



# ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE AT ROCKHAMPTON

COMMONWEALTH OF AUSTRALIA  
*Royal Commissions Act 1902*

## CASE STUDY 26

### OPENING SUBMISSIONS BY COUNSEL ASSISTING

#### Introduction

1. This is the Royal Commission's, twenty sixth case study. This case study concerns allegations of sexual abuse of former child residents of the St Joseph's Orphanage, Neerkol (**the Orphanage**). The principal focus of the hearing will be to bear witness to the experiences of men and women who resided at the Orphanage.
2. The Orphanage, was located within the Catholic Diocese of Rockhampton (**the Diocese**) about 20 kilometres outside of the city of Rockhampton and close to the parish of St Joseph's, Neerkol. The presbytery was located amongst the buildings at Neerkol.
3. The Orphanage, Neerkol was run by the Sisters of Mercy, Rockhampton (**the Sisters**) from 1885 until 1978. The Sisters were an autonomous congregation within Australia. As such, they were independent from the Diocese.
4. A large proportion of the children living at the Orphanage were state wards.

5. The Orphanage also accepted a small number of British Child Migrants and acted as a quasi-boarding school for children who were not in the care of the State.
6. The age of children at the Orphanage ranged from young infants, including new born babies, to 15 year olds. The number of children resident at Neerkol varied from 150 to 500 depending on the year.
7. In 1975, no further admissions were made to Neerkol and, by 1978, Neerkol closed its doors. At that time, alternative living arrangements were made for the children who remained at Neerkol.
8. From its opening to closure it is estimated that 4000 children passed through the doors of Neerkol.
9. The state government authority was the legal guardian of the children living at the Orphanage, apart from those privately admitted. The Mother Superior at the Orphanage was designated by the relevant state government authority from time to time as the approved carer of the children.
10. From 1993, long after the Orphanage closed, former residents of the Orphanage came forward to the Church and the Queensland police to report allegations of sexual abuse. As a result, there were criminal proceedings in respect of a former priest, Father Reginald Basil Durham (**Father Durham**) and former employee of the Orphanage, Kevin Baker.
11. On 6 February 1997, the Queensland police charged Father Durham with 40 sexual offences against five former residents of the Orphanage and a former member of his parish. On 15 February 1999, Father Durham pleaded guilty to 6 counts of indecently dealing with AYB. All other charges were discontinued. He was sentenced to 18 months imprisonment, with a recommendation for release on parole after a period of four months. Father Durham is now deceased.

12. On 31 March 1998, Mr Kevin Baker a former employee, and resident at the Orphanage was committed for trial on 69 mainly, sexual offences, related to 12 former residents. He was never convicted of any offence. Mr Baker is still alive.
13. There have also been two reports commissioned which considered the allegations of sexual abuse at Neerkol.
14. In July 1998, the Children's Commissioner of Queensland published a report entitled a "*Preliminary Report on Allegations of Abuse of Former Residents of St Joseph's Orphanage at Neerkol, Rockhampton in the 1940's, 1950's and 1960's*", known as the Children's Commission of Queensland Report.
15. In August 1998, the Queensland state government established a Commission of Inquiry into abuse of children in Queensland institutions, widely known as the Forde Inquiry. On 8 June 1999, the Forde Report was tabled in State Parliament. In November 2000, the closed portion of the Forde Report entitled "*Neerkol closed section*" was released, which made findings about the environment, abuse and reporting mechanisms at Neerkol.
16. During the public hearing 13 former residents of the Orphanage will give evidence of physical and sexual abuse that they say they suffered at the Orphanage by the sisters, priests and former employees at the Orphanage. In addition, to those residents who will give evidence, more than 40 other residents have contacted the Royal Commission to provide information about the abuse that they suffered during the time that they lived at the Orphanage.
17. The public hearing will inquire into the following matters:
  - 17.1. The experiences of a number of men and women who were resident at St Joseph's Orphanage, Neerkol operated by the Sisters of Mercy between 1940 and 1975;

17.2. The responses of:

17.2.1. The Sisters of Mercy;

17.2.2. The Catholic Diocese of Rockhampton; and

17.2.3. The Queensland state government

to complaints made by former residents of St Joseph's Orphanage, Neerkol of child sexual abuse by workers, priests and nuns at the Orphanage between 1993 and present.; and

17.3. Any related matters.

### **The Operation of the Orphanage**

18. Children at the Orphanage were housed in dormitories. Boys were separated from girls and older children from younger children. There was also a nursery which housed infants.

19. There was a school at the Orphanage which was approved by the State Department of Public Instruction. The teaching was carried out by the Sisters of Mercy and children were provided with employment once they reached 14 years of age unless they had been identified as suitable to undertake training for a trade or scholarship. The Forde Inquiry found that the levels of education were lamentable, some children left the Orphanage barely literate, and there was a lack of specialist assistance available to children even until the 1970's. The Forde Inquiry also found that children were not provided with adequate sexual education and as result children and young people were vulnerable to abuse particularly when placed in employment.

20. Religious instruction was provided by the Sisters, with a mass held by a Priest at the Orphanage. A resident chaplain assisted in caring for the welfare of the children.

21. A trained nursing sister was available at the Orphanage and medical and dental officers regularly visited. All children were immunised against a range of diseases.
22. Punishment was to be administered in accordance with the relevant legislative provisions in operation at the time. The Forde Inquiry found that the punishments administered at the Orphanage were excessive by any standard and did not accord with the regulations in place under the relevant legislative framework.
23. Recreational activities were provided to children and the children were taken on outings by community organisations.

### **Governance of St Joseph's Orphanage Neerkol**

24. The Orphanage had three main sources of income: the state government, the Commonwealth Child Endowment and the Catholic Church.

### **Queensland Government supervision and oversight**

25. The state government authority was the legal guardian of the children, apart from those children privately admitted to the Orphanage. The governing authority of the Orphanage was designated by the state government to be the Sisters of Mercy, and the Mother Superior as the approved carer.

### **1885-1911**

26. Neerkol was originally a licensed institution under the *Orphanage Act 1879*. The Sisters were invited to staff the orphanage at Neerkol in 1885.
27. Under the *Orphanages Act 1879* the management and supervision of licensed orphanages were subject to such control as the Minister prescribed, including regular inspection by the Inspector of Orphanages.

## 1911-1965

28. From 1911, the provision of child welfare services in Queensland was governed by the *State Children's Act 1911* (Qld).
29. The *State Children's Act 1911* established the State Children's Department, and a Director of the State Children's Department (**the Director**). The Director became guardian of all state children up until the age of 18 years and had control of their property until they were 21. The Director through the departmental officers exercised a legal responsibility for the children.
30. At any time on the advice of the Director, the Governor in Council could cancel an Institution's licence if dissatisfied with its condition, management or maintenance.
31. An officer of the Department was required to visit every state child at least once every 3 months to ensure their treatment was satisfactory. An inspection of each institution was required at least once every month.
32. The governing authority of each institution, (in the case of the Orphanage, the Sisters of Mercy) was subject to the Minister, responsible for management of the institution and appointment of all staff.
33. The *State Children's Act 1911* was supplemented by the *Children's Protection Act 1896* (Qld) to provide for the protection of children. Under this Act, it was an offence for any person with the custody, control or charge of a child to ill-treat, neglect, abandon or expose such a child to unnecessary suffering or injury to its health.

