
**REPORT TO THE ANGLICAN DIOCESE OF AUCKLAND ON MATTERS
ARISING FROM THE MINISTRY APPOINTMENTS OF ROSS BROWNE**

Hon Rodney Hansen CNZM QC
Shortland Chambers
Auckland

1. Introduction

- 1.1 In 1980 Ross Browne was appointed Chaplain of Dilworth School (**Dilworth**). He remained in that position until he resigned in 2006 following an investigation by the Board of Dilworth (the **Board**) into allegations of misconduct in the course of Mr Browne discharging teaching duties in 1993-1994.
- 1.2 In 2007 Mr Browne was appointed priest in charge of the Parish of Bombay-Pokeno. In 2008 he was appointed Vicar of the Parish of Manurewa.
- 1.3 In 2013, fresh allegations of misconduct by Mr Browne while Chaplain at Dilworth were made to Bishop Ross Bay (**Bishop Ross**) by the mother of a former pupil.
- 1.4 In 2019, Bishop Ross was advised of further allegations of misconduct against Mr Browne while Chaplain at Dilworth. Ultimately, they led to a police investigation and charges of criminal offending. As a result, Mr Browne was suspended from his duties as Vicar of Manurewa and resigned on 3 October 2020. He subsequently pleaded guilty to thirteen charges of doing an indecent act on boys, one charge of sexual violation and one of indecent assault. He also admitted to possession of objectionable publications. On 2 December 2021 he was sentenced in the High Court to six and a half years imprisonment.
- 1.5 Bishop Ross has asked me to conduct an inquiry into the circumstances and handling of Mr Browne's ministry appointments following his resignation from Dilworth, in particular as Vicar of the Parish of Manurewa, and the decisions made after he became aware of allegations of criminal conduct when Mr Browne was Chaplain at Dilworth.
- 1.6 The Terms of Reference for the inquiry (annexed as **Appendix 1**) require that I make findings of fact with respect to the following questions or issues:
 - (a) What was known to the former Bishop of Auckland about the circumstances of Rev'd Ross Browne's resignation from Dilworth School in 2006.
 - (b) Were the actions taken by the former Bishop of Auckland when Rev'd Ross Browne resigned appropriate, given what was known at that time?

- (c) What decision-making processes were followed in appointing Rev'd Ross Browne as priest in charge of the parish of Bombay-Pokeno in June 2007 and as Vicar of the parish of Manurewa in mid-2008?
- (d) Were the decision-making processes and the decisions appropriate given what was known by the former Bishop of Auckland about Rev'd Ross Browne at the time the decisions were made?
- (e) Were the decisions made once the current Bishop of Auckland became aware of potential criminal offending by Rev'd Ross Browne during his time as Chaplain at Dilworth School and in the period leading up to his arrest appropriate in the circumstances?

1.7 I am also asked to make any recommendations for improvements in policies and processes to ensure that the response to any similar event in the future is appropriate and achieves an appropriate balance of the duties, entitlements and interests of the church, the clergyperson and victims of the clergyperson's actions.

1.8 For the purpose of the investigation, I have been provided with relevant documents from the files of the Bishop of Auckland and have interviewed the following persons as provided by clause 5.2 of the Terms of Reference:

- Archbishop John Paterson (Bishop of Auckland at the time of Mr Browne's offending as Chaplain and appointment of Vicar of Manurewa).
- Donald MacLean (Principal of Dilworth at the relevant time).
- Bishop Ross Bay, Bishop of Auckland since 2010.
- Bruce Gray QC, former Chancellor of the Diocese of Auckland.

I have not considered it necessary to interview any other persons.

1.9 I acknowledge the support and assistance I have received from Amanda Marks and Sonia Maugham, respectively the Chancellor and Diocesan Manager. I record that I have received all the additional information I have sought.

2. What was known to the former Bishop of Auckland about the circumstances of Rev'd Ross Browne's resignation from Dilworth School in 2006?

- 2.1 It will be helpful if I begin by outlining the nature of the relationship between Dilworth and the Anglican Church and between the Chaplain and the Church.
- 2.2 Dilworth was founded under the will of James Dilworth as a diocesan-related school. Unlike the other prominent Anglican schools in Auckland, it was not a diocesan school. Reflecting this independence from the Anglican Church, the will stipulated that the Bishop of Auckland (the **Bishop**) could not be a member of the Board. Instead, the Bishop has the role of Visitor to the school.¹
- 2.3 The way in which the role of Visitor has been discharged has evolved over the years. It has, however, included a formal visit to the school and an annual report by the Bishop to the Board.
- 2.4 The relationship between the Church and the Chaplain is similarly one step removed. The Chaplain is appointed by and employed by Dilworth and answers directly to the Principal and the Board. The Chaplain is licensed by the Bishop in the usual way but at the invitation of the school following his appointment. The activities of the Chaplain are addressed as part of the Visitor's report. Issues concerning the Chaplain raised by the Bishop are, however, addressed by the Board and Principal.
- 2.5 Bishop John was consecrated as Bishop in 1995. During the succeeding ten years he had occasion to comment, sometimes critically, on Mr Browne's performance as Chaplain. None, however, touched on possible misconduct such as that which led to his resignation and his later prosecution.
- 2.6 On 6 March 2006, Bishop John was formally advised by the Chairman of the Board of Mr Browne's resignation as Chaplain. He had been aware of the investigation that led up to the resignation. He had been briefed by the Principal on 17 February and had a discussion with Mr Browne on 20 February. However, it was the letter of 6 March 2006 which provided the Bishop with the full background. Attached to the letter was a dossier compiled by the Principal. Its contents included two letters of complaint by former pupils, a report by a sub-

