; Baptist, Catholic and Presbyterian social service agencies; and the Methodist and Salvation Army churches. NZCCSS's mission is to work for a just and compassionate society. Priority is given to work with the poor and vulnerable and with a focus on giving a voice to those in need. The Council supports members in their work and highlights concerns to government and through their Policy Watch newsletter.

The New Zealand Disability Spiritual and Faith Network (NZDSFN) is another example of the development of interfaith groups. The Network was formed in 2002 to organise and then carry on the work of a conference, Through the Whirlwind: Te Puta Te Taiwhiowhio, held in Wellington in 2003 by building understanding between disability and faith communities. NZDSFN aims include providing a place for disability communities to explore spirituality, advocating for disability issues within faith communities, and engaging in theological reflection on disability within Aotearoa New Zealand.

3.4 Enablers and challenges

Catholic social doctrine, teaching and wider theological reflection offer a rich and humane basis for approaches to care and support for people with disabilities and social justice actions (Duke, 2015). The problem of disability is not so much impairment but ignorance, intolerance, injustice and exclusion within and by a society that fails to understand and acknowledge the dignity of the person. In synergy with social model approaches, contemporary Catholic theology holds that people are not 'objects' of care but agents in their own lives. Care and support are provided by 'working with' disabled people and their families and whānau, not by 'deciding for' and 'doing to.' These principles apply equally to disabled people being involved in the design, monitoring and review of safeguarding and redress processes within the Church. In the context of providing redress, this must be done in ways that uphold the dignity of survivors and recognise their agency in determining what is required.

Over recent years the Vatican has organised a number of conferences and forums exploring how to make the Church community a more inclusive place for people with disabilities. Many have included the voice of disabled people and their families. As described by Pope Francis, our aim should be to speak no longer about 'them' but about 'us'.[26] Increasingly, the importance of listening to and learning from disabled people about what needs to happen has been emphasised.

An academic conference organised by the Italian Bishop's Conference (CIE) in June 2022 discussed areas of family life, care services and parish life. In addressing the question of what progress has been made, the response was there have "been good strides … but there is still much to be done."[27] Disability is now part of the conversation in ways that did not occur previously. As described by Swinton, a disability theologian attending the conference, "how much of this has transformed the Church in practice is more difficult to gauge and it depends on the place, and it depends on the priest or minister." A crucial area identified is that of getting priests, ministers and religious on board, particularly in the period of theological, spiritual and pastoral formation, so that when they are in their parishes and congregations, disability is "not a surprise; it's part of what they are, it's how they

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[26] https://cruxnow.com/vatican/2020/12/pope-says-disabled-persons-have-a-right-to-the-sacraments

[27] https://cruxnow.com/vatican/2022/06/experts-on-disability-say-church-making-good-strides-more-to-be-done

understand the gospel". In a similar vein, Gangemi[28] spoke of a "cult of normalcy" and a "presumption of how the person is" in theological studies that still must be overcome.

In June 2020 the Vatican issued a new set of guidelines insisting, among other things, that the Church's sacraments are a gift and a right and as such cannot be denied to disabled people. There has been a long-standing theological debate about whether people considered unable to understand the nature of the sacraments and make free choice to consent can take part. Pope Francis's 2020 statements are seen as giving a clear pastoral ruling that they can, and that required adjustments and accommodations – including accessible formats and support for decision-making – should be included in the available pastoral tools, along with training on their practical use.

While accessibility and inclusion are important, disability theologians have stressed the need to move beyond these to create communities of belonging. Including people with disabilities does not go far enough to address the alienation, stigmatisation and exclusion of those we call disabled. As it is for wider society, attitudinal change is a challenge for the Church. The idea of disabled people as gifts who are here so others can show goodness is a deeply held belief both within Christianity and secular society. In a paper titled *Disability and Spirituality: A Deaf Perspective* presented at the NZDSFN 2003 conference, David Molloy[29] stated: "We don't want people in the Church solely to see us as an opportunity for healing … [we] may need to educate [the] whole Church community to the equal place that disabled and Deaf people have in the community of believers".

Aspects of a way of thinking seen in a moral model where people with disabilities are positioned as a 'gift' through which the non-disabled can display healing or caring as a one-way expression of faith continue to be challenged. This is seen in the reaction from David Perry, an American father of a son with Down syndrome, to some comments in and about a 2015 report by the Synod of Bishops to the Pope. This report referred to individuals and families living with disabilities. These included that "families lovingly accept the difficult trial of a child with a disability that are to be greatly admired" (Masters 2016). While Perry appreciated the attitude of charity and need to "ensure the quality and value of every human life" rather

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[28] Christina Gangemi is a co-director of the Kairos Forum and an expert in pastoral care for people with intellectual disabilities.

[29] David Molloy is now David Loving-Molloy. Since the time of presenting the paper, he has left the priesthood and married. He added his wife's surname with his. David leads the Deaf Ministry from the St Dominic's Catholic Deaf Centre.

than one of stigmitisation that was conveyed, he was concerned at the limited perspective portrayed and suggested that the Vatican should look to the social model for a sounder basis.

In commentary on this exchange, Masters (2016) argues the unidirectional idea of disabled people as gifts needs to be rejected. Such a notion negates not only the call for the gifts we give each other but also renders the person with a disability as an object rather than an agent. Instead she considers there is a need to go deeper and capture the original understanding of charity as synonymous with love and "to truly see the person before us". This is not to deny or diminish the difficulties faced by disabled people and families. Many of the stresses, challenges and disappointments come from society, inadequate support systems, and lack of equal access or denial of rights, and demand improved services and social justice actions.

Recent examples of the universal Church's stance on social justice can be seen in several Vatican documents and comments from Pope Francis on the grave repercussions of the worldwide COVID-19 pandemic for many disabled people and their families.[30] Highlighted are the disproportionate negative impact and compounding of already existing disparities and unequal access to healthcare and other needed supports. Important ethical questions are raised about society's attitudes and behaviour towards disabled people. Pope Francis called for everyone to be provided with treatment and people with disabilities not to be prevented from accessing the best care available.

3.4.1 Reflections on the Catholic Church and disability in New Zealand

It is beyond the scope of this report to provide a comprehensive analysis of the visibility, accessibility, inclusion and belonging of disabled people in the New Zealand Catholic community. However, from comments made by people spoken with for this report it seems the response would be similar to that presented at the June 2022 CIE conference described earlier: there has been progress and some increased awareness with pockets of good practice but this is patchy and there is still a way to go.

There was a general sense that there was more acceptance and understanding than in earlier times. One person commented that the benefits of Pope Francis's direction and welcoming of disabled people could be seen. It was felt by some, however, that many parishes are unaware of the needs of Deaf and disabled people in their area.

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[30] https://www.vaticannews.va/en/pope/news/2021-11/pope-francis-message-day-persons-disabilities.html

There were improvements that could be made in educating the parish community so that a greater sense of inclusion and belonging was able to be achieved.

When asked what could be done better, suggestions and comments included: "talk to us as individuals, get to know us and what we have to offer"; "ask me to do readings without having to prove myself"; "to remove barriers to being included, some of the ways things are done might look different"; and "the Catholic Church has priests who are fluent in Te Reo but not in NZSL." The importance of education and training about disability – particularly in formation – for clergy, religious and others involved in pastoral care and preparation for and participation in Church life was talked about by a number of people.

Pope Francis's call for the 2021–2023[31] Synod to hear what Catholics think about the future direction of the Church asks, "how do Catholics journey together" and "how might we do it better?" Questions for reflection and discussion undertaken by the New Zealand Catholic community included: How welcoming is the Church? How well are Catholics doing at walking side-by-side? Who is not included or welcomed? How good are we as Catholics at listening? Who do we need to listen to more? Are there better ways to dialogue and collaborate with others and to improve decision-making?

The recently completed synthesis of New Zealand's contribution to the current universal Catholic Church's synodal journey highlighted themes of inclusion and the Church as a place of belonging.[32] Specific references to disability included "disabled people felt little attention was given to their needs and thus the Church sends an unwelcoming message"; "buildings could be more welcoming"; and "there needs to be a wider availability of the Mass and sacraments in NZSL". In New Zealand's summary, among the proposed actions to be taken in listening to those who feel marginalised it was stated the Catholic community has to "seek to understand the real needs of the disabled, including the deaf in our communities."

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[31] The Synod has now been extended to 2024.

[32] https://www.catholic.org.nz/assets/NZCBC-National-Synod-Synthesis-Aug-2022.pdf

Chapter 4: Catholic involvement in care and education 1950–current: Wider context and disability

For Catholic as with other faith-based services, “each was a product of a particular social context, each changing over time and each producing its own dynamic of interaction with government” (Tennant, 2007, p. 159). The period post-World War II began a major shift with the notion of discretionary disbursement of charitable organisations giving way to the consolidation and expansion of the welfare state (Buckley, 2014). This combined with other social and economic factors and changing circumstances within the Catholic Church and Catholic entities saw a transformation in the Church’s relationship with the State and in its involvement in care and educational settings.

During the Inquiry’s period of interest (1950–1999), approximately 65 Catholic settings provided care (as defined in the Inquiry’s terms of reference) aside from school boarding hostels.[33] By the end of this period, the majority of orphanages and children’s homes and the three residential special schools offering services specially for disabled peoples (St Dominic’s School for the Deaf, St Raphael’s/St Dymphna’s and Marylands[34]) had closed. Today only three Catholic institutions provide residential care[35] that fall within the Inquiry’s purview, aside from ten school boarding hostels. One of the three is Growing in Faith Together (G.I.F.T.), a small Auckland service for adults with intellectual disability.

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[33] https://tautoko.catholic.org.nz/wp-content/uploads/2022/10/Faith-based-instituional-response-hearing-2-TRT-opening-statement-17-October-2022.pdf

[34] The SJOG Brothers and the abuse that occurred there was the subject of an extensive case study with a public hearing in July 2022. Sections of the Te Rōpū Tautoko Marylands briefing paper #3: Marylands Residential Special School: Contextual analysis written by the author of this report are included here.

[35] This excludes boarding hostels at Catholic schools.

The following sections give an overview of the changing context of the Church's involvement in social, education and disability services and is illustrated with a focus on those that provided or still provide residential care – St Dominic's School for the Deaf, St Raphael's Home of Compassion, Marylands School and G.I.F.T. Another more contemporary service that will be looked at is the St John of God Hauroa Trust, which provides a range of health and disability services for people aged 16–65 with physical and neurological impairments in the Canterbury[36] and Wellington regions. Although not formal entities of the Church, the L'Arche-inspired community in Christchurch and the L'Arche communities in Kāpiti and Auckland are included as illustrations of Catholic influence and connection.

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[36] The Trust also provides child and youth and community services in Christchurch through its arm St John of God Waipuna.

4.1 Welfare, social and disability services: From institutions to community

Changing social policies and approaches to care saw substantial moves away from institutional care and towards supports for community living. This change in residential care provided for children by Christian churches is seen in a comparison of the Wellington Directory of Social Services lists in 1954 and 1980. While the churches still had the broadest range of community activity, in 1980 there were fewer children's homes and more homes for the elderly than in 1954 (Tennant, 2007).

As early as 1950, a decline in numbers of children in some Catholic children's orphanages in Upper Hutt, Naenae and Sunnybank (Nelson) was noted in a report by O'Neill (1953) about 'dependent children'. In 1950, these homes provided care for approximately 150 children whereas the numbers in 1940 were 243. Among the possible reasons suggested for the decline were the provision of social security and higher wages making it possible for one parent to provide for their child/children. The same document also expressed concern about the welfare of Catholic state wards not in Catholic care whose spiritual needs were not being met, with most having little if any Catholic education. Some children were moved from one region to another with changes in institution or foster home making it difficult for the Church community to keep contact with them.

After an increasing demand in the post-war decades, there was a drop in the number of babies put up for adoption in the later quarter of the 20th century. Contributing to this shift was a reduction, although not complete elimination of, the stigma of single parenthood and the introduction of the Domestic Purposes Benefit (now referred to as the Sole Parent Support Benefit) in 1973. These social changes are reflected in the Wellington Catholic adoption service, which started in 1955 and closed in 1985.

Further illustrations of changing circumstances are seen in the operation of Marycrest, Te Horo, and residential services for children and young people in the Archdiocese of Wellington. The Sisters of the Good Shepherd opened Marycrest in 1952 and provided supports for girls and young women experiencing difficulties, including some who were seen as socially or emotionally disturbed. Before the sisters left Te Horo, Wellington Catholic Social Services had taken over from them in 1981 and developed a treatment programme for psycho-socially disabled young persons.[37] This was described as a multidisciplinary programme bringing together all the disciplines that may assist in the educational, psychological and spiritual needs of young persons. There were plans to renew family connections and offer family therapy. By the end of the 1980s Marycrest was closed, as had the other residential homes under the auspices of Archdiocese of Wellington Catholic Social Services – Gaynor (1975–1989) and Te Araonui (1975–1987) family homes and the Garindale children's home (1975–1989) in Nelson.

A 1973 Royal Commission report into hospital-related services commented on the disproportionate emphasis on large psychopaedic and psychiatric institutions. The Commission members considered that most of the intellectually disabled people living in these institutions should live in the community as they were neither sick nor patients. In 1985, the government announced the adoption of a policy of community living for people living in long-stay institutional care (Stewart et al., 2008).

An important piece of legislation for support in the community was the Disabled Persons Community Welfare Act 1975 (Tennant, 1996). Within the Act there were provisions that included financial support to voluntary and private organisations providing facilities for community welfare, sheltered employment, alterations to housing, training and day-care. The provision of 28 days paid respite care for families with a disabled family member came to be seen as the standard entitlement until overtaken by subsequent changes in the 1990s.