## 1966-1978

34. In 1966, the *Children's Services Act 1965* (Qld) (**the Act**) replaced the *State Children's Act 1911*.

35. From 4 August 1966, the licensing arrangements for Neerkol were provided under the Act.
36. Under the new Act, the State Children Department was renamed as the Department of Children's Services and the Director of the State Children's Department was now called the Director of Department of Children's Services (**the Director**). The Director was guardian of all state children up until the age of 18 years. The governing authority (in the case of the Orphanage, the Sisters of Mercy) subject to the Director had the sole management and supervision of their institution and control of the appointment of all persons employed at such institution.
37. The Director was to supervise the standard of care attained, and if the Director was dissatisfied with the management, maintenance or condition of any licensed institution they could provide written notice of that fact to the governing authority asking the institution to show cause why they should not cease to be a licensed institution. If the institution did not show sufficient cause within 2 months, the Director could recommend the Minister revoke an Institution's license.
38. The Act set out the duties of persons in charge of institutions which included an obligation to:
- 38.1. Provide such child with adequate food, clothing lodging and care;
  - 38.2. Maintain every part of such institution at all times in a fit and proper state for the care of a child;
  - 38.3. Secure for such child adequate education and religious training of such a type and form as is approved by the Director or, in the absence of such an approval as is in the best interests of such child;

38.4. Do, observe and carry out all acts, requirements and directions prescribed by this Act or by any order of the Director in relation to the institution and the care of such child.

39. The Act made it clear that the governing authority of each institution was responsible for its actions and omissions and for those of any of its staff, so it was no longer possible to say that they did not know about the misdeeds or omissions of staff or to say they had instructed staff not to do such things.

40. Under the Act, it was an offence for a person having a child in his charge to ill-treat, neglect, abandon, or expose a child in a manner likely to cause unnecessary suffering or injury of physical or mental health. There was no specific recognition of sexual abuse in the Act.

41. The Act was supplemented by the *Children's Services Regulations 1966* (Qld).

42. The *Children's Services Regulations* laid down standards for the punishment of children for misbehaviour or misconduct. The regulations provided that a child could be punished for a range of misconduct by special duties, forfeiting privilege, properly supervised physical exercise or corporal punishment.

43. Corporal punishment was only to be inflicted by the person in charge or under his or her direction, and only by an approved leather strap applied over a child's ordinary clothes. It was not to be inflicted on girls, in the presence of other children and was to be used as seldom as possible. It was a requirement there be a suitable witness and the infliction of corporal punishment was required to be recorded on a register.



## British migrant children

44. The Orphanage also had the care of a small number of British Migrant children.
45. The Director of the Children's Services Department was also the guardian of the British migrant children as a result of the delegation by the Commonwealth Minister of Immigration and his powers as guardian under section 6 of the *Immigration (Guardianship of Children) Act 1946* (Cth). Custodianship of British migrants was given to the then, Bishop Tynan of Rockhampton, rather than the Sisters of Mercy.

## Reporting

46. The state government, in its supervisory role over the Orphanage, prepared basic reports outlining a general level of satisfaction with the operation of the Orphanage.
47. During the 1950's, the State Children's Department employed four officers in Rockhampton. Their duties included liaison with the Orphanage and regular inspection of the home. Between the 1920's and 1970's, there was also a State Children's Inspector (or District Officer as they were later known) stationed in Rockhampton.

## Policies and procedures

48. Departmental records do not provide any details of any state policies or procedures which applied to child protection, the handling or reporting of child sexual abuse prior to the closure of the Orphanage in 1978. The handling and reporting of allegations of child sexual abuse appears to have been governed by legislation alone.
49. The Sisters of Mercy were required to report any illness or injury suffered by a child in care promptly to the Director. Every complaint received about a child and punishment inflicted was required to be

recorded in a punishment book which he could require to be produced to the Director or officer of the Department on demand.

### **Supervision by the Catholic Diocese of Rockhampton**

50. St Joseph's Orphanage, Neerkol was located within the Diocese of Rockhampton. The Orphanage and the land on which it was built was the gift of the Bishop of Rockhampton to the Congregation of the Sisters of Mercy in the 1880's. The parish of St Joseph's, Neerkol was also established within that Diocese.
51. The Parish of Neerkol was governed, as is the normal practice, by the parish priest. The parish priest enjoyed a considerable amount of autonomy and was subject only to the authority of the Bishop of Rockhampton.
52. While the Sisters of Mercy was independent of the Diocese and the Bishop, they exercised their ministry with the permission of the Bishop. The Bishop and the parish priest did not have any formal responsibility or role in respect to the day to day care of the children at Neerkol. At law, the parish priest did not have any formal responsibility for those children.
53. The Sisters of Mercy and the children at the Orphanage received pastoral support from the parish priest. Day to day contact between the priest and the children at Neerkol was frequent. There was a chapel on the grounds of Neerkol which was also the church for the local Neerkol community. Adjacent to the chapel was the presbytery for the priest serving the Neerkol parish. The Sisters of Mercy accommodated the priest by cooking, cleaning and doing other chores on behalf of the priest.
54. In this way, there was a public perception that the priest exercised influence on the Neerkol orphanage.

## **Sisters of Mercy, Rockhampton**

55. The Sisters of Mercy staffed, supervised and operated Neerkol from 1885 until it had no further child residents in 1978.
56. As outlined above, from 1885 the state government designated and licensed the Sisters of Mercy to operate the Orphanage.
57. The Sisters were led by a 'Mother Superior' who was responsible for the running of the Orphanage. The Mother Superior reported to a Major Superior of the Congregation, who was head of the Sisters in Rockhampton.
58. As such, the Mother Superior at Neerkol reported to both the Major Superior of the Congregation and also the State Department.

### Recruitment of staff

59. The Sisters of Mercy were responsible for the appointment and management of all staff employed at Neerkol, subject to the Director of the Department. There are no records which outline the recruitment processes of staff or training provided to staff.
60. The Forde Inquiry found that the orphanage was poorly staffed and was heavily dependent on the work undertaken by children from an early age. The inquiry reported that the ratio of children to staff was grossly inadequate and would have made individualised attention impossible.
61. The Forde Inquiry also found that there were some sisters who were unsuited to working with children in need but, because of the vow of obedience they had no choice but to go where they were directed.
62. The Forde Inquiry concluded the Orphanage was underfunded, understaffed and the Sisters were required to take in every child notwithstanding a lack of resources.

## **The experience of former residents of the Orphanage**

63. The Royal Commission will hear evidence from a number of former residents of the Orphanage, who will allege they were subjected to serious emotional, physical and sexual abuse while they were living there.
64. The witnesses who will give evidence will identify the main alleged offenders as Father John Anderson (now deceased), Father Reginald Durham (now deceased), Father Cahill (now deceased), and Kevin Baker, a former employee at the Orphanage who denies the allegations of sexual abuse. In summary, the evidence those former residents will give, is as follows:
65. AYB will give evidence about the sexual abuse she suffered from Father Durham. AYB was born and grew up in Rockhampton. Father Durham was her parish priest He would regularly visit her family home. From the age of 11, Father Durham sexually abused her on a regular basis. At the age of 17, AYB left home and joined the Sisters of Mercy in Rockhampton. After a time, she commenced work at the Orphanage. She lived in the presbytery with Father Durham and his mother, during which time Father Durham continued to sexually abuse her. Subsequently, Father Durham was involved in a serious car accident. It is expected that AYB will give evidence that it was only then that the abuse stopped. In 1999, Father Durham pleaded guilty plea to six counts of indecently dealing with AYB, and was sentenced to a term of imprisonment.
66. AYB will also give evidence about the response of Sisters and the Diocese to her disclosure that she had been sexually abused by Father Durham. She will speak about her experience of the Towards Healing process which she will describe as a negative one.
67. Mary Adams will also give evidence. She was placed at the Orphanage when aged 9 months. When she was aged 13 she was

made to leave school and work on the property as a domestic helper until she left the Orphanage. She remained at the Orphanage until she was 18 and released from care.

68. Mary Adams will say that during her time at the Orphanage she was emotionally, physically and sexually abused. She will give evidence she was physically beaten as a form of punishment, was slapped across the face, punched and dragged around by her hair by Sister Regis. She will also describe having been sexually abused by Father 'John' when she was about 12 years old at the Orphanage, and by another priest Father Cahill when she was billeted out to a home in Mackay during the holidays.
69. Diane Carpenter will also give evidence. She was placed in the Orphanage when she was aged 3 or 4 years old. She lived there for 1 year and then returned home. Diane Carpenter was again placed in the Orphanage when she was aged 7 or 8 after her father died. She remained at the Orphanage until she turned 17.
70. Diane Carpenter will describe the physical abuse she suffered at the Orphanage. She will also give evidence that Father Hayes, a visiting priest at the Orphanage, repeatedly indecently touched her. She will also give evidence she saw Kevin Baker sexually abuse other children.
71. David Owen is now 76 years old. He was placed at the Orphanage when he was about 5 months old, and lived there until 1954 when he was aged 15. David Owen will describe the physical abuse he suffered from the Sisters and other employees including being beaten with instruments and flogged with a whip. He will give evidence that he was repeatedly sexually abused by Father Anderson during the time he lived at the Orphanage. He will say that Father Anderson regularly fondled his penis, caused him to masturbate him and had anal sexual intercourse with him

72. AYD is now 82 years old. He was placed at the Orphanage when he was very young along with his siblings. AYD will describe the physical abuse he suffered at the hands of Tom Pattle (an employee of the Orphanage) and the sexual touching by Father Anderson, which included rubbing his penis and genitals.
73. AYN was placed at the Orphanage, along with his siblings when he was aged about 7. He will describe the physical beatings he endured from the Sisters. AYN will also give evidence that he was sexually abused by Kevin Baker while he lived at Neerkol.
74. AYE is now 77 years old. In 1938, at the age of 1, he was placed at the Neerkol orphanage. The Royal Commission will hear evidence from AYE that while living at the Orphanage he was physically punished by the Sisters for very minor matters. AYE will also give evidence he was sexually abused by Father Anderson from the age of 9 or 10 until he was 12 or 13. He will say Father Anderson indecently touched him, caused him to perform oral sex on him, and tried to anally penetrate him on at least one occasion. AYE will also give evidence that he was sexually abused by Father Durham who also indecently touched him and tried to anally penetrate him on more than one occasion. The sexual abuse continued until AYE left the orphanage aged 14. AYE will also describe being indecently touched, by one of the sisters.
75. The Royal Commission will also hear evidence from AYA. In 1973, at the age of 11 she was sent with her younger brother to live at Neerkol as a boarder. She lived at the Orphanage until 1974. She will describe her experiences at the Orphanage including physical beatings by some of the Sisters and indecent touching by Father Durham. She will give evidence that she was also sexually abused by another female resident.
76. AYK is 49 years of age. At the age of 6 she was placed in the Orphanage as a ward of the State along with her sister, AYO. She

lived at the Orphanage until around 1978, when she was aged 13 years old. It was at this time that the Orphanage closed. AYK will give evidence about the physical violence she received from the sisters and which she saw inflicted by the sisters on other children. She will also describe having been sexually abused by Father Durham on numerous occasions when she was aged 7 or 8 years old. She will say that he repeatedly made her touch his penis.

77. The public hearing will also hear evidence from AYO. She was placed at the Orphanage when she was aged 4 and lived there until it closed in 1977 when she was 11 years old. AYO will describe her experience at Neerkol, the physical abuse inflicted on her by the Sisters and the sexual abuse by Father Durham which occurred when she was 14 or 15. She will describe how he would repeatedly indecently touch her.

78. Joseph Kiernan is now 54 years old. Joseph Kiernan was placed at the Orphanage when he was a baby aged 7 weeks old. He will give evidence that he was physically abused by the sisters and Kevin Baker, and sexually abused by Father Durham. He will describe how Father Durham on more than one occasion indecently touched him and attempted to have anal sexual intercourse with him.

79. Thomas Murnane is now 74 years of age. Mr Murnane was placed at the Orphanage when he was aged 10 and left at the age of 14 in 1954. He will describe the treatment of him and others by some of the sisters as vicious and sadistic. He tried to run away from the Orphanage on two occasions. Mr Murnane will give evidence a sister touched his penis inappropriately in the presence of other sisters.

80. AYL is now 64 years old. In 1961, when she was aged 10 years old she and her 6 siblings were placed at the Orphanage as wards of the State. She lived there on and off until she was aged 18. AYL will give evidence that while she was living at Neerkol she was sexually abused by Kevin Baker. She will give evidence that he raped her with a broom handle and digitally penetrated her. AYL will also give

evidence that she saw Baker sexually abusing another boy. AYL will say Kevin Baker continued to sexually abuse her in the years which followed by forcing her to have vaginal sexual intercourse with him.

81. Mr Kevin baker denied these allegations and continues to do so.

82. All the witnesses who were former residents of the Orphanage will describe the devastating impact their experiences at the Orphanage have had on their family life, employment prospects and mental health.