In the earlier years of the Inquiry's period of interest, voluntary services had been able to develop with minimum accountability in exchange for government funding. Increasingly, however, the voluntary sector had to contend with the State's reach (Buckley, 2014). The 1980s "contract crunch" (Tennant, 2007, p. 193) heralded a rise in requirements for standards and administrative demands. Changes in policy and funding was seen in 1994 with the introduction of the Ministry of Health's new Framework for Disability Support Services. The 21st century has seen continued developments and initiatives that have culminated in the last several years in work to transform disability support systems. In July of 2022, the new Whaikaha – Ministry of Disabled People was established.

The later part of the 20th century saw an increasing awareness of child sexual abuse and the need to develop better practice for protections and responses. It was also a time when the Catholic Church was facing scrutiny worldwide with growing reports of abuse and inadequate institutional responses, including a failure to act

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[37] Summary of National Directorate of Social Services – Wellington Diocese apostolate of care, Archdiocese of Wellington Archives

in many situations. Government agencies involved in policies and providing funding for services for children and young people and adults in care and educational settings introduced new standards and requirements for safeguarding. The Catholic Church in New Zealand also adopted changes in an effort to get consistent processes to respond to reports of sexual abuse.[38] While there are some references to developments, policies and practices in prevention and responses to reports of abuse in the following sections, the next chapter focuses on disabled people's experiences of abuse and the Catholic Church's responses.

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[38] Te Rōpū Tautoko, Chronology of Catholic Response to Abuse in New Zealand, 18 December 2020. https://tautoko.catholic.org.nz/wp-content/uploads/2020/12/Chronology-Catholic-Church-Response-to-Abuse.pdf

4.2 Education: From private and separate schools to integration and inclusion

Since the 1877 Education Act, the issue of funding had been a long-standing point of tension between Church and State. A petition in 1956 was one of many attempts by the Church to have State provide financial assistance to its extensive network of schools. By the 1970s, the Catholic education system was on the brink of financial collapse as it tried to keep up with the post-war baby boom, suburban expansion and the extension of compulsory education years (Buckley, 2014). Declining numbers in religious congregations staffing schools and paying adequate wages for lay teachers, whose salary scales were well below that of the state school system, added to the problems.

The 1975 Private Schools Conditional Integration Act (PSCIA) alleviated the situation while allowing Catholic schools to maintain their special character and provide religious education. As commented by one interviewee, "Catholic schools don't have to create a value system, it is already there." By the time all state-integrated schools (apart from St Dympna's, which closed in 1992) had the same requirements under Tomorrows Schools that came into being with the 1989 Education Act. This established school trustee boards and the review processes to be undertaken by the Education Review Office (ERO). Over the years the policies and procedures that all schools must have in place to protect students and report abuse have continually been strengthened.

As with approaches to care, New Zealand's provisions for the education of disabled children developed along the same lines as similar countries. Separate 'special' schools were attended by some but not all children with hearing, visual, physical and intellectual disabilities. From the 1920s there were special classes in many primary schools. The first special classes in secondary schools opened in Auckland and Wellington in 1962 and were known as work experience or vocational classes. Ballard (1990) considered that New Zealand pursued a policy of allocating special education resources to the maintenance and expansion of segregated classes and schools rather than improving the quality of programmes or teacher training and qualifications. This, in part, may have reflected earlier beliefs that the role of the special school was largely custodial and to provide relief for parents (Casson & Fillary, 1985).

The 1964 Education Act consolidated previous acts. Neither under this Act or any other legislation of the time was there any legal obligation to provide education services for children with disabilities. Sections that related to education for disabled children were described as permissive rather than mandatory, and special education policies were not contained in any cohesive statement (Ballard, 1990). While the State had the right to dictate the type of special education service a disabled child might require, it did not accept that it had a duty to provide an education. Riders such as ‘where possible and appropriate’ gave an out. Families were often not made to feel welcome and actively discouraged from enrolling their child in a regular school (Sleek & Howie, 1987), a situation that, sadly, is still reported today.

The 1970s and early 1980s saw growing calls for changes and improvements in education for disabled children. These included shifting from diagnostic and placement processes based on a medical model and normative tests, to a more individual approach based on learning needs grounded in ecologically valid models (Hornby, 1987; Milne & Browne, 1987). Including and ‘working with’ families to make decisions about their child’s education rather than ‘doing to’ was also getting greater traction (Mitchell, 1985). Some educationalists highlighted the monocultural nature of schooling with the needs of disabled Māori children and their whānau not being well recognised or responded to (Bray, 1987). The 1986 Special Education report recommended that children with disabilities should be educated, by preference, not in special classes but in regular classes in their local school. The right of disabled children to attend their local schools was established in the 1989 Education Act.

As with other state-integrated schools, Catholic primary and secondary schools are eligible for learning support and funding for disabled students based on individual assessments of learning needs and individual education plans. While individual schools may hold information on the numbers of disabled children in their setting and the learning support received, there is no data on the total number or visibility of disabled students in the Catholic network of schools held by the New Zealand Catholic Education Office.

4.3 Catholic residential special schools

The following sections give an overview of the operation of the three residential schools, and relationships with families, local communities, the Catholic Church and the State, and their deciding factors in their closure. The information is drawn largely from archival records and written historical accounts and, as such, is from the perspectives of 'others' rather than those who lived in the residences or attended the special schools.[39]

4.3.1 St Dominic's School for the Deaf, 1944–1989

The forerunner to the school came from concerns that, unlike in Australia, there was no school in New Zealand for Catholic deaf education. Pre-World War II, some children were sent to the Catholic school for the deaf in Australia. With the state residential schools for deaf students located in Christchurch (van Asch) and Auckland (Titirangi, later Kelston), there was quite a distance to travel for those in the Lower North Island.

The school started in Wellington in 1944 as a stopgap measure until the shift to Feilding in 1953. At its inception, the core of the school's philosophy was "to lead deaf children to have knowledge of God and to have the ability to take part in the religious experience" (Pilkington, 2008, p. 213). Although founded to give deaf children from Catholic families a religious education, throughout its duration the school took children from all denominations.

When the school started, children with families in Wellington were taken as week-day boarders who returned home for weekends. When the school shifted to Feilding, some families moved to the area so their son or daughter could attend as a day pupil rather than board. However, the majority of the students over the school's life were boarders. In 1952 when the school was at its height of numbers at 54, 43 pupils were boarders. Even in the 1980s when the role was declining, nearly two thirds of the students were boarders.

The school had a policy of children starting young so it was several years until there was a secondary age cohort. Many students stayed on to complete both their primary and secondary education while others went between St Dominic's and the two Deaf state schools. From the late 1960s it became more common for students to go to other schools to complete their secondary education. A small number

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[39] Pilkington's 2008 history of St Dominic's includes many ex-student's stories. More recently, the Inquiry has given voice to the experiences of some of those who lived at Marylands.

of pupils boarded at St Dominic's hostel and attended Freyberg High School in Palmerston North.

In preparation for establishing the school, some of the Dominican Sisters completed initial training through the sisters' school in Australia. This included learning sign language, albeit not New Zealand Sign Language. In the 1940s it was common, and had been for some time, for many Catholic people working with deaf children to think that the only way to teach Christian doctrine so children could understand the ideas was by manual signing. It was a great setback to be told by the Education Department that they must teach by the aural/oral method being used in the two state schools for the Deaf.[40] As noted in Pilkington's history of St Dominic's, "of course the children did not follow 'oral' rules and learnt how to communicate using signs … in a short time each Sister had a sign that the children used for their name" (2008, p. 215).

While there was a core of continuity, some sisters were only at St Dominic's for two to three years and there were always some in the community who did not have specific training in teaching the Deaf. In the early years of the school, the Dominican Sisters were not able to go to New Zealand state-run teacher training college as places were held to meet the demand of returning soldiers. As well, the semi-enclosed nature of their order limited their ability to do so. Over the years there were changes both within the order and with being able to be accepted into state-run teachers colleges and a number completed their Diploma of Teaching. Some of the Dominican Sisters attended Loreto Hall, the Catholic Teachers' Training College in Auckland, during its period of operation from 1950–1984.

As has been mentioned, some of the original sisters at St Dominic's had training from their Australian counterparts. From the early days the sisters kept up with developments in deaf education thanks to visits by overseas experts and contact with van Asch, either through the sisters' visits there or van Ash staff spending time at St Dominic's. The sisters also attended many courses run during the school holidays at Christchurch Teachers College as well as enrolling in correspondence courses. A number of the sisters completed the Diploma in Deaf Education. Lay teachers were not employed at St Dominic's until 1967, some of whom had specific qualifications in teaching deaf students and some who did not. When the Department of Education's policy changed in the 1980s to that of a Total Communication approach that included sign language, the sisters received training from van Asch staff in how to teach using this 'new' method.

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40 The aural/oral method used lip reading and encouraged the use of speech to communicate and did not include teaching sign language.

4.3.2 Daughters of Our Lady of Compassion: St Raphael's Home of Compassion and St Dympna's Special Needs School

The Daughters of Our Lady of Compassion (Compassion Sisters) established St Raphael's Home of Compassion in Carterton 1952 with the intention of setting up a home for disabled children to ease the crowded conditions at the Island Bay orphanage. In 1958, 14 disabled girls and young women ranging in age from three and a half to twenty-three years relocated to Carterton.[41] Using the classifications of the times, those who were considered to be 'educable' moved to the new home at St Raphael's Home of Compassion. In the group not deemed educable, a few stayed in Island Bay with others going to a home in Timaru.

The why and how of the service provided in the context of the times is illustrated in the speech given by Dr Burns at the official opening of St Raphael's Home of Compassion in 1958:[42]

> **"All children born into the world had certain fundamental rights ... for care, affection, discipline and the best possible education because they were born to become full and useful citizens and to prepare in this merely passing show for the next world".**

He added:

> **"Some children are born handicapped but by sheer determination, force of will and holiness become examples to the community ... There were those who could not make the grade .... many who cannot be kept at home and find their way to the Home of Compassion and feel they are at home. In their new home they not only receive care and tenderness, but they are also taught. The Sisters bring out the talents and capabilities which no-one dreamt was in them."**

St Dympna's was the special needs school that was attached to St Raphael's. The school had formerly been at the Island Bay site, having been started in 1949 by two sisters who had been teachers. Sister Dorothea was in charge of the school at Carterton. It took some time for her to persuade the Education Department to visit St Dympna's, but she did succeed in having the school registered as a private residential school.

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[41] The Island Bay Home of Compassion and subsequently St Raphael's provided longer-term care age-wise than the other two residential special schools.

[42] Island Bay Home of Compassion Archives

While the initial cohort came from the Island Bay home, as the school grew, children came from all over New Zealand. As with St Dominic's, there were some who lived nearby and went to the school by day and some families who shifted to the nearby area so their child could attend. In 1966 the roll was 22 in residence with 12 local children, both boys and girls, with special needs admitted as day pupils. Extra room was needed to cater for the demand for schooling and in the early 1970s a new school block was built. In 1976 a newspaper article described the St Dympna's attendees as "58 children suffering from different types of handicaps – intellectual, physical, multiple, blindness, epilepsy, cerebral palsy, spina bifida for example."

The school curriculum was the same as that which was followed by state special schools at the time. Most of the children learnt to read and write[43] and physical therapies were included for those who needed them. There was a 'factory' with knitting and sewing machines set up for 'girls' who were past school age and work was carried out for a factory in Masterton, for which they got paid. Work was also undertaken for the Telegraph department making telephone exchange cards, as well as for the local Hansell's Essence Factory. After renovations and extensions were made to the home, some of the young women moved into separate flats and learnt to cook and take care of their rooms. Later, a few of the senior girls moved off the property and lived in a house on High Street, which was set up with ramps and aids to assist them live independent lives.

From the beginning of the Compassion Sisters, it was always Suzanne Aubert's (the founder's) desire to have the sisters trained in the works of the congregation. This was the case for the sisters working at St Raphael's in the home and school. The most common training and qualification was that of a registered nurse but many held teacher's and/or childcare certificates. Some sisters attended Loreto Hall for revision in modern methods of teaching. In 1965 Sister Dorothea, who was in charge of the school, completed a Diploma in Education in Balmain, Sydney. While she was there, she was invited to teach a Special Education course at the University of Sydney.

4.3.3 Marylands

At the outset of discussing Marylands in more detail, I recognise the horrific and indefensible abuse that occurred in this setting and the trauma that discussion of Marylands may cause some readers. I acknowledge all Marylands survivors and especially the courage of survivors who have spoken to the Inquiry, and who in

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[43] From information provided by the Compassion Sisters to Te Rōpū Tautoko and Island Bay Home of Compassion Archives

doing so have also made visible the experiences of many for whom this past has for too long been unrecognised.

The establishment of Marylands was different to that of St Dominic's and St Raphael's in that the Brothers of St John of God (SJOG) did not already have a presence in New Zealand. One of the stated aims of Marylands was to prevent a certain type of institutionalisation in care by taking in boys from the age of seven who might otherwise be admitted to 'mental asylums'.

> **"Marylands would as far as possible, provide an environment which embodies all the features of a good home, encourages the development of independence, stimulates mental and physical activities and inculcates the measure of discipline required for present day social living."[44]**

From the outset, the brothers were very clear about the criteria for admission. Marylands was to cater for boys of a similar level of ability to those who attended the SJOG Brothers' residential facility for the 'mentally retarded' in New South Wales, Australia. The majority of boys attending were those labelled as 'backward' or 'slow learners'. This group would have included boys with intellectual disability and learning difficulties and some whose autism may not have been recognised, particularly in the earlier decades of Marylands operation.