### **Reporting of Abuse at the Time**

83. Many of the former residents will give evidence that they did not tell anyone about the sexual abuse at the time it was occurring because they were fearful that they might be physically punished or ostracised by the Sisters if they complained of the sexual abuse. Others felt they had no-one to tell, and they did not think they would be believed.

84. Other former residents reported having told the sisters, staff at the Orphanage or Departmental officers of the abuse, but were physically punished as a result of their disclosure. None were believed.

85. Other former residents also recall having told an Inspector but nothing having changed. They will say the sexual abuse continued despite their disclosure. Others were too frightened to tell an Inspector or anyone from the Department as they were concerned the person would tell the Sisters and they would be physically punished as a result of the disclosure. Another former resident will say the children were not allowed to talk to the Inspectors when they came to the Orphanage.

86. The Forde Report noted that few residents could remember having been spoken to by an Inspector, children were not encouraged to talk to the Inspectors and there was no opportunity to report concerns.



The Forde Inquiry found that no child at the Orphanage could have faith that a complaint of abuse would be received with compassion and concern.

### **Allegations of Sexual Abuse are Revealed in the 1990's**

87. As outlined above, the Orphanage operated from 1885 until 1978-1979. In 1975 the Sisters of Mercy decided not to take any more admissions and children were placed in alternative accommodation. It appears this was part of a move to de-institutionalise the care of children. The last children in care left the Orphanage in 1978 or early 1979.

88. In the early 1990's allegations of sexual abuse by former residents of the Orphanage began to receive media attention. Former residents also raised allegations of sexual abuse with the Diocese and the Queensland police.

#### AYC

89. In 1993, a book written by AYC a former resident of the Orphanage was the subject of media attention. AYC described her own sexual abuse, and spoke of child sexual abuse having been prevalent at the Orphanage. AYC's allegations were brought to the attention of the Diocese and the Sisters of Mercy.

#### AYB

90. In June and July 1993, AYB wrote two letters to Bishop Heenan, the Bishop of the Diocese, disclosing sexual abuse by one of the 'priests'. AYB requested that Bishop Heenan meet with her when she was in Rockhampton. This meeting did not take place until early February 1994.

91. It appears that this was the first disclosure of abuse to the Diocese in respect of Father Durham. In 1994, Father Durham was the

Administrator to the Neerkol Parish having retired as the Neerkol parish priest the year before.

92. In 1994, Bishop Heenan appointed Father Noel Hynes to deal with the allegations of sexual abuse by church personnel in the Diocese.
93. Bishop Heenan requested that Father Hynes organise a meeting between Bishop Heenan and Father Durham. A subsequent meeting was held between AYB, Father Durham, Father Hynes and the contact person of the Brisbane Archdiocese. The outcome of the meeting was that Father Durham did not admit the offending. There was to be no further action taken by the Church.
94. AYB will give evidence that at that meeting Father Durham said that '[he] was sorry' and that AYB was 'only a child'. The Royal Commission will also hear evidence that after this meeting AYB wrote to Father Durham. In response to her letter, Father Durham stated that he was sure AYB would understand why he was not anxious to go through all that happened so many years ago as he was in the twilight of his life. A copy of this letter will be tendered into evidence.

#### Allegations by Mr David OWEN

95. On 12 October 1993, David Owen attended at the Newcastle Police Station to make a complaint about physical and sexual abuse perpetrated on him by Father John Anderson.
96. Father John Anderson was at the Neerkol Parish from 1942 to 1964. He was appointed a parish priest by Bishop Hayes. Prior to this position, Father Anderson had also worked as a parish priest at St Patrick's at Mackay and St Ann's. Father Anderson died on 31 August 1986. He was never convicted of any offence.
97. As a result of the complaint by David Owen, the police requested information about Father Anderson from the Diocese, and Bishop Heenan was made aware of the general nature of the allegations.

98. On 28 April 1994, Bishop Heenan completed a Catholic Church Insurance, Special Incident Report in respect to AYB and Mr Owen's disclosures of sexual abuse. This is the first such report completed by Bishop Heenan with respect to allegations of child sexual abuse at the Orphanage by Fathers Durham and Anderson.
99. During late 1994 and early 1995, the Sisters of Mercy also became aware of the sexual allegations by David Owen.
100. On 16 February 1995, Sister Loch (then the Congregational Leader of the Sisters of Mercy) completed a special incident report to the CCI about the complaint made by David Owen. She said she made the report as there were allegations of physical abuse by David Owen against some of the Sisters, and there was a claim that the Sisters would have known of the sexual abuse and did nothing to stop it.

#### AYQ

101. In around September 1995, AYQ instituted civil proceedings against the Sisters of Mercy. The claim was defended by the Sisters of Mercy. Ultimately, AYQ's application for an extension of time under the statute of limitations was unsuccessful, and the claim failed.

#### Allegations by AYP

102. In 1996, Bishop Heenan was informed of sexual allegations made by AYP against Father Durham. Bishop Heenan met with Father Durham and he denied the allegations.
103. By the end of 1996, the Diocese and/or the Sisters of Mercy were aware of sexual allegations made by AYC, AYB, David Owen, AYQ and AYP.

#### Media attention

104. During 1995, allegations of abuse became the subject of further media reports. On or about 8 September 1995, the Sisters prepared a media release about the complaints raised in relation to Neerkol. They described the physical discipline as the 'thinking of the day' and said that there was no evidence to 'substantiate the allegations'.
105. On 13 September 1996, the Minister for Family, Youth and Community Care, Mr Kevin Lingard informed state Parliament that six calls had been made to the Child Sexual Abuse Hotline about former residents of St Joseph's Orphanage, Neerkol. Mr Lingard indicated that he would seek to refer all matters to the Children's Commissioner once that position was established. After the ministerial statement was made numerous articles were published about the Orphanage. A copy of this press release was also provided to Sister Loch.
106. On 24 September 1996, Bishop Heenan sent a letter to all priests enclosing a letter to be read out in all parishes. He referred to allegations being made about Neerkol as 'scurrilous' and 'slanderous'.
107. Bishop Heenan says in his statement to the Royal Commission that in writing those comments he was not referring to the allegations of sexual abuse by AYB, Mr Owen, AYQ and AYP, and that he believed their allegations.
108. In the months that followed, many other former residents came forward to report their abuse both to the Queensland Police and also to the Sisters and the Diocese. By late 1996, the Queensland Police were investigating allegations of child sexual abuse in respect to a number of former priests and lay workers who had worked or provided service at Neerkol. The investigation was known as Operation Sandman.

109. By early 1997, criminal proceedings against both Father Durham and Kevin Baker had commenced.

## **The Criminal Proceedings**

### R v Durham

110. Father Durham was ordained on 27 July 1941. In February 1965, He commenced at St Joseph's parish, Neerkol. He resided at the presbytery until 1997. After the closure of the Orphanage, Father Durham remained the parish priest at Westward.

111. On 6 February 1997, the Queensland police charged Father Durham with 40 sexual offences against 6 complainants including.

111.1. 2 counts of rape and 16 counts of indecently dealing with AYB;

111.2. 14 counts of indecently dealing with AYE;

111.3. 2 counts of indecently dealing with a former resident;

111.4. 4 counts of indecently dealing with AZA;

111.5. 1 count of indecently dealing against another former resident; and

111.6. 1 count of rape of AYP.

112. On 18 February 1997, Bishop Heenan wrote to Durham informing him that due to the charges he required that Durham resign from his position as soon as possible and leave the presbytery at Neerkol. Bishop Heenan also recommended that Durham take an extended leave of absence. He emphasised that it was essential that Durham not be seen to continue with his ministry.

113. A committal hearing was conducted in the Rockhampton Magistrates Court on 23 and 26 June 1997, and 8 August 1997 and 18 September 1997.
114. On 18 September 1997, Father Durham was committed for trial on 44 offences. No plea was entered on committal.
115. On 19 September 1997, Bishop Heenan wrote to the priests of the Diocese of Rockhampton informing them that Durham had been committed for trial. Bishop Heenan offered whatever support was needed to Durham, especially through prayer, and hoped that the priests of the Diocese would join him in the same.
116. On 2 February 1998, an Indictment was presented to the District Court at Rockhampton charging Father Durham with 22 counts of sexual offences against 5 complainants. A separate 18 count Indictment was presented for sexual offences against AYB. AYB was not a resident at the Orphanage. Father Durham was AYB's parish priest and close to her family. AYB later worked at the Orphanage and lived at the presbytery with Father Durham and his mother.
117. On 24 July 1998, an application for a stay of proceedings was heard in the District Court in Rockhampton in relation to both Indictments. On 9 October 1998, the application was refused.
118. On 15 February 1999, a new Indictment was presented to the District Court, Rockhampton charging Father Durham with 6 counts of indecent dealing with a girl under 17 in respect of AYB (to replace the 18 count Indictment). The DPP considered that some of the 18 charged offences on the original Indictment could not be sufficiently particularised and laid the fresh Indictment, in part, in an effort to resolve the charges by way of guilty pleas.
119. The DPP consulted with the complainant AYB before doing so. However, on 8 September 1998, AYB sent a letter to the Forde

Inquiry. Amongst other things, she summarised the criminal trial (as at that date) and expressed her dissatisfaction at the process. She described how the delay has nearly sent them (her and the other complainants) all over the edge. She also said it was hardly worth the pain and suffering when the initial charges were reduced to 6 counts of indecent dealing against Father Durham.

120. On 15 February 1999, Durham pleaded guilty to 6 counts of indecently dealing with AYB. He was sentenced to 18 months imprisonment with a recommendation for release on parole after a period of four months.

121. On 29 March 1999, the DPP decided to conduct separate trials in respect of each complainant on the 22 count Indictment. The DPP was of the opinion that the charges should be heard separately. The DPP proceeded with count 20 on the Indictment first, an allegation of rape of AYP, as it was considered the most serious charge.

122. Between, 24 and 26 May 1999, that trial proceeded in the District Court at Brisbane. The jury were unable to reach a verdict and the trial was adjourned to the next sittings of the court.

123. On 27 September 1999, the re-trial of the charges relating to AYP commenced. Father Durham again pleaded not guilty. On 30 September 1999, Father Durham was found guilty of the rape of AYP. He was sentenced to 7 ½ years imprisonment.

124. By February 2000, Durham had appealed his conviction. On 21 March 2000, the Supreme Court allowed the appeal and ordered a retrial.

125. On 3 August 2000, the Director of Public Prosecutions referred Father Durham to the Mental Health Tribunal to determine whether he was fit to stand trial on all counts on the 22 count Indictment. On 21 February 2001, the Mental Health Tribunal found that Father Durham was presently not fit to stand trial.

126. On 1 March 2001, the Queensland Director of Public Prosecutions wrote to one of the complainants, AYE, informing him that the Crown was unable to proceed with a trial against Fr Durham. The Director said Durham's condition was subject to periodic review by the Patient Review Tribunal, and noted that, given Durham's medical condition, it was unlikely he would ever be fit for trial.
127. On 23 March 2001, a nolle prosequi were entered by the DPP on the 22 count indictment. All charges were discontinued.
128. However, on 4 February 2002, the Patient Review Tribunal found that that Durham was fit for trial. An appeal of that decision was filed on 14 February 2002. The appeal was heard by the Mental Health Court on 31 May and 18 June 2002. On 28 June 2002, his Honour Justice Wilson found that, due to Durham's ongoing mental decline and the unpredictable fluctuations in his mental state, he was permanently unfit to stand trial.
129. The Royal Commission will hear evidence that the Diocese paid for Father Durham's costs in relation to the criminal proceedings. It is expected that evidence will be also be given that it was not until the criminal proceedings commenced that Father Durham was asked to leave Neerkol. This was prompted by a request by the Sisters that he do so.

#### R v Kevin Baker

130. Kevin Baker was a former resident of the Orphanage and subsequently worked for the Sisters at the Orphanage.
131. Kevin Baker was admitted to the Orphanage in 1939, at the age of 6 weeks. On 12 January 1955, the Director of the State Children's Department, Queensland authorised that he be placed in employment with the Sisters. At that time, Mr Baker undertook duties as a groundsman and bus driver.



132. In 1959, at the age of 18 years, Mr Baker left the Orphanage and undertook an apprenticeship with a bakery in Rockhampton. In or about 1964, he left the bakery and returned to the Orphanage where he worked with Sister Lucy in the bakehouse, the dairy and farm. He also assisted in taking the children wanted to go to the pictures, picnics, Police boys club, naval cadets and other outings.
133. Mr Baker continued to work in connection with the Sisters until he married in 1974. In 1990, the Sisters of Mercy awarded Mr Baker for his dedication.
134. Criminal proceedings commenced against Mr Baker in late 1997. On 31 March 1998, Mr Baker was committed for trial on 69 offences related to 12 complainants, including AYL and AYR.
135. The Royal Commission will hear evidence that criminal proceedings commenced against Mr Baker in late 1997. On 31 March 1998, Mr Baker was committed for trial on 69 offences related to 12 complainants, including AYL and AYR. A plea of not guilty was entered at that time by Mr Baker.
136. An Indictment dated 17 August 1998 charging 59 counts was presented to the District Court at Rockhampton.
137. A decision was made by the DPP to conduct separate trials for each complainant. This decision was based on legal principles.
138. The first charges to proceed related to AYR. An indictment dated 12 April 1999, charging 10 counts of sexual offences against AYR was presented to the District Court at Rockhampton. The matter proceeded to trial from 14 to 20 April 1999. The trial judge ruled there was no case to answer on three counts. The jury found Mr Baker not guilty on three counts and were unable to decide on a further four counts.