Marylands became a service for boys who did not fit or have their needs adequately met in ordinary day school situations, special classes or special schools. They were seen as needing an educational and residential environment that provided specialist teaching, handling and care. State wards came to make up a significant percentage of the school's numbers, with periods in the 1970s where around a quarter of the school's roll was recorded as state wards.

Marylands became very much part of New Zealand's special education system of the time. While initial applications came from parents, the most common pathway to admission was via recommendation or referral from the Department of Education Special Education Services and from the Psychological Services Division. This was consistent with standard practices for state-run special schools.

The number of SJOG Brothers in New Zealand was always small. From the early days there were lay staff employed to help run the residential facilities and maintain the grounds. Later there were also lay teachers employed in the school. Many of the brothers who worked at Marylands had qualifications in the health field, most often in nursing, and some had or gained educational qualifications. They kept up with

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[44] Information sheet on Marylands, n.d., Christchurch Diocese Archives

trends in residential care and special education by participating in events such as those organised by as was initially the Intellectually Handicapped Children Parents' Association (with name changes became known as IHC), joining overseas study tours and attending conferences. Marylands also offered opportunities for trainee teachers, teachers studying special needs or with an interest in special education, speech therapists, nurses, psychologists and others to observe in the school as well as to work with the boys.

4.3.4 Relationships: Families, communities, the Catholic Church and state agencies

All three residential schools operated to the same term times as those in the state system. For St Dominic's and Marylands, this meant that boarders went home to their families in the school holidays. For those who could not or did not have families, alternative placements were found. At St Raphael's, given its origins in providing a home for disabled children, there were some students for who St Raphael's was their home rather than a boarding school and a place they stayed for longer than typically happened in the other two residences.

As has been mentioned, some families did move into the area to be closer to St Dominic's and St Raphael's; however for most, attending one of the three Catholic residential schools meant being away from family. "It broke my heart to send my son away" was a quote from a mother whose son had been at Marylands in response to a survey following up ex-students (Garchaw, n.d.). This illustrates not only wrench experienced by many families in being separated but also the difficulties of distance. Another Marylands parent commented, "it would have been helpful to have met and had discussions with teachers about [my child] but because of distance this was not possible often enough." In the mid-1970s the sisters from St Dominic's ran live-in weekend seminars for parents. They also ran education courses for parents with deaf children in conjunction with the Manawatu Association of Parents of the Deaf.

Accessed archival records and historical information show all three residential schools to have had community involvement with both help from volunteers in organising or attending events on site and with community activities. Fundraising annual fetes and gala days were well supported by the wider community but especially by the Catholic community. All three institutions had support at times from service clubs such as Lions and Rotary. In 1968, Sister Dorothea from St Raphael's along with the local Rotary group organised a sports day for 'handicapped children' as a town project. In the days before Special Olympics were established, she had to put up “with opposition from some families and teachers who didn’t realise the potential of these children and are overprotective towards them.”[45]

The religious congregations ran their institutions autonomously from the Catholic dioceses in which they were situated. While there was contact, there was no oversight or monitoring by the respective dioceses of the services provided.

Marylands operated semi-independently from the SJOG’s Australasian (now called Oceania) base in Sydney. There were some visits from the Prior General or his representatives. These were primarily to check on the brothers’ spiritual observance, not the services operated by the community. Any oversight other than this that did occur was mainly financial.

Like all private schools, St Dympna’s/St Raphael’s, St Dominic’s and Marylands had to follow government regulations regarding how they were to be run and were subject to school inspections. There is little available information about the nature of, or reports from, these inspections. For St Dominic’s, the job of inspection often went to the Principal of the van Asch School for the Deaf. Pilkington’s history of St Dominic’s (2008) noted the first visit from primary school inspectors[46] was recorded in the 1950/51 annals. In the 1957 annals it was noted that “the two primary schools inspectors did not seem particularly interested or seem keen on having to use their time for private school units”, and in 1961, “they [inspectors] seemed satisfied with what they saw.” (p. 221)

4.3.5 Making the decision to close

Key elements in the decision-making for all three institutions were changing approaches to care and education, decreasing membership of religious institutes and financial concerns. The balance of reasons and pathway to the final decision for the religious institute to stop working in a residential special school setting varied between the three.

Financial difficulties for Marylands continued after the Department of Education financed the new school buildings in the 1970s in exchange for the ownership of the property for which the brothers paid a token rent. There were increasing costs in running the school and boarding hostel and paying for qualified lay teaching staff. State integration was not an option for Marylands as the school property was already owned by the State. After no resolution was found to solve the problems

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[45] From information provided by the Compassion Sisters to Te Rōpū Tautoko and Island Bay Home of Compassion Archives

[46] Special schools were classified as primary schools.

in a way that would have allowed SJOG Brothers to continue running the school, the decision was made in 1983 for SJOG to cease its involvement. In 1984 the residential special school was taken over by the Department of Education (now Ministry of Education) and renamed Hogben School.

When the Private Schools Conditional Integration Act (PSCIA) passed in 1975 it was the beginning of a complicated process for St Dominic's School for the Deaf (Pilkington, 2008). There had always been some sisters who had questioned whether the school was the best use of resources for the order in the field of Deaf education and assistance. Possibilities of closing the school and being a resource and training centre were raised but widespread support for keeping the school open at the time meant this was not progressed. From 1978 integration began to be considered and in 1981, St Dominic's began more formal processes. The school officially integrated in 1983 and this was largely driven by financial considerations.

While integration eased the financial problems, concerns remained. The school was faced with decreasing enrolments. In 1987 there were 18 students enrolled, 8 of whom were boarders. This decline was attributed in part to the impact of the rubella vaccine reducing the number of young people with hearing impairments and more deaf children being mainstreamed or attending units in schools near their homes. Even with lower student numbers there were not enough Dominican Sisters available to run the school and hostel. The hostel, as with other state-integrated schools with boarding facilities, was not included in the integration agreement.

Some students were eligible to have a third of the boarding fee paid by the Department of Social Welfare but finding the remaining two-thirds was a struggle for many families. These factors combined to make the decision to close St Dominic's in 1989. There were efforts to stay involved in some form of Deaf education with a unit called the St Dominic's wing set up at St Joseph's School. When the last full-time deaf student left the unit in 2004, the facility became a base for itinerant teachers for children with special needs.

Shifts in policies and attitudes away from the segregated and institutionalised approaches favoured when St Raphael's first opened to that of mainstreaming led to an examination of the future of the facility. Fewer families were seeking admission for their disabled children and the school was also in the position of having no qualified teacher to be principal and run the school. In 1990 a taskforce was set up and many meetings were held to consider three options: whether to stay as it was, to integrate or to undertake a planned closure. The report recommended that the school be phased out in such a way "that students and parents as well as staff realise that normalization and human rights are essential”.[47] The decision was made to close, with a planned phasing out of St Raphael’s home and St Dympna’s school over a two-year period from February 1991 to December 1992. Sisters worked with the children and young people, their families and community agencies to which they transferred. The sisters moved from the Home of Compassion to a smaller residence in Carterton and continued providing hospitality and doing pastoral work in the area until the end of 2010.

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[47] Island Bay Home of Compassion Archives

4.4 Catholic-based and influenced disability services: From development to current operation

The operation of the few Catholic-based or influenced disability services that have a residential component is very different to that which existed in the first decades of the Inquiry's period of interest. The most obvious is that they are not run by religious institutes; they are lay organisations with lay staff. The faith values that underpinned the origins of the services can still be seen and for some there are still informal connections with the Church. The majority of their funding comes with contracts with government. All are required to meet the quality standards, be monitored and comply with the Code of Health and Disability Services Consumers' Rights.

4.4.1 Growth in Faith Together (G.I.F.T.) Centre, Auckland

The purpose of G.I.F.T is to provide a sacred and fulfilling environment where companionship for life's journey is shared with those who have an intellectual disability.[48] G.I.F.T. had its beginnings in the work of Sister Jean St Sinclair, a Cenacle nun, who wanted to teach intellectually disabled children about the sacraments. In 1973 she started classes in three locations in Auckland and also provided individual preparation at the Cenacle Convent or a child's own home. In 1977 the Covent at Balmoral provided a base for the G.I.F.T. Centre, "a place G.I.F.T. pupils could call their own, where they could be themselves and feel comfortable". The earlier years of G.I.F.T. were also a time of initial mainstreaming and "as well as supporting teaching and learning in our unit we walked with teachers, students and families as we moved to a less isolated way of being part of a learning community."[49]

In 1992 a residential service was opened near the Convent. Residential care came into being to address concerns of members of G.I.F.T, and their parents "about what will happen to them when their parents and family are not around." G.I.F.T. House was bought with savings and donations from parents, friends and beneficiaries, and with diocesan help a residential programme that aimed to provide a home-like environment was established. While Sister Jean continued to have a key role in the G.I.F.T. Centre, the service was staffed by lay people. In 1982 the Auckland Diocese provided Beach House in Orewa, which was used for holidays and retreats.

In 1996 Sister Jean retired, the Bishop appointed a board to manage G.I.F.T.'s services, and a second residence, Sinclair House, came into being. To ensure the

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[48] https://www.giftcentre.org.nz/

[49] Ibid

compliance requirements to receive government funding were met, changes were made in 1998 to G.I.F.T. policies, procedures, governance and management, and quality audits were introduced. The two houses are still in operation today with strong family involvement and participation in the community. The service also provides religious education in study and companion groups for those who choose these activities.

The majority of funding comes from what was the Ministry of Health and is now Whaikaha –Ministry for Disabled People, along with a smaller amount from the Ministry of Social Development for community participation. The Centre gets no direct funding from the Auckland Diocese but they do get help and guidance with finances and employment-related matters. The Cenacle Sisters no longer have a base in Auckland, however, they do keep in contact with G.I.F.T.

4.4.2 L'Arche

The three L'Arche-influenced or federated communities – Marralomeda (Christchurch), L'Arche Kāpiti (Paraparaumu) and L'Arche Mt Tabor (Auckland) – maintain links with each other. They describe themselves as intentional communities rather than as 'services'. People with intellectual disability are positioned as core members. Marralomeda and L'Arche Kāpiti had Catholic involvement in their establishment and some members of religious institutes and clergy still have connections with the communities.

Marralomeda, the first L'Arche-influenced and Faith and Light associated community in New Zealand, was set up in Christchurch by Anne-Marie and Roger Pike. It started in 1989 as a Christian community with two women who had lived at Templeton Centre, an institution for people with intellectual disability. Marralomeda exists so people with intellectual disability have the dignity and quality of life that is their birthright.[50] The central language is that of family. As stated in their values and philosophy, no one person has all the gifts to make the community truly alive therefore we rely on one another. Although there are varieties of responsibilities, there is no hierarchy of importance.

Marralomeda operates as a charitable trust. Currently there are 22 people living in 5 homes within the same suburban area. Pike House opened in 1994 to provide a base for day programmes and community participation. Although the service started without any direct government funding as with G.I.F.T. (and the two L'Arche federated communities), the majority of funding over the life of the community has come from the State through

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[50] https://www.marralomeda.org.nz/

government contracts. Over the years, members of religious orders and the clergy have taken on a range of roles as trust board members, spiritual companions and volunteers in homes, the activity centre and community activities.

L'Arche Kāpiti, the first New Zealand federated community, began in 1998. Although not a formal entity of the Church there are close connections with the Archdiocese of Wellington, both in the beginning of the community (particularly through the work of Father Roderick Milne) and currently. Since its early days community members have been welcomed into the local Kāpiti Catholic parish. There are now three homes and a small day programme that runs for some of the older core members. The community implements L'Arche International's mission of people with and without disabilities sharing life in mutual relationships that celebrate the unique value of every person and recognise the need for one another. Volunteers have always been an important part of the Kāpiti community. In the past many of the volunteers have come from the overseas L'Arche network, a situation that has been interrupted as a result of COVID-19.

L'Arche Mt Tabor began from associations with Faith and Light and has recently formally become part of the L'Arche International Federation. Mt Tabor is now a community of 27 core members with 7 households in Henderson and Helensville. While a service provider, L'Arche Mt Tabor describes its model as that of a community model of living. The community operates with the same core values and way of working as the other two communities.

As with all similar services, the three communities have to meet the standards required in their contracts with government agencies; however, it is of central importance that they are true to the essence of the spirit and values of the L'Arche philosophy and it is against these that outcomes are judged. All the communities in L'Arche International are currently undertaking a review of the Federations Charter (last updated in 2003).

In response to the report of abuse by Vanier, L'Arche International (discussed in chapter three) is undertaking an evaluation of its safeguarding policies and procedures in order to prevent abuse and protect people with and without disabilities in its communities. At the International Federation level, a safeguarding team has been established that is partly made up of people outside of L'Arche. In addition to the reporting procedures that communities in different countries may have operating, L'Arche has set up a centralised reporting procedure which all members can access in a secure and confidential way. As a participant in this international review, L'Arche Kāpiti is looking at their safeguarding practices. For them, part of this process has included inviting outside representatives from People First New Zealand, Nga Tāngata Tuatahi to discuss safeguarding with core members of the community.

4.4.3 St John of God Hospital Halswell, Christchurch, and St John of God Hauora Trust

The St John of God Hauora Trust (SJGHT) describes itself as a ministry of the Catholic Church with the stated values of compassion, respect, justice and excellence. The Trust is a division of Australasian St John of God Healthcare, which was established from the work of the St John of God Sisters[51] in Australia and includes the hospital in Halswell that was originally run by the SJOG Brothers. The SJOG Brothers and SJOG Sisters are separate religious congregations within the Catholic Church. The SJOG Brothers divested their works in Australia and New Zealand to St John of God Healthcare in the mid-2000s.

SJGHT operates independently in New Zealand with its own board and sources of funding. The Trust reports to the Australasian board and New Zealand has a standing representative on that board. The Trust provides informal updates to the Catholic Diocese of Christchurch.

In their Health and Ability Services arm, the SJGHT operates a number of support services for people with physical and neurological disabilities aged 16–65 in the Canterbury and Wellington regions. In Christchurch, the St John of God Hospital Halswell provides residential and respite care facilities along with a base for rehabilitative multidisciplinary services and therapies. There are also four transitional community homes. In response to increasing demands and needs, the Lucena development due to start later this year will add 24 new rooms to the Halswell site. In the Wellington region, St John of God Karori provides residential and respite care and there is a community home in Upper Hutt. The approach to support is that of a 'My [service user] Life Model of Care' to enable great lives.

SJGHT in Christchurch also has a Community, Youth and Services division that provides social services to vulnerable children, young people and their families. These include a preschool, health and well-being/youth mental health services, and a young parents development service with pregnancy and parent education.

In 2022 SJGHT took part in a National Office of Professional Standards (NOPS) review using the revised and extended safeguarding standards. The review by NOPS involved all services operated by the Trust, including the Health and Ability Services (Canterbury and Wellington) as well as its Community, Youth and Child Services. Developments by NOPS in policies and practices for safeguarding and responses to reports of abuse prior to the Inquiry are discussed in the next chapter and changes since the Inquiry are outlined in the final chapter.

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[51] The St John of God Sisters did not have a presence as a religious institute in New Zealand.

5: Disability, abuse and Catholic institutions

Tautoko's information gathering project[52] identified 1,680 reports of abuse made by 1,122 individuals against Catholic clergy, religious and lay people from 1950 to 30 June 2021. The reports of abuse relate to allegations made relating to events in New Zealand. These numbers are highly likely to be an under-representation of harm as they only cover recorded reports where information is currently held. As has been illustrated in the Inquiry, many individuals did not report abuse to a Church entity or if they did, it was not recorded or still held. Along with evidence of more instances that have occurred in Catholic settings presented to the Inquiry, the Church continues to receive information on previously reported abuse, along with new reports.

There are further limitations on available information about the abuse experienced by disabled people in Catholic care settings. In extracting records where disability was identified or inferred, the vast majority occurred at Marylands.[53] As with the total reports, what is known about disabled people is an under-representation as they are drawn from recorded reports only. This is likely to be even more so given the high rates of institutional care experienced by disabled people and the additional barriers faced in reporting and having abuse recognised and responded to. In addition, if a report was made, the information gathered did not routinely record whether the complainant identified as disabled.

What is known and has been reinforced by survivors in this Inquiry are the profound negative physical, emotional, mental, social and spiritual outcomes of abuse and neglect that can impact practically every facet of life (Mirfin-Veitch et al., 2022). Many parallels exist in the experiences of disabled people in state and faith-based institutions. There are also some features within the practices of Catholic Church entities that contributed to and compounded the harm done. The abuses that occurred and, in many instances, inaction in responding to complaints stand in stark

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[52] https://tautoko.catholic.org.nz/info-gathering-project-data/

[53] This information was made available to the author by Te Rōpū Tautoko and did not identify either individuals who were survivors of abuse or against who reports of abuse were made.

contrast to the espoused values and missions of the Catholic faith and its entities and agencies.

This chapter focuses primarily on abuse that occurred within the Inquiry’s historic period of interest. An ecological framework is used to investigate disabled people’s experience of abuse in Catholic care settings. It identifies factors that may have contributed to creating abusive environments and that were barriers to reporting, and the Church’s recognition of and responses to reports of abuse. These are discussed across the common themes highlighted in investigations into Catholic Church entities and care settings and, in particular, the Marylands case study. It also draws upon the Disability, Deaf and Mental Health hearing, the Inquiry’s public hearings and reports made to date, and research literature. At the time of this report’s publication, the Inquiry had not released their case study report into events at Marylands, which may also reference material cited in this chapter.

5.1 Situations and environments of risk

As titled in Mirfin-Veitch and Conder's 2017 report about the experiences of disabled children and adults in state care, "[i]nstitutions are places of abuse." All children are vulnerable in institutional contexts and children and adults with disabilities commonly face increased risks. Research suggests those with intellectual disability or communication impairments, or labelled with behaviour disorders are among those experiencing the highest risks (Kaufman & Erooga, 2016; Robinson, 2016). Individual and relational situations interact with community and societal factors to create and sustain environments of risk for children and adults with disabilities. These aspects also intersect in barriers to reporting and whether or not needed actions are taken to stop harm and provide redress.

In a study undertaken by Robinson and Graham (2021), disabled children and young people with high support needs were asked what helped and what hindered them in feeling and being safe in care settings. The main themes identified in helping them feel safe were: feeling known in relationships; being listened to and having some control over what was happening to them; the absence of threat and harm; having strategies such as knowing who they could talk with if they felt unsafe; and having opportunities to learn about relationships and how to be safe. Generally, factors that hindered were the converse of those that contributed to feeling safe. The authors also reflected on the growing body of research suggesting that reducing social and physical isolation is a key safeguard against maltreatment of children and adults with disabilities. In addition, trauma-informed support[54] is needed to help individuals develop ways to heal that build trusted and reliable relational connections and do not add further risks of harm in responding to reports of abuse.

Most, if not all, of the above features that help in feeling and being safe and reducing harm were absent from the experiences of disabled people in the evidence heard by the Inquiry. Indeed, the opposite was the case with high risk of vulnerability to abuse across individual, relational, community and societal levels. This was further illustrated in the recently released research undertaken by the Donald Beasley Institute (Mirfin-Veitch et al., 2022) for the Inquiry into experiences of disabled people in state and faith-based institutional care. As noted by the study's authors, while the stories that were told by participants centred on the Inquiry's historic

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[54] Trauma-informed practices recognise the widespread impact of abuse and work in strength-based ways towards individual healing and redress. Safety, trustworthiness, choice, collaboration and empowerment are key guiding principles (Fitzsimmons, 2009).

period of interest, many aspects of unsafe situations and abusive environments and systems still occur today.

5.1.1 Individual and relational levels

These levels comprise the experiences that individuals bring with them to care and educational settings and the nature of the relationships with caregivers and others while in care. As with state institutions, many of the children and young people who came into care in Catholic settings had backgrounds of being dislocated from their families, whānau, whakapapa and culture. The statement of one survivor from Marylands was illustrative of many experiences heard by the Inquiry: “It was extremely hard being taken from my family and separated from my brothers and sisters.”

Multiple shifts between foster homes and institutions were not uncommon. Some came with a prior history of exposure to violence and being subjected to abuse and neglect as illustrated in a quote from a survivor witness at the Marylands hearing: “Child welfare had concerns about me being neglected … They left me with my mother for two years, [then when] my mother deserted the family … [I] had six or seven different foster homes and I was physically abused in one foster home.”

Individuals had little if any personal agency or power in decision-making in their relationships. This occurred in the decisions others made for them prior to placements and continued in care settings. Some knew the reason for being placed in a Catholic care setting: “I was told under the advice of the Department of Education it [Marylands] was a good school for children who had problems” (Smith, 2018, p. 4). Others did not know or were unsure: “My brother flew with me to Christchurch to drop me off at Marylands. I was twelve at that time and everything felt very confusing.” Even to this day many of the storytellers in the *Tell Me About You* research had little knowledge about the circumstances that led to them being taken into care (Mirfin-Veitch et al., 2022).

Caregivers had power over what happened in the day-to-day lives of children and young people in care with little if any choice and flexibility in routines. As one participant in the *Tell Me About You* research (who was not Catholic) said of his time at Marylands: “I had to go to Church. I’d be saying no if I had a choice” (Mirfin-Veitch et al., 2022, p. 105). Control was further exerted by the coercive use of ‘favours’ and ‘treats’ or removal of privileges – many of which were basic human rights – and the use of threats and often violent punishments. This control was part of the fabric of the relationships experienced in many institutional settings and was amplified in the behaviour of abusers as evidenced in a Marylands survivor’s experiences:

"[T]he Priest said if I didn't do what I was told I would go to hell and never see my parents again."

Societal attitudes and dominant policies and practices often gave parents little choice in the decisions that were made. Frequently, expert advice was that institutional placement was best. Choice was further limited by the lack of support and schooling options available for disabled children in their local communities. The control and power differential in relationships that families had with those in positions of authority over their family member's care could even extend to contact once their family member was living away from home. This is illustrated in the instance described by a father of an attempt to visit his son at Marylands: "We went to see him once [when in Christchurch from their hometown] and he was in confinement and we couldn't see him" (Mirfin-Veitch et al., 2022, p. 105).

In the contextual hearing at the beginning of the Inquiry, Sir Robert Martin stated with reference to the abuse he experienced, "I didn't know what was happening." This lack of knowledge and education about appropriate sexual behaviour and not being able to recognise abuse was echoed by many other witnesses: "I didn't understand what was going on"; "I had no prior experience, I had no idea what was going on." Lack of knowledge combined with the normalisation of controlling and abusive relationships from caregivers, fears about what might happen if they told or having no one to tell, shame and guilt added to the barriers to disclosure. Some of these elements were described by a Marylands survivor when asked many years later by the Police why he hadn't spoken earlier: "Because it happened when I was young I didn't know who to tell my story to or how much to share or even if anyone would believe me."

For some who did tell there were experiences of not being believed, or telling someone whom they thought they could trust and nothing happening to stop the abuse or to help with their anguish. In some instances, being punished for speaking added further harm as related by survivors in the Marylands and the faith-based redress public hearings:

> **"I told Br Garchow[55] because I trusted him, but he didn't do anything about it."**

> **"It was an opportunity to tell someone I thought could be trusted, ... [I was] looking for forgiveness, Sister Xavier said it was between me and God"**

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[55] Where names have been used in the text or quotes these are from publicly available records of the Royal Commission.

> **“I talked to social workers and two others – about incidents of physical and sexual abuse … Nothing was done.”**

> **“I told a DSW social worker who visited – nothing happened. I was told off by Brother Maloney [one of his abusers] and beaten.”**

5.1.2 Environmental factors and institutional culture

Individual and relational experiences placed disabled children in positions of risk. Systemic and structural factors within institutional communities and the wider Catholic Church added to these in creating and sustaining abusive environments. Wilkinson and Cahill (2019) described systems and cultures from the Vatican to country levels and within dioceses and religious institutes as having dysfunctional governance and a lack of transparency and accountability. Most institutional settings ran autonomously with little monitoring or oversight either from within the hierarchies of Catholic dioceses or religious institutes, or external agencies. In many settings these enabled abuse and neglect to occur unchecked and propagated failures in responses when reports were made.

> **“The deeply evil abuse of vulnerable children that happened at the Marylands School and at St Joseph’s Orphanage and the Hebron Trust [all in Christchurch], was the darkest chapter of the Catholic Church’s history in New Zealand.”[56]**

What happened in these settings represents some of the worst features of environments of risk and greatest failures in care and protection in Catholic entities in New Zealand. At a total of 28% (14% each for the settings Marylands/Hebron (SJOG) and St Joseph’s (Nazareth Sisters)) these accounted for the highest number of recorded reports made by individuals against Catholic clergy, religious and lay people. SJOG had the highest percent at 52% of members who were respondents in reports of abuse.[57] This included the three most prolific offenders identified in Catholic settings,[58] one of whom was Bernard McGrath, the most prolific offender. The sisters had the next highest percentage after SJOG at 34% of members who were respondents in abuse allegations.

For Marylands and the Hebron Trust, this occurred against a background of a culture of abuse within institutions run by SJOG throughout Australasia. The

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[56] https://nzcatholic.org.nz/2022/03/22/marylands-darkest-chapter-in-nz-catholic-churchs-history/
[57] https://tautoko.catholic.org.nz/info-gathering-project-data/
[58] https://tautoko.catholic.org.nz/info-gathering-project-data/

Australian Royal Commission into Institutional Responses to Child Sexual Abuse found that SJOG had the highest incidence of abuse in Catholic or other faith-based institutional settings that were investigated.[59] The common practice for religious to move between institutions run by their congregation also enabled SJOG Brothers to continue to be in situations where they could abuse children and young people in their care across two countries.

St Joseph's Orphanage shared a site in Halswell with Marylands residential school that was separated by a stream. The degree of relationship between SJOG and the Sisters of Nazareth and orphanage is not clear.[60] The Marylands hearing heard from Sonia Cooper and Sam Benton of Cooper Legal that most allegations made by survivors from St Joseph's who they acted for were primarily committed by the sisters. Evidence was given to the Inquiry about sisters taking orphanage boys to Marylands to be punished by the brothers. There were also some reported incidents of abuse by adult males at the orphanage that may have involved brothers from Marylands as well as abuse of St Joseph's residents on Marylands property. Many of the survivors from St Joseph's were unable to identify the offender.

Like many other state and faith-based institutions of the era, Marylands and St Joseph's Orphanage rank high on factors that increased situational risks and enabled abuse (Kaufman & Erooga, 2016; Llewellyn et al., 2016). Both were closed residential care settings that provided many opportunities for abusers to be with children unseen. Even if reports were made, these were either often not believed or not acted on. Sometimes the person receiving the report was later found to be subject themselves to multiple reports of abuse. This was illustrated in the Marylands hearing where the evidence presented pointed to concerns raised by residents being unaddressed at the time. As with all religious and clergy, and indeed others in the sector, at the time there was no screening of suitability for work with children and young people and limited, if any, monitoring of the work undertaken.