139. A new four count Indictment dated 30 August 1999 was presented to the District Court recharging Mr Baker with the 4 counts of sexual offences against AYR about which the previous jury were unable to decide. The trial proceeded on 30 August 1999. However, one of the jurors had been a juror on the previous trial, so the jury was discharged.
140. A re-trial was conducted in the District Court at Rockhampton from 13 December to 16 December 1999. The trial judge ruled there was no case to answer on two of the counts because of a lack of particulars, and the DPP entered nolle prosequi on the other counts. The jury was discharged.
141. On 20 June 2000, Mr Baker was arraigned on a new indictment charging him with 6 counts of indecent treatment of a boy relating to another of the complainants. Pleas of not guilty were entered. There was legal argument about whether the charges were sufficiently particularised, that is whether a particular act could be isolated as relating to a particular charge. The trial judge ruled they were not and invited the DPP to enter nolle prosequi. A nolle prosequi was entered on each of the 6 counts.
142. Mr Baker was next tried on an Indictment charging one count of Assault Occasioning Actual Bodily Harm. The trial commenced on 21 August 2001. Again, the jury were unable to reach a verdict. On 25 October 2001, the DPP entered a nolle prosequi as the complainant did not wish to give evidence again.
143. On 5 August 2002, a nolle prosequi was entered on each of the remaining 56 counts on the original 59 count Indictment.
144. Mr Baker was never convicted of any offence relating to any of the former residents of the Orphanage. He is still alive and denies the allegations.

## **Response by the Sisters of Mercy and the Diocese after 1996**

### A Resource Group is established by the Diocese

145. In early 1997, the Diocese established a Resource Group in response to the allegations of sexual abuse made by former residents of the Orphanage. This was initially called the Towards Healing Resource Group, then later in 1997 it was called the Special Issues Resource Group. The resource group initially met once per month and Bishop Heenan was a member at all times.

### The Sisters of Mercy establish the Professional Standards Committee

146. In early 1997, the Sisters of Mercy formed a Professional Standards Steering Committee to co-ordinate the response by them and to facilitate the provision of assistance to former residents. The role of the Professional Standards Steering Committee was to formulate processes and guides for the response to and prevention of child sexual abuse and present these to the Leadership Team.

147. This Committee was formed by the outgoing Congregational Leader of the Sisters, Sister Berneice Loch and the incoming, Congregational Leader, Sister Di-Anne Rowan. Sister Loch was appointed as the Congregational Professional Standards Officer and as such was the Chair of the Committee. It was agreed that she would remain in this role until the end of July 1997 to facilitate the transition between leadership teams.

148. The Committee also consisted of Sister Anne Slattery (a nurse, trained social worker and counsellor), Ms Sue Prosser (a social worker and counsellor), Mr Holzberger (an Assistant Director of Nursing at Rockhampton Hospital) and Mr Geoff O'Driscoll (a solicitor).

149. The Diocese's *Towards Healing* protocol was issued in December 1996 and implemented the following year. The Sisters of

Mercy had regard to the *Towards Healing* processes in the creation of the Committee.

150. Soon after it was formed, the Professional Standards Steering Committee was renamed the Professional Standards Committee (**the Committee**) and became a permanent committee of the Sisters of Mercy to receive, process, resolve and review allegations of sexual and physical abuse by Congregation Members or employees. Ms Prosser was appointed as the Response Co-Ordinator for abuse allegations at Neerkol. Ms Newton replaced Ms Prosser. In 1998, Ms Czekanski assumed this role, and continues to hold this position.

151. By March 1997, the Committee adopted a proactive approach to actively seek out victims of abuse by publicising the existence of the Committee and the response coordinators.

152. From 1997, former residents of Neerkol received assistance from the Sisters through the Professional Standards Committee. The types of assistance provided varied and was in addition to any type of compensation payment made. The type of assistance provided included: counselling services, payment of phone or electricity bills, funding of trips to conferences such as 'Breaking the Boundaries', payment for medication and assistance in making applications for the Qld government redress scheme.

153. The total cost of operating the Professional Standards Office from 1997 until 2011 was at least \$1,232,435, not including lump sum payments of compensation which amounted to a further \$646,000. From 2011 to February 2015, the cost of funding the Professional Standards Office was \$278,337.

154. The Professional Standards Committee also provided \$13,800 to fund the Neerkol Action Support Group.

#### Neerkol Action Support Group

155. On 30 May 1997, many of the former residents of Neerkol formed a support group called the Neerkol Action Support Group (NASG).
156. AYD was appointed as the president and Mary Adams as the secretary. Both AYD and Ms Adams will give evidence at the public hearing about the formation of NASG, and how it was involved in eliciting different institutional responses. NASG engaged a law firm Shine, Roche, McGowan to act on behalf of former residents to seek compensation from the Catholic Diocese of Rockhampton and the Sisters of Mercy.
157. At or around that time, all matters relating to the Orphanage were being referred to the Children's Commissioner, Mr Norman Alford. Mr Alford arranged a face to face meeting involving NASG, Sister Di-Anne (as she then was), the Congregational Leader, and other Congregational representatives. The Children's Commissioner also arranged and paid for Mr John Briton to act as an independent mediator.
158. On 18 June 1997, the Sisters of Mercy met with NASG and representatives of the Children's Commissioner, the solicitors for the former residents, the solicitors for the Sisters, representatives from the Victims of Crims Association and Mr John Briton to discuss possible steps forward including compensation and an apology. At that time, the commencement of civil proceedings was foreshadowed. Representatives from the Diocese and the Queensland Government were not present at that time.
159. On 5 July 1997, NASG decided to proceed with a class action seeking compensation from the Sisters, the Diocese and the state government.
160. In the following months, the NASG, Sister Di-Anne Rowan and other members of her leadership team met with former residents of

the Orphanage to listen to their experiences and to understand the pain and hurt that they had suffered at the Orphanage. The Sisters and NASG proceeded to work together in drafting and finalising an apology by the Sisters to the former residents.

161. On 23 September 1997, the Sisters of Mercy met with NASG and representatives of the Children's Commissioner, the solicitors for the former residents, the solicitors for the Sisters and Mr John Briton, the independent mediator. The minutes of the meeting record that there were two issues for discussion being: the apology and compensation.

162. The words of the apology were finalised and it was agreed that the apology would be sent to all members of the NASG.

163. At the time, it was decided by all parties that the issue of compensation was left to be dealt with through the legal framework however, it was agreed that every endeavour would be made to resolve the compensation issue without recourse to a court of law.

#### The apology by the Sisters

164. On 25 September 1997, the Sisters apologised unreservedly to the former residents of the Orphanage at Neerkol who were victims of physical, psychological, emotional and spiritual abuse.