Further and increased risks occur in settings where abuse and violence are normalised. These are often downplayed and detoxified as service incidents and/or degrading violence may be couched to be justified on grounds of 'managing behaviours' (Clifton, 2020). There were many examples given across the Marylands and the Disability, Deaf and Mental Health hearings where this happened in

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[59] http://tjhcouncil.org.au/media/131196/170216-Analysis-of-claims-of-child-sexual-abuse-made-with-respect-to-Catholic-i.pdf

[60] https://www.abuseincare.org.nz/our-progress/library/v/363/witness-statements-of-sonja-cooper-and-sam-benton-for-the-marylands-school-public-hearing

environments that either condoned or ignored bullying, intimidation and abuse. These created a climate of fear that for some generalised: “I remember I was always afraid. The only time I felt safe was when I was on the plane flying to and from Marylands for the holidays.”

Environments and situations were created and perpetuated in which intimidation, bullying and abusive behaviour occurred from caregivers to residents in care but also transferred, in many instances, to resident-to-resident behaviour. Whether such behaviour was openly encouraged, condoned or ignored, all represented a failure in duty of care in providing a safe environment. Sometimes, as related by witnesses who had worked in institutions to the Disability, Deaf and Mental Health hearing, intimidation, bullying and ignoring was also seen in staff-to-staff interactions when attempts were made to raise concerns or change the prevailing culture.

5.1.3 Hierarchy, clericalism and structure

Contributing additional layers to survivor’s experiences of abuse in Catholic settings are the hierarchical systems and structures of the Church and particularly that of clericalism. This was illustrated in many testimonies heard by the Commission whereby power, privilege and sense of entitlement to deference were wielded by some clerics or religious and were barriers to safe and effective routes to report concerns. This along with public perceptions of clergy and religious as representatives of God who devoted their lives to helping others inhibited the belief that they could be abusers. “I told my teacher at Marylands that the brothers at Marylands had been sexually abusing the boys. She didn’t believe me though. She said the brothers wouldn’t do anything like that and that I must be lying.”

The power held and reverence and positioning of priests and religious as doing ‘good work’ so therefore they must be ‘good’ compounded the difficulties in being believed and challenging the institutions of the Church. There was a betrayal of the trust that Church entities and personnel would provide care and protection that impacted on many in care settings who did not come from Catholic backgrounds. For those who did, there were additional dimensions of harm, guilt and spiritual abuse. Many parents thought they were doing the best by their family member by having them attend Catholic-run schools or take part in activities run by the Church, as expressed by the sister of a Marylands survivor: “[it] was a good opportunity, even better that it was Catholic.” For this family, “being Catholic was part of his [father’s] cultural identity, my mother was extremely devoted to the Catholic faith … some [of our] siblings are still very devout Catholics and struggle with understanding how this could have happened.”

There were fears from individual survivors not only about the shame and consequences for themselves of telling but also for the shame and consequences that might befall their family.

Even in some instances where families did try and raise concerns about their family member, they were commonly not believed by representatives of Church authorities. Such rebuffs and rebukes are illustrated in the example of the family described in the preceding paragraph. The mother raised concerns at a meeting with the diocesan Bishop and her parish priest and was told by them: “You don’t know how lucky you are to have the Brothers [Marylands] caring for your child”; “Who did she [mother] think she was challenging the Catholic Church, challenging the Brothers.” Again, there was no safe and effective route for reporting concerns.

5.1.4 Societal levels

Disabled people are subject to multilayered hierarchies of disadvantage, neglect and ableism (Clifton, 2020; New Zealand Human Rights Commission, 2021). This was repeatedly reflected in the testimonies presented to the Inquiry where people were viewed as other, segregated, discriminated against, denied rights and disconnected from their communities, cultures and language. Gary Williams, a member of the Royal Commission’s Survivor Advisory Group of Experts, speaking at the final panel discussion at the Māori public hearing talked of “disabled Māori being at the bottom of the hierarchy.” Societal attitudes and systems often positioned disabled people as a burden and passive recipients of care who should be grateful for what they were given, not as agents in their own lives and rights-holders.

Failures in care and protection and betrayal of trust occurred at multiple junctures at wider society and systems levels. As discussed previously in this report, the lack of community options for services and supports often led to institutional placements: “Marylands was the only school that would have me.” Parallels occurred in state institutions with fears expressed by some families that no suitable alternative placement would be available, or that there may be retribution directed at their disabled family member if they made complaints.

Many survivors who had been state wards expressed anger and hurt at the harm done by the neglect of social workers and the then Department of Social Welfare (DSW): “I don’t remember receiving any visits from social welfare at Marylands”; “This was total betrayal by my social workers which I am still very angry about ... DSW basically abandoned me for six years at Marylands.”

Everyone can experience vulnerability in certain situations but some groups are recognised as being particularly vulnerable in legal contexts.[61] This may occur as a victim of or witness to a crime or being charged with offences, or in making decisions about agreements, including those for redress actions. Responsive practices and making the necessary accommodations so disabled people can participate on an equal basis were largely missing in testimonies heard by the Inquiry and are still problematic today.

These difficulties were evidenced in some illustrations given at the Marylands hearing by Cooper Legal. The issue of the credibility of survivors to give testimony in court cases as well as some of the investigative processes undertaken by the Church at the time created barriers to survivors accessing justice. A sister of a survivor also captured some of the difficulties in her statement: “I was proud of him getting up [to give evidence in Court]. … the Judge set aside his evidence because his intellectual disability meant he was open to suggestibility. My brother said, did I do something wrong, did I make a mistake”

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[61] https://www.benchmark.org.nz/about-us

5.2 Catholic Church processes for responding to abuse: 1950 to the start of the Royal Commission

The *Chronology of Catholic Church Responses to Abuse* document[62] outlines key features and timelines of the Church's processes and their integration with updates and revisions from the Vatican. As was noted in the Inquiry's redress report, prior to the early 1990s there were no consistent national processes for responding to reports of abuse. Complaints made to dioceses and congregations were handled independently by the respective leaders of each diocese and congregation utilising a variety of practices and procedures.

In the 1990s provisional protocols were put in place while national protocols were being developed. In 1993, the *Catholic Church Guidelines on Sexual Misconduct by Clerics, Religious and Church Employees* was issued. Each of New Zealand's six diocesan bishops set up advisory committees to assist with dealing with complaints. Larger congregations also established protocol committees as complaints arose against members of congregations. In 1998 the Mixed Commission published *Te Houhanga – A Path to Healing* (APTH), a national protocol to give principles and procedures for responding to complaints of abuse by clergy and religious orders.

In 2004 National Professional Standards Committee (renamed the National Safeguarding and Professional Standards Committee (NSPSC) in 2017), and the National Office of Professional Standards (NOPS) were established. NOPS responds to reports of sexual abuse and sexual misconduct involving clergy and members of religious congregations and oversees the Church's safeguarding policies and practices. In the period up until the start of the Inquiry, a number of revisions were made to APTH along with changes to improve practice. The next chapter discusses changes that have been made or are underway in safeguarding and responding to reports of abuse since the start of the Inquiry.

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[62] https://tautoko.catholic.org.nz/wp-content/uploads/2020/12/Chronology-Catholic-Church-Response-to-Abuse.pdf

5.3 Experiences of survivors in getting redress: What the Royal Commission heard

Previous sections have highlighted the difficulties survivors have had in getting their reports of abuse believed. Even if that hurdle is overcome, inadequate responses – some to the point of no action – have been frequent in evidence presented to the Inquiry. Among the problems identified in the Inquiry's redress report in relation to the Catholic Church were lack of consistency in approach, overly investigative and lengthy processes, and redress being considered separately from safeguarding resulting in the risk of further harm not being addressed. The redress report also raised issues of accessibility problems for Deaf and disabled survivors and the Pacific community, along with a need for greater incorporation of tikanga Māori and Te Ao Māori values.

Some survivors who spoke at public hearings had taken part or been offered to take part in the APTH process, some had not. Some had been offered redress, others had not. A consistent theme in their evidence, however, was the experience of feeling that protecting priests, religious, other Church people and the Church's reputation was prioritised over putting survivors' interests first. There was a sense of top-down processes and decision-making that was not delivered transparently and that was frequently retraumatising. Intensifying the difficulties and harm caused for many was that they had to deal with the very Church entities in which the abuse had occurred. While technically NOPS is independent, it is still an agency of the Catholic Church. Separately to the NOPS process, bishops and leaders of religious institutes hold the power over redress outcomes.

For some survivors, these experiences occurred within a wider context of mistrust of authority and bureaucracy and involved stressful attempts to access and deal with social welfare through its various iterations and ACC for redress and compensation. The December 2022 cabinet paper seeking approval for arrangement for the high-level design of the new redress system[63] spoke of the complexity of the current state-based redress system. Survivors expressed concerns about the ongoing harm that occurred in care settings as a result of inadequate responses and a lack of trust in processes and sense of being let down. A number of survivors of abuse in Catholic care settings were or had been dealing with both state and Church processes and from their experiences, some reported a distrust of both.

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[63] https://www.abuseinquiryresponse.govt.nz/assets/Uploads/Cabinet-papers/2022-12-01-Cabinet-paper-Redress-system-design-arrangements.pdf

5.3.1 Redress for Marylands survivors

Redress for Marylands survivors has been extensively canvassed as part of the Commission's case study and will be subject to a detailed analysis of findings and provision of resulting recommendations in the Inquiry's reports. It is useful, however, to include reference in this report to what happened in this situation as illustrative of a number of aspects that can be learnt from to inform better policies and practices. These include the disconnect in Catholic Church redress processes and responses during this time, attempts at a pastoral approach, and barriers and difficulties for disabled people, particularly people with intellectual and learning disabilities and difficulties.

In the early 2000s, Brother Peter Burke who was the Provincial of the Australasian order at the time made a number of visits to New Zealand to engage in a 'pastoral process' of redress with Marylands survivors. This pastoral process had been developed earlier by Dr Michelle Mulvhill, who accompanied and worked with Brother Peter Burke on many of his visits. This process was an attempt at an holistic approach to include survivors and their supporters in what was required for redress for them.

At its initiation, this method did not follow either the Australian 'Towards Healing' model or the New Zealand APTH process. It was at some stages loosely linked to APTH but as with other religious congregations at the time, SJOG had their own resolution processes. When the SJOG's Australian lawyers took over at a later stage, Cooper Legal was told redress would run along Australian Towards Healing lines; however, in their evidence to the Inquiry, Cooper Legal did not consider, from their observations, that this occurred.[64]

In the initial SJOG process, survivors, their families or their representatives were invited to meet face-to-face with Brother Peter Burke and Dr Michelle Mulvhill as many times as they wished. The intent was to attend to immediate needs including payments for independent counselling and other health-related needs, provide an apology, engage in deciding what was needed for full redress, and provide an enduring relationship of care for those who wanted to. All survivors were urged to go to the Police.

Some Marylands survivors who took part in this process spoke to the Inquiry of their appreciation of being heard and respected at that earlier stage, with time taken to understand their individual situations. However, completion of this initial process was disrupted when Brother Peter Burke had to step away from his New Zealand

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[64] https://www.abuseincare.org.nz/our-progress/library/v/363/witness-statements-of-sonja-cooper-and-sam-benton-for-the-marylands-school-public-hearing

involvement due to health considerations. Dr Michelle Mulvhill spoke publicly at the time and to this Inquiry of her disquiet with what subsequently happened and her reasons for withdrawing her involvement. She considered the direction that the process took once Brother Peter Burke was no longer involved was not consistent with the intended pastoral approach and had been overtaken by a legalistic method from SJOG leaders to protect themselves and the Church.

The evidence presented by Cooper Legal provided further insights into procedures for redress and suggestions for better processes. They identified positives in the prompt actions taken by Brother Peter Burke from July 2002 to engage with survivors and to understand their individual situations. Initial payments made in February and March 2003 where higher than other Church payments and comparable state payments that Cooper Legal were aware of.

More negative aspects in the process were noted by Cooper Legal when they resumed in 2006 after a pause to redress discussions for the Marylands survivors they represented. At that stage they considered they were being “stonewalled” with the proposal of more complicated processes similar to those implemented for abuse by the Nazareth Sisters at St Joseph’s Orphanage. Additionally, the relatively higher threshold for the investigative processes in APTH and Towards Healing at the time added to the difficulties, trauma and timelines for survivors. In describing the situation for one survivor, Sam Benton stated, “I find it curious that a far more stringent process was considered necessary after two detailed court cases have already found two brothers guilty.” (Cooper & Benton, 2022, p.20)

When asked by the Commissioners what suggestion the two lawyers presenting for Cooper Legal had for better processes, particularly for disabled people, the following were recommended:

- Use of communication assistance so that lawyers can make sure the message is getting across and the person can communicate back in a way that they will be understood
- Manage questioning so there is barely any cross-examination
- All involved, including lawyers, must have training in communication and in trauma-informed approaches
- Provide safe places to give evidence (for example, use of video recording) and in a way that gives and respects mana
- Have one point of contact to assist, particularly for someone with a learning disability, which starts right from the beginning through to any hearing and subsequent follow-up as it is vital to have continuity of relationship

The above suggestions address some of the long-standing difficulties experienced by disabled people getting equal recognition before the law (UNCRPD Article 12) and access to justice (UNCRPD Article 13). They resonate with proposals made by the Inquiry in the redress report and DBI's recent *Tell Me About You* research, and previous and ongoing work in the area of justice. An example of the application of practices aligned to such recommendations is a recent pilot programme run in the Lower Hutt Youth Court where it has been estimated between 80–90% of those appearing before a judge are neurodiverse.

Critical is the availability of appropriate support. Supported decision-making is a mechanism or strategy by which disabled children[65] and adults can have their voices heard and their rights recognised and responded to (Mirfin-Veitch, 2016). Such approaches apply not only to formal legal settings but also more informal processes where decisions are made and/or where remedy or redress is sought, such as in internal agency complaints processes. The next chapter further considers ways in which these can be incorporated into practice.

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[65] Article 12(2) of the United Nations Convention on the Rights of the Child (UNCROC) ensures the rights of children to be heard in any judicial or administrative proceedings affecting the child.

5.4 Reflections from the Catholic Church

Catholic Church leaders have spoken of the Inquiry as a significant marker in the Church's journey to address abuse in care. The witness statement presented by Sister Susan France on behalf of the bishops and congregational leaders of the Catholic Church at the Inquiry's faith-based institutional response hearing acknowledged: "It is clear that because of mistakes made by the Church that further individuals were harmed when, tragically, this could have been avoided."[66]

Mistakes and failures identified included:

- the lack of training and oversight for those who had care of children and vulnerable persons.
- failure to adequately respond to disclosures of abuse.
- the absence of clear and independent processes for making complaints of abuse, prior to the mid-1990s.
- the lack of sharing of information between entities in the Church and external to the Church so that the full scale of abuse could become clear.
- leaving some individuals who were known to have complaints made about them with access to children and vulnerable adults, including moving individuals who caused harm from one setting to another.
- the lack of understanding of the impact of abuse on children and of paedophilia and other forms of offending against children.
- the significant status clergy and religious had in the community meant they were more likely to be believed over children and vulnerable adults.

The Inquiry has played a part in opening up discussions in the Catholic community about safeguarding and responses to abuse. Along with acknowledgement of and apology for the harm done and the Church's role in failures in care, protection and redress, there have been reflections and plans for action to address these with survivor-focused trauma-informed policies and practices. There is a consciousness of the need for greater disability awareness and training so better and needed support can be provided. Lessons learnt and how they have been incorporated into changes are discussed in the next chapter.

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[66] Sister Susan France's witness statement can be accessed from https://www.abuseincare.org.nz/our-progress/library/v/523/witness-statements-from-day-2-monday-17-october-for-the-faith-based-institutions-response-hearing

Chapter 6 – Listening, learning and looking forward

The Inquiry has heard from survivors and their whānau of wide-reaching systemic and institutional abuse and neglect and breaches of rights in state and faith-based settings. Absent or non-existent safeguarding practices, including inadequate or no response to reports of abuse, have compounded harm and trauma. Survivors and their advocates have highlighted what is required to ensure that the mistakes of the past are not repeated.

The Commissioners stated in 2019 that the Inquiry's work was to be part of a vision to transform care today and into the future. This cannot occur until "we turn and squarely face the reality of our dark and uncomfortable shared history."[67] In December 2022, Commissioner Paul Gibson described the catastrophic failures to protect disabled children, young people and adults as systemic abuse. He stated that the final report will make clear what needs to change "so disabled people can have their mana recognised and enhanced, be included in their families, local schools and communities, and to thrive free from abuse and neglect."[68]

The Inquiry's December 2021 report *He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui* recommended an independent redress process. A number of specific recommendations for disabled people were included in the 2021 redress report and reinforced in the *Tell Me About You* research (Mirfin-Veitch et al., 2022). These included tailoring communication and information as appropriate for individual needs; ensuring compliance with UNCRPD and in particular with Article 12: Equal recognition before the law and Article 13: Access to justice; involving disabled people and their representatives in the development of the Inquiry's recommendations; disabled people being party to decisions to the design of a new system; and being guided by disabled people to develop needed training and education.

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[67] https://abuseincareinq.cwp.govt.nz/assets/Uploads/Documents/Public-Hearings/20190625CommissionersSpeech.pdf

[68] https://www.abuseincare.org.nz/our-progress/news/catastrophic-failure-constituting-systemic-abuse-disabled-and-neurodiverse-abuse-survivors-shed-light-in-new-report/

This chapter outlines some of the changes that the Catholic Church has made since the Inquiry was first announced in actions that are completed and or underway. Gaps and ways of strengthening processes and practices for disabled people are identified. Central in looking forward is the inclusion and equal belonging of disabled people and their families and whānau in Catholic communities, along with their contributions and leadership in developing, monitoring and reviewing safeguarding policies and practices, including those for redress.

6.1 Working together

In an apology to survivors of abuse and their whānau,[69] Archbishop John Dew reaffirmed Pope Francis' sentiments expressed in his 2018 Letter to the People of God:

> **"Looking back to the past, no effort to beg pardon and to seek to repair the harm done will ever be sufficient. Looking ahead to the future, no effort must be spared to create a culture able to prevent such situations from happening, but also to prevent the possibility of their being covered up and perpetuated."**

In responding to what has been heard from survivors and the themes of the Inquiry's reports, and continuing a long journey of development, the Catholic Church has been progressing improvements in safeguarding and providing better support for survivors, and developing research and educational material.[70] Primary among the lessons learnt is that survivors and their whānau must be put first rather than prioritising Church systems, structures and officials. Policies and practices must be survivor-informed and survivor-responsive. Te Rōpū Tautoko's Roadmap of Actions provides the basis for a national approach that is better connected and brings greater consistency. Some steps are completed, some are underway, and others will evolve and be shaped by engagement with survivors and their advocates, the Inquiry's final report and the government's response.

At the wider systems level, the bishops and congregational leaders of the Catholic Church in Aotearoa New Zealand have agreed to support the option of an independent entity for survivors to report abuse and gain redress where they wish to do so.[71] Also supported by Church leaders is the establishment of an independent entity to review and monitor the Church's redress processes for those survivors who take this option, along with an independent process to review and monitor safeguarding systems of Catholic Church institutions.

The Catholic Church in New Zealand has established a framework of safeguarding under the heading of *Working Together for a Safe Church*,[72] a sentiment very much in tune with contributions to the current universal Synod of walking together to

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[69] https://tautoko.catholic.org.nz/wp-content/uploads/2021/12/Apology-to-Victims-and-Survivors-of-Abuse-Maori-and-English.pdf

[70] https://tautoko.catholic.org.nz/roadmap/

[71] https://tautoko.catholic.org.nz/wp-content/uploads/2023/01/Catholic-Church-NZ-Leaders-Statement.pdf

[72] https://safeguarding.catholic.org.nz/

support each other. The intent is to embed a safeguarding culture that creates and sustains environments within all Catholic communities that respect and acknowledge the dignity of everyone and where people feel valued and safe.[73]

Bringing together the interlocking and interdependent parts into a framework for best practice are the Church's *Standards for Creating and Maintaining a Safe Culture*.[74] Highlighted is the recognition that safeguarding of children and vulnerable adults is an integral part of the life and ministry of the Church. The standards encompass pastoral care and an integrated support-based approach to redress. There are five elements: communicating the Church's message; safe practices; responding to complaints and concerns; monitoring compliance; and formation and training. The standards apply to all Church entities.[75]

Actions completed or underway since the start of the Inquiry include:

- appointing safeguarding advisors in each of the six diocese areas.
- the development and delivery of safeguarding course and trauma-informed training.
- the ongoing review of APTH.
- engagement with survivors and their advocates and the Crown Response Unit in response to the Inquiry's redress report.
- the review of facilities where memorials, honorifics or photographs exist of clergy and religious who face, or have faced, allegations of abuse.
- modifying the NOPS website to make it more accessible and translating a number of supporting documents and material for safeguarding processes into te reo Māori and other languages including Samoan, Tongan, Tagalog, Korean and Malayalam.

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[73] https://safeguarding.catholic.org.nz/safeguarding/

[74] The principles that underpin the standards are outlined in the 2018 National Safeguarding Guidelines, https://safeguarding.catholic.org.nz/wp-content/uploads/2018/11/National-Safeguarding-Guidelines-Oct-2018.pdf

[75] A Church entity is any parish, organisation or agency that has been endorsed by a bishop or congregational leader as working for the Church.

NOPS has begun reviews of safeguarding practices in Church entities and is undertaking work to:[76]

- further improve survivor care and support-focused approaches in responses to reports of abuse.
- build more consistency and accountability for the outcomes of reports of abuse.
- investigate implications if the NOPS jurisdiction were extended beyond sexual abuse by clergy and religious.
- put in place procedures for record-keeping both for historical reports and reports going forward.
- more actively monitor safety plans or other outcomes of any disciplinary actions.
- audit disciplinary outcomes and safety plans of living respondents.

The Catholic Church has a strong commitment to being a bicultural Church. Included in ongoing work is engaging with Māori to better understand experiences of care in Catholic Church settings and to continue to develop policies and practices that honour Te Tiriti o Waitangi and respect the tikanga of local iwi. Engagement is also being undertaken with Pacific peoples, along with discussions with the many other ethnic groups in the Catholic community. This report is contributing to efforts to learn from the past in order to improve inclusion, safeguards and support for disabled people.

Actions by Catholic leaders in New Zealand take place against a background of the global Catholic Church and developments internationally, including the revision of canon law. NOPS seeks, receives and implements advice on new processes to incorporate directives and guidance from the Vatican as they relate to safeguarding practices and responses to abuse. This has included *Vos Etis Lux Mundi* (2019), which established new procedural laws to combat sexual abuse and to hold bishops and religious superiors accountable for their actions; and the *Vademecum* (2020), which provides a procedural guide for cases of sexual abuse against minors. Formal updates and changes to canon law in 2021 are also being implemented.

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[76] https://tautoko.catholic.org.nz/wp-content/uploads/2023/01/Catholic-Church-NZ-Leaders-Statement.pdf

6.2 Visibility, accessibility, inclusion and belonging

The best protections start and continue with individuals being valued and treated with dignity, and when their personal agency and rights are respected. They are grounded in having people who love and care about you and in belonging and being connected with whānau, community and culture. They are seen when disabled people are visible and have equal access to opportunities to participate and contribute. These features resonate with the long-standing core tenets and social teachings of the Catholic Church; the Vatican's call for "Us not them"; the themes identified in the National Synod for the Church to be a welcoming and inclusive place[77]; and the principles underpinning *Working together for a Safer Church*.

Dr Paul Flanagan (a member of the NSPSC) speaking at the faith-based response hearing[78] stated that the involvement of lay people on the NSPSC and as leaders in safeguarding processes is crucial and needs to reflect Church membership and diversity. This should include representation for disabled people. In taking up the recommendations of the Inquiry's redress report, the Church has begun engagement with survivors and their advocates. This should also involve disabled survivors and their representative groups and advocates.

The greater involvement of and leadership by lay people in developing and reviewing safeguarding sits within a wider church context.[79] This was highlighted in recent recommendations made in national Synod discussions for collaborative ministry whereby lay people and ordained ministers work together. Such an approach is summed up in a quote from a Synod participant: "The Spirit is calling us to be a church in which leadership and governance are shared, but with lay people having equal voices – a truly co-responsible church at parish, diocesan and global levels."[80]

Including and making disability visible involves having the voices and concerns of disabled people and their whānau heard across all ministries and governance structures. One of the Synod's proposed actions is to listen further and "seek and understand the real need of the disabled, including the deaf community" (New Zealand Catholic Bishops Conference, 2022, p.11). Following through with this requires being led by the Catholic disabled and Deaf communities as to how

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[77] https://www.catholic.org.nz/assets/NZCBC-National-Synod-Synthesis-Aug-2022.pdf

[78] https://tautoko.catholic.org.nz/wp-content/uploads/2022/11/Witness-Statement-of-Dr-Paul-Gerard-Flanagan-for-the-Faith-based-institutions-response-hearing.pdf

[79] https://www.abuseincare.org.nz/our-progress/library/v/523/witness-statements-from-day-2-monday-17-october-for-the-faith-based-institutions-response-hearing

[80] https://www.catholic.org.nz/assets/NZCBC-National-Synod-Synthesis-Aug-2022.pdf (p. 5)

this is done and shared decision-making about what needs to happen to achieve sought outcomes.

There are some networks and resources within the Church, such as the Deaf ministries, and within services for disabled people, such as G.I.F.T. and the Hauroa Trust, that already provide or could provide avenues for ongoing discussion and direction about what is needed. However, in the main, these are localised and not always connected to decision-making in a more formal pathway at parish, diocese and national levels. As an example, while the three Deaf ministries are connected and report within the dioceses in which they operate, there is no national co-ordination and the Deaf ministries do not cover all the dioceses.

There are a number of Catholic Church entities or forums that have a national function and provide opportunities for pathways to ensure a disability perspective is visible and represented; NSPSC and NOPS have already been referenced. Having disability representation and/or a more formalised pathway to hear from the Catholic disability and Deaf community as suggested earlier would strengthen work already being done. In a similar manner, follow-up from the National Synod provides another forum and pathway within and from diocese to national levels. A hui connecting disability and Deaf communities from different regional areas could be a useful way to make connections and link people.