165. A copy of the apology was provided to the Children's Commissioner and to Bishop Heenan. The apology was subsequently printed in the Catholic Leader, the Courier Mail and the Morning Bulletin.

166. On 6 October 1997, the Diocese issued a media release fully supporting the apology given by the Sisters.

167. In about October 1997, the Catholic Church Insurance Limited (CCI) wrote to Sister Rowan in respect to the apology to the former residents. The author stated:

The reason why you have issued an apology is well understood and your concern for the victims and your recognition of their plight are recognised from a pastoral viewpoint. However, CCI is entitled to consider the extent to which the position of the Insurer has been prejudiced in relation to those cases in respect of which a claim may be subsequently submitted.

168. CCI informed Sister Rowan that the events which NASG complain about do not relate to events within the scope of the insurance policy.

#### The Diocese provides an apology to former residents of Neerkol

169. On 2 December 1997, Bishop Heenan attended a meeting that was convened with the independent mediator and attended by the Sisters, NASG and the relevant legal representatives. This was the first such meeting attended by Bishop Heenan. |

170. At that meeting, AYD, the president of the NASG indicated how distressed he had been about the Bishop's letter to the Diocese describing the allegations about Neerkol as 'scurrilous' and 'slandorous'. He told the Bishop that he had challenged the '[victim's] integrity' in making those statements.

171. At that meeting, Bishop Heenan apologised for the 'tone of the letter'.

172. After that meeting, Bishop Heenan, in conjunction with the solicitors for the Diocese, prepared a draft apology to the former residents of Neerkol.

173. In February 1998, Bishop Heenan, on behalf of the Diocese, apologised to the former residents of Neerkol. In that letter, Bishop Heenan also stated that he regretted not acknowledging those sufferings when they were first raised and that his first reaction was one of disbelief.
174. On 27 February 1998, Bishop Heenan sent a letter to the priests of the Diocese enclosing the apology and explaining that he had written to former residents of Neerkol. He asked the priests to read it out in their respective parishes.

### Civil Litigation

175. During 1998 and 1999, the Sisters and the Diocese proceeded to negotiate with the former residents with a view to resolving claims for compensation.
176. In 16 July 1998, the Sisters published a media release regarding the ongoing settlement negotiations between the Sisters and the former residents. This statement recorded their ongoing commitment to resolve the proceedings outside of court.
177. As at 2 December 1998, there were three main civil proceedings.
178. The claims included both physical and sexual abuse which occurred between the early 1930's and 1960's.
179. The compensation claims included claims of equitable damages for breach of fiduciary duty; exemplary damages for breach of fiduciary duty; common law damages for breach of fiduciary duty; and common law and exemplary damages for assault, negligence or breach of statutory duty.
180. There were, in addition, two further writs filed by former residents at Neerkol alleging sexual and physical abuse.



### Legal advice dated 2 December 1998

181. On 2 December 1998, the solicitors for the Sisters advised the Sisters that, at law, their position was a strong one because of the age of the claims. Under Queensland law, claims for compensation for personal injury were barred if the claim was not commenced within three years of the occurrence of the injury. The authors advised that most of the claims would fail because they have been brought too long after the injuries were sustained; there was doubt that many, if any, of the claimants will be able to persuade the Supreme Court to extend the three year limitation period; and expressing the claims as being for breach of fiduciary duty does not help the claimants.

182. In the legal advice dated 2 December 1998, to the Sisters, the solicitors raised the questions as to what was the 'morally correct' position for the Sisters to take. The solicitor for the Sisters advised that the Sisters of Mercy could choose to first, exhaust all their legal rights or in a moral sense, in accordance with their mission, explore the complaints and offer fair compensation, as it is the fundamentally right and proper thing for them to do.

183. The solicitor advised that the work that had already been done such as the apology and working with NASG may be undone if the Sisters of Mercy were to withdraw and exercise their legal rights to prevent the action. The solicitor stated that it must be "hollow and uncharitable" to say that "the residents are interested only in money and to allow them no more than the law may ultimately extract." If offers are made, no sense of failure should be felt by the Sisters of Mercy if they are rejected and court is the only option left.

184. In December 1998, the Sister Rowan wrote to Mary Adams in her capacity as Secretary of the NASG. In it she stated:

All I can say is that I would like the Sisters to reach an out of court settlement with the former Neerkol residents that is fair

and just. I want the settlement to recognise in a tangible way the hurt you suffered and yet at the same time to be able to be funded from our Congregational resources. It is of no use to anyone for me to offer amounts of money that we simply do not have available.

...

There will be no attempt on my part to minimise the hurt you experienced or to legally minimise the “dollar worth” of your claims. Our offer will simply be what we can afford to pay you with the limited resources that we have available.

Whilst the amount of money we offer may not meet everyone’s expectations and may be considered by some to be insufficient, I will know with clear conscience that it represents a fair and reasonable compensation offer having regard for the fact that we are a small regionally based, pension reliant and ageing Congregation. Please be assured that we will do all that we can to maximize our settlement offer but there is still the possibility that due to the large number of claimants in the legal action, the amount for each individual may be less than people expect and less than we would have hoped to provide.

#### Finalisation of claims

185. By June 1999, the Sisters and the Diocese had settled with 72 claimants regarding the abuse that they suffered at the Orphanage. The total amount paid to the former residents at that time was \$790,910.00.

186. All amounts were paid equally between the Sisters and the Diocese. The State Government made it plain it would rely on the statute of limitations and declined to be involved in any settlement of the civil litigation.

187. The Sisters of Mercy eventually sold the whole of Neerkol in order to fund the response to former residents of the Orphanage, including the payment of compensation to settle the civil claims and to provide ongoing support through the Professional Standards Committee.

#### Other policies and programs implemented by the Diocese

188. After the allegations came to light in the mid to late 1990's, the Diocese introduced and implemented a series of policies relating to the handling of complaints of allegations of sexual abuse, child protection, training and development and policies in dealing with alleged offenders.

### **Response of the Queensland Government**

#### The Children's Commissioner of Queensland Report

189. In November 1996, the Children's Commission was established and received complaints from former residents of the Orphanage at Neerkol.

190. In July 1998, Norman Alford, the Children's Commissioner of Queensland published a report entitled '*A Preliminary Report on Allegations of Abuse of Former Residents of St Joseph's Orphanage at Neerkol, Rockhampton in the 1940's, 1950's and 1960's*' dated July 1998.

191. The Children's Commission of Queensland Report provided a contextual background to the allegations of abuse at Neerkol in the post-war years. The Commissioner noted in his covering letter that a comprehensive report could not be completed due to legal proceedings (both criminal and civil) before the courts, and limitations on the Commission's ability to access departmental records due to the confidentiality provisions of the *Children Services Act 1965*.