What is already being done and what still needs to be done to ensure the visibility and inclusion of disability and Deaf perspectives will vary across each of the diocese areas and within parishes, schools and other Church entities, as will the connections with wider community and national groups. At the diocesan level, pastoral services and pastoral councils are natural homes for creating and maintaining relationships and linkages. Caritas Aotearoa New Zealand (Catholic Agency for Justice, Peace and Development) is an avenue for advocacy at a national systemic level. It is noted that a recent Caritas submission highlighted the importance of “prioritizing funding and relevant data for those in need and those who are too often overlooked including Māori, Pasifika, the elderly, people with disabilities and those with underlying health conditions.”[81]

Visibility, accessibility, inclusion and belonging are integral across the five elements of the Church’s standards for creating and maintaining a safe culture. Drawing from the Catholic Church’s framework, the following sections consider each of the interrelated and interdependent areas of communication and connections; safe

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[81] Caritas submission on the Budget Policy Statement 2023, 26 January, 2023. The submission can be accessed on https://www.caritas.org.nz/submissions

practices; responding to concerns and allegations; formation and training; and monitoring and review. Some reference is also made to wider systemic issues in promoting safe practice, addressing barriers and improving responses to reports of abuse (Appendix B lists some resources). As the Government's Crown Response Unit moves from high-level design[82] to detailed planning for implementation, there should be a clearer national framework that will also provide assistance with policies and practices.

6.2.1 Communication and connection

The Church's national standard "Communicating the Church's message" stresses the importance of accessible information. Accessible information that is easy to find and use is a fundamental principle for communication, as is accessibility across all the areas in the standards.

Among the accessibility changes already made by NOPS are those mentioned earlier regarding their website and translation of key documents into te reo Māori and other languages. As the Church continues to develop accessible material and communications, guidance should be sought from the disabled community as to other formats that should be developed, such as New Zealand Sign Language, audio and Easy Read.[83] Mention has already been made to follow up from the National Synod as a forum for consultation in the wider context on issues of communication and accessibility and asking about needs, how well these are currently being met and what changes are required.

One of the indicators is that Church entities know and understand the diversity of those in its communities. Another is developing links with other groups in the locality to promote safe and caring communities and to share good practice. Different entities will have different established local, regional and national connections, and/or areas where new ones could usefully be made to strengthen relationships and share good practice. Diocese safeguarding advisors also have a central role.

An example of responding to needs and making links in the community is seen in a recent example of a collaboration between Deaf Aotearoa, the St. Dominic's Catholic

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[82] https://www.abuseinquiryresponse.govt.nz/assets/Uploads/Cabinet-papers/2022-12-01-Cabinet-paper-Redress-system-design-arrangements.pdf

[83] Easy Read is clear, easy-to-read and easy-to-understand text that typically includes pictorial representation of information. It was designed to support people with intellectual/learning disabilities but can also be useful for other groups such as people with low literacy levels or English as a second language.

Deaf Centre, the Wellington Catholic Social Services and an Upper Hutt organisation called BEST (Benefit Education Services Trust). This initiative provided additional support and communication assistance to Deaf people in their interactions with Work and Income. L'Arche, the New Zealand Disability, Spiritual and Faith Network, and other ecumenical forums and platform groups such as the New Zealand Christian Council of Social Services are also possible avenues.

6.2.2 Safe practices

Safe practices are positive safeguards. Safeguards are "designed to protect the rights of people to be safe from the risk of harm, abuse and neglect, while maximising the choice and control they have over their lives."[84] This definition captures the continuum from promoting well-being to protecting people from harm. Safe practices recognise our interdependence and utilise the supports needed to ensure equal access to opportunities and participation.

Practising safely includes having the right access to the right high-quality services and supports at the right time (Hobbs, 2018) and is reflected in the 'twin track' approach of the New Zealand Disability Strategy and underpinned by human rights and the Treaty of Waitangi. This means making sure that mainstream services and supports are inclusive and accessible, along with any specific supports, accommodations, and resources or specialist services that may be needed.

The foundation for the Church's safe practice standards is in providing environments that are welcoming, nurturing and safe. Indicators include having a planned approach to practices that respect, protect and enhance the dignity of everybody, and promoting and fostering environments that encourage the well-being and hauora of everyone. Particular reference to children and vulnerable adults is made in both indicators. Included are safe recruitment practices, having clear expectations of what is appropriate behaviour, and in situations where needed undertaking risk assessments that monitored regularly and adjusted as appropriate. Risks assessments should balance the 'dignity of risk' and individual choice and preferences so that possible adaptations are considered in order to maximise opportunities to participate.

Entities providing government-funded social, educational and disability services have contractual requirements for quality and monitoring standards and compliance with legislation such as the Oranga Tamariki Act and the Code of Disability Services

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[84] Australian Government, Department of Social Services, NDIS Quality and Safeguarding Framework, 9 December 2016, p. 102.

Consumer Rights. Compliance with these is expected and acknowledged in the Church's standards.

In work already completed, the Catholic Church has a strong base to build from in further developing and building safe practices for disabled children and adults. Some entities will be further along in the process than others but work in this area will always be ongoing. We all must ask and/or continue to ask disabled people and their whānau:

- What makes you feel welcome and that you are included and belong?
- What makes you feel safe or that your family member is safe?
- What is working well and what needs to improve?

In looking to strengthen safe practices, talk with and learn from Catholic communities such as G.I.F.T. and the Deaf Ministry, faith-based communities and networks such as L'Arche and the NZDSFN, and schools. As well as suggestions to enhance inclusion, belonging and good practice, they can also provide examples of adaptations and accommodations that can be made.

- How do the G.I.F.T. and L'Arche communities incorporate their faith base and provide for spiritual needs and companionship? How do they support decision-making and promote safeguards for community members?
- How can Church activities be made more accessible for the disabled and Deaf community? In what ways can links with young disabled and Deaf be created and enhanced across parishes and schools and in youth/young adult ministries?
- What can be learnt and what needs to be incorporated from Māori and Pacific communities about safe practice?
- What can be learnt from Catholic schools about how they support disabled students to have equal access to information and education about healthy relationships and sexuality, what is abuse and what to do if they have concerns?

In adding to safe practices and addressing barriers to disclosure, it is useful to adopt the Marralomeda philosophy referred to in chapter four that "while there are varieties of responsibilities there is no hierarchy of importance". A critical element, as seen in the Church's standards and training, is to highlight those situations and environments that are associated with greater risks of abuse. These can occur when children and adults are isolated and disconnected from whānau or trusted relationships; do not have needed supports/assistance to express choices and concerns or for decision-making; and/or opportunities to participate on an equal basis with their non-disabled peers. Using the term *adults at risk* rather than *vulnerable adults* would further reinforce these concepts.

All parts of Te Kupenga – Catholic Leadership Institute (home to the Catholic Theological College, the National Centre for Religious Studies and the Nathaniel Centre for Bioethics) have contributed and continue to contribute to the development of safe policies and practices, and related training and education material. Along with responding to diversity in the religious curriculum, the National Centre for Religious Studies can provide support and a framework for sexual and healthy relationships education that can be drawn from and adapted to suit individual support and communication needs.

Among community resources for safeguarding and supported decision-making included in Appendix B are the Personal and Advocacy Safeguarding Trust; People First New Zealand, Nga Tāngata Tuatahi – 'Keeping Safe, Feeling Safe'; the Donald Beasley Institute Benchmark project; and Auckland Disability Law.

6.2.3 Responding to concerns and allegations

The key features of safe practice apply to responding to concerns and allegations about abuse and include trauma-informed approaches as best practice. While the suggestions made to the Inquiry by Cooper Legal (chapter five) referred mainly to more formal legal settings, the principles and practices are relevant to any process for responding to concerns and allegations of abuse. They entail individually tailoring needed supports, communication assistance and accommodations, and providing safe places and pathways for reports of abuse. Being believed, timeliness in responses and transparency are critical, as are having processes that do not retraumatise survivors.

This Church standard aims to provide a support-based, trauma-informed approach that is grounded in clear and consistent procedures and practices for responding to and managing concerns, allegations and complaints. The need to have systems in place when concerns are raised about the safety of children, young people and vulnerable adults is highlighted. Other indicators include having procedures to direct all claims of sexual abuse or misconduct involving members of the clergy or religious congregations immediately to NOPS; ensuring access to appropriately trained personnel to respond to a complainant in a manner that is timely and considerate of needs; and having robust processes for recording concerns and reports of abuse and actions that are taken.

As has been since its inception, there is ongoing review of APTH, which provides the principles and procedures for responding to complaints of sexual abuse and sexual misconduct against clergy or religious. The first APTH principle of looking after people and the priority of a compassionate response to a complainant is providing the assistance demanded by justice and compassion. An investigation of the implications if NOPS's jurisdiction was extended to cover abuse more broadly than the current remit of sexual abuse has been signalled.[85]

NOPS has made some changes to address concerns raised in the Inquiry and incorporated feedback from survivors and survivor advocacy groups to improve processes and support. Survivors only have to share their experiences once unless they want to share more often. More direct help is provided with finding support if needed and assistance is given to contact appropriate Church entities or external agencies if NOPS is not the right place. The changes made to date benefit all and shift the focus to be more person-centred rather than one that is overly investigative.

Evidence presented to the Inquiry demonstrated the additional barriers that may be faced by disabled people, from reporting abuse through to having reports effectively responded to. Communication assistance and/or advocacy may be required to help survivors from the initial making of a report and throughout any investigative, redress and follow-up processes and actions. The Church's standards and APTH make provision for such support and assistance; however, these would benefit from making more explicit obligations for support and/or communication assistance for survivors and ways to enable equal access to justice. For example, making available advocacy support and paying the costs if needed may assist some survivors (or their representatives) understand their rights and what the processes are, and to be able to express their complaint. Such initial advocacy support could be developed within Church resources or through linking with outside services, such as the Personal Advocacy and Safeguarding Trust or disabled people's and community advocacy networks. For some people such advocacy support may be useful and requested throughout any ongoing processes.

APTH principles and processes should be available in accessible formats with the time taken and needed support given for complainants to be able to give their

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[85] It is noted that the Australian Catholic National Response Protocol (part of the Church's safeguarding approach and support for the Church's safeguarding standards) adopted by the Australian Bishops Conference that came into effect 1 February 2021 replaced Towards Healing: Principles and protocols for complaints of abuse against personnel in the Catholic Church. Towards Healing covered sexual, physical and emotional abuse, as does the 2021 protocol.

consent (or their representative, if applicable[86]) for NOPS and the Complaints Assessment Committee to undertake an investigation. Consideration of suitable gender and ethnicity is stipulated as part of the appointment process for investigators. This consideration should also include explicit recognition of disabled people. Investigators should have training in working with disabled survivors and how to make needed accommodations when they are undertaking their inquiries. Investigation reports should record that required and requested accommodations and supports were made and available throughout the process.

The Inquiry heard from families about their feelings of guilt at not having protected their disabled family member from harm and a betrayal of trust. Some family members had tried to raise concerns with Church officials but had either been rebuffed or no adequate response was made. APTH processes and responses should recognise family and whānau healing and spiritual needs along with those of the survivor.

Referenced earlier in this section was the consideration that is being given to the implications of extending the jurisdiction of NOPS beyond that of sexual abuse or misconduct by clergy or religious. Such an extension would be beneficial in providing a more cohesive response to complainants and a clearer pathway for follow-up actions that may be taken by the Church.

NOPS encourages complainants to report abuse to the Police and/or Oranga Tamariki.[87] Though not without difficulties, there are clearer external pathways and protocols for children.[88] The path is less clear and more hit-and-miss for adults with no statutory equivalent agency to that of Oranga Tamariki with mandated responsibility, oversight and authority to act. There are possible avenues via the Ombudsman, Human Rights Commission and Health and Disability Commission, or through the Family Court and the Protection of Personal and Property Rights (PPPR) Act; however, these are typically overburdened, seldom able to offer the timely responses that are needed and often are not the ‘right’ service.

The lack of a statutory public advocate role or a framework for responses for adults at risk in vulnerable situations has been a long-standing problem. More recently, this

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[86] It is noted that the New Zealand Law Commission is currently undertaking a review of adult decision-making capacity law.

[87] APTH includes provisions for NOPS to notify the Police if a complaint concerns behaviour that may constitute criminal conduct and the complainant is under 18 years of age and the Police have not already been notified.

[88] This includes Voyce-Whakarongo mai, an independent advocacy organisation for children and young people in state care.

has been identified in the Human Rights Commission 2021 report to the Inquiry on violence and abuse of disabled people. The Inquiry should consider recommending the creation of a distinct pathway for adults, such as that of an Office of the Public Advocate (similar to those operating in some Australian states), or setting up a similar mandated function with authority to act within an existing Office, such as that of the Ombudsman or Health and Disability Commission. Church leaders should consider supporting that recommendation if it comes to pass.

In gathering information for this report, a number of people spoke of the difficulty in finding counsellors and psychologists with the necessary skills and expertise to work with disabled survivors, particularly those with cognitive impairments and/or who need communication assistance. A valuable resource that the Inquiry could help start off for further development by the independent redress system would be to draw from the links that their well-being support service made to provide support and counselling for those disabled survivors who requested such assistance.

The Catholic Church has made changes to improve its processes with a standardised and central system where reports of abuse are registered. The Church has sought advice and direction concerning privacy issues and recording disability and ethnicity. It would be useful for the Inquiry to act on the recommendations in the Human Rights Commission 2021 report for a shared language to describe violence and abuse and with agreed upon definitions for recording. Currently, different definitions are used across different agencies and sectors, as are different definitions used to identify disability, if disability is recorded at all. Having a consistent and shared approach would provide protocols for agencies to collect regular data about the abuse of disabled people that is disaggregated and enables accurate reporting and analysis, and offers a robust platform for ongoing research and evaluation of outcomes. Again, Church leaders should consider and support the recommendations that arise on this level and also move to utilise consistent definitions.

6.2.4 Formation and training

This national standard of the Church entails providing training and support for personnel in all aspects of safeguarding relevant to their role. It is a critical area and crosses all the previous sections. The inclusion of a disability perspective in formation and training ensures that when clergy and lay leaders are working in their parishes and congregations, disability is “not a surprise; it’s part of what they are, it’s how they understand the gospel” (as cited in chapter three).

NOPS in collaboration with Te Kupenga – Catholic Leadership Institute have developed and delivered safeguarding courses and trauma-informed training. The Church continues to build on these to update and extend initial and ongoing training in appropriate boundaries for pastoral relationships; the impact of abuse on individuals; understanding the nature of trauma arising from abuse and the lifelong, intergenerational and community-wide impacts; creating safe environments; and responding to those who disclose and report abuse.

NOPS is currently reviewing the Church's safeguarding course with a view to having an updated version by mid 2023. This should include the perspectives of disabled people and their whānau on what are safe practices, how well these are reflected in the course and what needs to be strengthened. An area to be considered is that of 'vulnerability', how it is portrayed and whether there is sufficient emphasis on situations and environments that can create and perpetuate the risk of abuse. There may be aspects identified in the review that call for the addition of specific disability training.

Currently in wider courses run by Te Kupenga's Catholic Theological College there is not an explicit focus on disability, rather it is implicit and subsumed within a wider grouping of vulnerable people; however, there is an awareness that more attention should be paid to disability. There is much that can be drawn from Catholic theology and social teaching, and the distinct disability theology with its practical application, that has emerged over recent years. Training should include contemporary models of disability and human rights approaches and an understanding of the implications of the UNCRPD.

6.2.5 Monitoring and review

This national standard of the Church is about ensuring that Church entities provide assurance of compliance with national policy and standards. Indicators include a self-review process for entities and an independent external review by NOPS of an entity's safeguarding practice. The shape of external independent monitoring and review may change with the Inquiry's proposed independent redress system, and any proposals the Inquiry makes about an independent review and monitoring safeguards. However, the Church will still need to actively monitor and review its national policy and standards for safeguards and responses to reports of abuse to ensure compliance and consistency of approach and as a basis for ongoing improvements.

As a starter and as with all other standards, disabled people and their whānau should be included in self-review and external independent monitoring and review processes. The emphasis and questions may vary for the different situations and environments of the Catholic entity concerned but important questions need to be asked about accessibility, inclusion, provision of needed supports and accommodations, consultation with disabled people and their families and whānau, and connections with disability networks within the Church and wider community.

6.3 Conclusions

The Inquiry is an important marker for New Zealand in making visible the harm perpetrated and learning from the experiences of the past to inform the way forward. There is much to be done. Substantive and lasting change requires ongoing commitment. The Catholic Church has made such a commitment to promoting a culture of safeguarding in its entities and improving support for survivors, both within their internal processes and through proposed independent forums for redress and review.

Many areas require a change in approach and different attitudes to address the failures identified by the Inquiry and acknowledged by the Church. Primary among these are better safeguarding practices and putting survivors first in responding to reports of abuse and providing redress. The Church has a tradition of reflecting and evolving in collaborative ways, both within its own workings and in response to the wider societal context. This tradition and the core tenets and social teachings of the Catholic faith provide a strong foundation for the work that has already been done and for that looking forward.

Significant changes in social policies and approaches to care and education for disabled people occurred within the Inquiry's historic period of interest. Moves away from segregated institutions and schools to services in the community and mainstreaming were mirrored in changes in Catholic Church involvement. By 1999, most residential care settings for children and young people run by Catholic Church entities (apart from school boarding facilities) had closed, as had all their residential special schools. Today, given the definition of vulnerability used by the Inquiry, the greatest number of adults in Catholic settings who could be considered potentially to be at risk are older people living in residential care facilities.

This report began with an acknowledgement in the first chapter that limited historical information was available on numbers and proportion of disabled people in either state or faith-based care, or records of reports of abuse that identified the survivor as disabled. Generally, as was typical in the era, Church entities didn't keep records of people's identification of disability in relation to reports of abuse that were made to them or that they held.

With a disability investigation and disability lens across all investigations, the Inquiry provides a platform and basis for ongoing work to increase the visibility of disabled people in data concerning their experiences and what needs to happen for better protections, responses to reports of abuse and redress processes. It is hoped that this continues to be reflected in the independent redress and review and monitoring systems that are proposed and being developed.

Welcoming, nurturing and safe environments for all are central to the Church's safeguarding standards and aims to create a safeguarding culture. These features go hand in hand with settings and interactions that respect individual dignity, enhance personal agency, recognise the importance of whānau, and enable connections with culture and community. Improvements have been made in getting better protections and responses to reports of abuse that benefit all and there is much still to do to develop and strengthen systems, policies and practices. This includes making visible a disability perspective across all areas and being guided by disabled people and their whānau about what needs to happen.

6.4 Recommendations

These recommendations sit within the wider context of systemic changes that have been emphasised and endorsed across the course of the Inquiry. Planning for some aspects such as independent redress and review processes are already underway; others will become clearer in the Inquiry's final report and with the government's response.

Endorsed are the Inquiry's recommendations for a puretumu torowhānui scheme that provides, where needed, free legal and non-legal advocacy and meets the requirements of the UNCRPD for equal recognition before the law and access to justice, with the application of supported decision-making and access to interpreters, translators and communication assistance.

In wider systemic changes, it is recommended that the Inquiry:

- highlight the lack of a clear pathway and framework for at risk adults in reporting and getting effective responses to abuse. The final report must give consideration to whether current proposed changes will sufficiently address these problems or other approaches are needed, such as a statutory body with a public advocate role or adding a similar function with equivalent mandated authority to that of an existing agency.
- adopt the Human Rights Commissions 2021 recommendations to develop and mandate a cross-sector shared language for recording abuse and improving data collection (including disaggregating data).

Key recommendations for the Catholic Church community are to:

- make disability more visible and ensure a disability perspective is included at all levels of governance, in all ministries, and in formation and training.
- ensure that disabled people, Deaf and their whānau are involved, represented and in leadership roles in NSPSC, in monitoring and reviews of safeguarding, and in Church responses to abuse and redress.
- use the follow-up actions to the national Synod to create links and national co-ordination across Catholic disability and Deaf communities from different diocese regions.
- draw from and utilise the knowledge, skills and experiences of disabled and Deaf people, their whānau, and their support communities and networks in improving accessibility and communication, and developing and providing

training, including practical tools and adaptations that can be used in tailoring supports and safeguards.

- make human rights frameworks and contemporary disability theology explicit in safeguarding protocols and training materials and courses.
- adopt the term *adults at risk* rather than ‘vulnerable adults’ and talk of circumstances and situations in which people may be vulnerable.
- ensure that in locations such as Catholic schools, disabled students have equal opportunity to information and participation in education about healthy relationships, what is abuse and what to do if there are concerns.
- ensure the Catholic Education Office collects and records information on numbers of disabled students in Catholic schools and regularly undertakes surveys of student and whānau experiences.
- strengthen practices through NOPS by:
  - making independent advocacy available to help people to make reports of abuse, including funding such support if needed. For some people such advocacy support may be useful and requested throughout any ongoing processes.
  - including trauma-informed approaches for working with disabled people and their whānau and communities in training for relevant personnel.
  - ensuring that there is good understanding and application of the UNCRPD right to access justice and equal recognition before the law, particularly with regard to supported decision-making.
  - identifying and addressing areas where there are gaps in accessibility, protections and responding to reports of abuse for disabled people in current reviews of safeguarding courses, the implementation of safeguarding standards in Church entities and APTH.

Appendix A: Research questions, methods and information sources, limitations and author's background

The purpose of the report is to contribute to the Inquiry's disabled people's investigation and ongoing work of the Catholic Church in listening and responding to what has been heard and learnt about disabled peoples' experiences and what needs to change.

Research questions

Setting the scene and context *(chapters two and three)*

- What were the dominant models and approaches to care and education for disabled people in the Inquiry's historical period of interest from 1950–1999?
- What changes have there been in conceptualising and positioning disability and terminology used through to contemporary times?
- How is vulnerability defined?
- What are the beliefs and traditions that underpin Catholic involvement in care settings?
- How have these evolved and interacted with changes in the Church and wider context?
- What are the enablers and challenges to inclusion, accessibility, visibility and belonging?

Catholic involvement in care and education from 1950–2023 *(chapter four)*

- How have services and care settings run by the Catholic Church evolved and changed?
- How did the three Catholic residential special schools (St Raphael's Home of Compassion/St Dympna's Special Needs School, St Dominic's School for the Deaf and Marylands Residential Special School) operate and why did they close?
- What are some examples of contemporary Catholic-based or influenced services that include residential support for disabled people?

Disability, abuse and Catholic institutions *(chapter five)*

- What is known about disabled people's experiences of abuse in Catholic settings?
- What was heard by the Inquiry about disabled people's experiences of abuse in care?
- What were the barriers to reporting abuse?

- What were the responses when concerns were raised or reports of abuse made?
- What factors contributed to creating and perpetuating abusive situations and environments?
- What actions were taken by the Catholic Church to prevent and respond to abuse of disabled people in faith-based and disability care settings?
- What reflections have been made on learning from the past to inform the future?

Listening, learning and looking forward *(chapter six)*

- What has been learnt from the Inquiry, and in particular from survivors, to inform improved safeguarding and responses to abuse?
- How have these been incorporated into changes made to date by the Catholic Church or in planned work?
- What are the gaps or areas that need strengthening?

Methods and information sources

Methods used were archival and literature searches; interviews with key informants who had knowledge of and/or association with past and/or current Catholic entities and disability communities; content and contextual analysis of service descriptions and accounts of Catholic care and education settings; and publicly available submissions to and reports from the Inquiry, with an emphasis on those from disabled survivors and their whānau.

This included:

- information gathered by Te Rōpū Tautoko;
- Christchurch and Wellington Catholic diocesan archives and records, and Island Bay Home of Compassion archives;
- Catholic National Office of Professional Standards documents;
- relevant material from the National Library of New Zealand and Archives New Zealand collections;
- discussions with and/or website information from G.I.F.T., L'Arche Kāpiti, L'Arche Tabor, Marralomeda Charitable Trust and St John of God Hauora Trust; and
- Inquiry public hearings and, in particular, evidence given at the Marylands Schools and Disability, Deaf and Mental Health hearings.

Limitations

The majority of the descriptions of care settings operating in the Inquiry’s period of interest come from historical records that most often did not include the perspectives of the children in care or their families and whānau. Where the experiences of disabled people and their families and whānau of disability care settings and of the abuse that occurred are referred to in the report, these are from either information on the Inquiry’s website or other publicly available sources.

The discussion and reflections on disabled people and Catholic Church entities are a snapshot on which to provide context and are not intended as fully representative. I have endeavoured to acknowledge the variation that occurs across settings in what is happening and what might need to be addressed.

Author's background

In undertaking this work I have also drawn from my own personal and work experiences. I am the sister of an autistic brother who lived for a period of his life in institutional care and now lives in a community residential service. I have a background of many years working in the disability field in roles as a researcher, advocate and clinical psychologist. Other than this report, I have no personal or professional affiliation with the Catholic Church.

Appendix B: Resources

Auckland Disability Law

http://aucklanddisabilitylaw.org.nz/

Auckland Disability Law (ADL) provides free legal services to disabled people associated with their disability related legal issues. ADL provides legal education on disability law in the community and within disability and legal organisations.

Supported decision-making resources can be accessed on *http://aucklanddisabilitylaw.org.nz/supported-decision-making-home/*

Donald Beasley Institute

https://www.donaldbeasley.org.nz/

The Donald Beasley Institute has extensive experience in disability research. Along with the *Tell Me About You* research referenced in the report, other past projects have included deinstitutionalization, access to justice and abuse. They are currently undertaking research exploring a twin track approach to family and sexual violence elimination for Wāhine Whaikaha, D/deaf and Disabled Women.

Donald Beasley Benchmark project

https://www.benchmark.org.nz/

Benchmark provides evidence-based guidelines, case law and other resources to assist legal professionals and others working with people who may be vulnerable in the New Zealand legal system. Guidelines include *Questioning children, Responsive Practice with Adults with Intellectual Disability, Communication Assistance,* and *Guideline Summary: The United Nations Convention on the Rights of Persons with Disabilities.*

New Zealand Human Rights Commission

https://tikatangata.org.nz/

In the Human Rights Commission 2021 report *Whakamahia te tūkino kore ināianei, ā muri ake nei – Acting now for a violence and abuse free future: Violence and abuse of disabled people in Aotearoa New Zealand*, the second appendix provides a diagram of a human rights safeguarding model and the third appendix lists questions for assessing responses to exploitation, violence and abuse experienced by disabled people.

Office for Disability Issues

https://www.odi.govt.nz/

The New Zealand Disability Strategy 2016–2026 can be accessed on https://www.odi.govt.nz/nz-disability-strategy/

The Disability Toolkit for Policy is a disability analysis tool that can be used when developing policy: https://www.odi.govt.nz/disability-toolkit/

People First New Zealand, Ngā Tāngata Tuatahi

https://www.peoplefirst.org.nz/

Information about the Keeping Safe, Feeling Safe course for adults with learning disability can be accessed on 'Learn with Us'.

The Personal Advocacy and Safeguarding Adults Trust

http://www.patrust.net.nz/

The Trust provides a range of safeguarding services and supports for adults with care and support needs in New Zealand.

Removing barriers: Reasonable accommodation of disabled people in Aotearoa

https://www.ombudsman.parliament.nz/resources/removing-barriers-reasonable-accommodation-disabled-people-aotearoa

This is a joint publication (February 2023) issued by New Zealand's Independent Monitoring Mechanism (consisting of the Ombudsman, the Human Rights Commission and the New Zealand Convention Coalition Monitoring Group) established under Article 33 of the United Nations Convention on the Rights of Persons with Disabilities.

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