192. In view of the above, the Report states that it cannot, and does not, make conclusions or findings as to the culpability or liability of those persons against whom allegations were made. Rather, it concentrates on the context in which the alleged abuse occurred.

193. The report reviews the history of the Neerkol Orphanage and, from those documents available, addresses the policies, responsibilities and programs of Governments which impacted upon the Orphanage during the 1940s, 1950s and 1960s.

194. The report was tabled in Parliament on 4 August 1998.

#### The Forde Inquiry

195. In August 1998, the Queensland state government Minister for Families, Youth and Community Care established a Commission of Inquiry into Abuse of Children in Queensland Institutions, which commonly became known as the Forde Inquiry. It was, presided over by Leneen Forde AC, a former Governor of Queensland. Assisting Ms Forde were Dr Jane Thomason and Mr Hans Heilperm.

196. The Forde Inquiry was commissioned to enquire into institutions established or licensed under the *State Children Act 1911*, the *Children's Services Act 1965* or the *Juvenile Justice Act 1992* and institutions registered under the *Infant Life Protection Act 1905*.

197. In broad terms, the purpose of the Commission was to examine whether there had been any abuse, mistreatment or neglect of children in Queensland institutions.

198. The Inquiry covered 159 institutions from 1911 to 1999 and found abuse had occurred and made 42 recommendations relating to contemporary child protection practices, youth justice and redress of past abuse. The Inquiry resulted in reconciliation initiatives including apologies, commemorative memorials and events, establishment and delivery of the Queensland Government Redress Scheme,

establishment of the Forde Foundation Trust Fund, and establishment of community-based support services.

199. Over 300 people provided information and shared their experiences with the Forde Inquiry. Former residents of Neerkol gave evidence to the Forde Inquiry.

200. The Forde Inquiry also heard evidence from some of the Sisters who had been on staff at the Home.

201. On 8 June 1999, Ms Anna Bligh, tabled the report entitled ['Commission of Inquiry into Child Abuse in Queensland Institutions'](#) in state parliament. This did not include the closed section of the report. The Forde Report made 42 recommendations relating to contemporary child protection practices, youth justice, service provision and redress for past abuse.

202. The Queensland Government accepted and implemented 41 of the 42 recommendations. Oversight of the Government's implementation of the recommendations was provided by the Forde implementation Monitoring Committee which was required to report annually to parliament until 2001.

#### Neerkol Closed section of report

203. In or about November 2000, the closed portion of the Forde Report entitled "*Neerkol closed section*" was released.

204. The closed section made findings about the environment, abuse and reporting mechanisms at the Orphanage.

205. The closed section of the report observed that the environment of Neerkol was a main contributor to the abuse and neglect. The report stated:

205.1. Neerkol was entirely inappropriate as a location for an orphanage. Its isolation and distance from Rockhampton deprived

the children of any real opportunity to integrate into the local community. [This was particularly] severe for the British migrant children who had, at least in some instances, come from institutions that were well integrated into village or town life.

205.2. The setting... inevitably gave rise to a closed community with a culture of its own... [The isolated nature of Neerkol meant that there was] potential for abuse in circumstances where there was a perceived need for conformity and care givers were under stress.

206. At the time of the Forde Inquiry, Mr Baker and Father Durham, were the subject of criminal proceedings and therefore no findings were made in respect to their actions or conduct, and a closed section of the report was not released until after the criminal proceedings were finalised.

207. The closed section observes that child sexual abuse was perpetrated by a range of persons at Neerkol including:

207.1. members of foster families to whom children were sent on holidays;

207.2. male workers at the orphanage;

207.3. regular male visitors to the orphanage; and

207.4. priests stationed at the orphanage.

208. The closed section of the report also provides:

What emerges very strongly is that the nuns neither contemplated nor, accepted that children might be the subject of sexual advances by men in whose company they were left alone, whether those men held positions of general esteem or not. Some of the residents spoke of being beaten for complaining of sexual abuse; certainly no child at Neerkol was likely to think that a complaint of abuse against a respected member of the

Catholic faith, let alone a priest, would be received with compassion and concern.

209. The report concludes by finding that the state government failed in its care of the children of which it was, through the Director of the Department, guardian.

## **Queensland Government Redress**

### Redress Scheme

210. In May 2007, in response to the recommendations of the Forde Inquiry, the Queensland Government introduced a \$100 million Redress Scheme. The scheme provided ex-gratia payments, ranging from \$7,000 to \$40,000, to people who experienced abuse and neglect as children in Queensland institutions. This scheme was established in acknowledgement of the impact of past abuse and neglect and to help people move forward with their lives. As the redress scheme was a direct response to recommendation 39, the eligibility criteria to the redress scheme was aligned with the terms of reference of the Forde Inquiry

211. Applications for a payment under the scheme opened 1 October 2007 and closed 30 September 2008. More than 10,200 applications were received by the closing date, with over 7,400 applications assessed as eligible for payment under the scheme.

212. Two levels of payment were offered through the scheme. There was a level 1 payment of \$7000 to applicants who met basic eligibility criteria; and a level 2 payment of up to \$33,000 for eligible 1 applicants who were assessed as having suffered more serious harm.

213. Level 2 applications were assessed on a case by case basis by an independent panel of experts against the set of guidelines. Payments were dependent on the applicant signing a Deed of Release

indemnifying and releasing the state from current or future legal action for matters which fall within the scope of the scheme.

214. The scheme included funding of up to \$500 per applicant for legal advice on the deed of release, and funding for application assistance provided by MICAH and Relationships Australia for people wishing to make an application for a redress payment

215. The scheme closed on 30 September 2008. As at 30 June 2010, over \$100 million dollars were allocated under the scheme with more than \$51.76 million provided in level 1 payments, \$46.8 million in level 2 payments and \$3.46 million payments in legal expenses for eligible applicants.

216. The Royal Commission will hear evidence from a number of former residents about their experience in applying for redress and the payments that they received.

## **Witnesses**

217. It is expected that the following witnesses will be called to give evidence.

218. Former residents of the Neerkol Orphanage, Ms Adams, Diane Carpenter, David Owen, AYD, AYN, AYE, AYA, AYK, AYO, Mr Joseph Kiernan, Mr Thomas Murnane and AYL.

219. AYB was not a resident of Neerkol Orphanage, but lived in the presbytery with Father Durham.

220. Bishop Heenan, currently the Bishop Emeritus for the Catholic Diocese of Rockhampton, and formerly the Catholic Bishop of the Diocese of Rockhampton from 1991 until 2013.

221. Sisters Loch and Ms Rowan, both former Congregational Leaders of the Sisters of Mercy.



222. Mrs Ryan of the Department of Communities, Child Safety and Disability Services.

223. Mr Daniel Boyle, consultant Crown Prosecutor, Office of the DPP, Queensland.

Sophie David SC

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14 April 2015