¹ For which the will provided for a remuneration of ten guineas.

committee appointed by the Board to inquire into the complaints and Mr Browne's responses to the investigation. The letter explained that, after considering the results of the investigation and responses, the Board was of a mind to move to instant dismissal. However, the letter continued:

Following advice from the Board's legal representative, it was agreed that an agreement be drawn up through the mediation serviced under the Employment Relations Act, allowing Ross Browne to resign. In taking this step, the Board considered the advice of our lawyer that the complaints of professional misconduct were not of a criminal nature, had taken place some time ago, and did not appear to have been repeated since. In signing such an agreement, Ross Browne committed to a strict confidentiality clause, and the Board reserved the right to communicate the matter to any party which at the Board's discretion had a need or a right to know – hence this formal letter to you as Diocesan Bishop.

The Principal has statutory obligations to report the details of this investigation and outcome to the NZ Teacher's Council, who will then consider the status of Ross Browne in the teaching profession. The Principal will state to the Council that he is not willing to endorse any further registration of Ross Browne as a teacher.

- 2.7 As the dossier contains what was brought to the attention of the Bishop as to the circumstances leading up to the resignation, it is necessary to provide a comprehensive though necessarily condensed account of what it disclosed.
- 2.8 The two letters of complaint were from former pupils. They alleged, the first in summary, the second in more detail, that during sex education classes led by Mr Browne in 1994 and 1995, he encouraged pupils to masturbate in class and many did so. The second letter identified eight boys who were in the same class as the complainant in 1994. The letters were handed to Mr Browne by the Principal on 20 January at a meeting with him and his lawyer. In a follow-up letter, Mr MacLean invited Mr Browne to meet with a sub-committee of the Board which would then determine whether a further investigation was needed.
- 2.9 Mr Browne provided a lengthy response. He said that he was aware that members of a particular class simulated masturbation on several occasions. After the first incident he said he consulted and was advised by a specialist educator to 'ignore it and they'll give up' which, he said, is basically what happened; the behaviour soon ceased.
- 2.10 On 24 January 2006, Mr Browne's written response was presented to the sub-committee appointed by the Board to investigate the allegations. Lawyers for both Mr Browne and Dilworth were present. He was questioned by members

of the sub-committee. He categorically denied encouraging the boys to masturbate. At the conclusion of the discussion, the sub-committee determined and advised Mr Browne that the allegations were serious enough to warrant further investigation. Mr Browne was advised he would be suspended on full pay for the duration of the investigation.

2.11 The sub-committee delegated to the Principal the task of interviewing witnesses. He spoke to the two complainants; six other past-pupils who were in the classes where masturbation allegedly occurred; and to three former staff members. The staff members were interviewed at the suggestion of Mr Browne's lawyer. Mr Browne claimed to have spoken to one of them having learnt that in some cases the masturbation was not simulated as he believed. That person had no recollection of Mr Browne raising the subject with him.

2.12 While there was no verbatim record of the interviews with past pupils, the summaries in the report are full and detailed. The report summarised what emerged from their accounts as follows:

- It has been established that the atmosphere in the class where this happened was comfortable, and jocular.
- The behaviour was seen to be normal. They were told by Ross Browne it was normal and they didn't need to hide it.
- They were 100% sure Ross Browne knew of the behaviour and that no one could think it was simulated, as genitals were often on display. The comment by Ross Browne "Are you going to finish what you started today?" to the 2B student was seen as proof of knowledge and approval.
- When the matter of the behaviour was raised with Ross Browne, every boy was clear that permission was given to masturbate openly in class.
- In 2LR there were a number of boys and everyone insists that the students and the teacher knew what was going on, that they joked and laughed about it.
- [A] also says that the group of boys including [B] joked and laughed about it in the 'crypt' with Ross the following year.

Encouragement was evidenced by:

- What was actually said, "are you going to finish what you started"
- The atmosphere that was in the classroom, comfortable, jokey and cheerful teacher
- That there was no attempt to stop the behaviour.

- There were three separate classes involved over the two year period. There is a great deal of similarity in the descriptions and comments. All talk of encouragement.

[A] denied categorically that he told Ross about it, as he already knew all about it. Every boy said it could not have been simulated, as a number of boys had genitals out of clothing.

2.13 In what was described as an interim conclusion the report found as follows:

There is consistency in the stories of each of the young men spoken to. There are also sufficient differences to show that it is not a story concocted by a group out to get Ross. The differences reveal the different life experience and emotions attached to events for each boy. It is hard to believe that so many boys can have such remarkably consistent stories that are all untrue. The sub-committee therefore comes to the initial conclusion at this point that the old boys stories appear to be true. Ross will be given an opportunity to comment on this report. However, if these events did occur as described, Ross Browne's conduct in allowing and encouraging masturbation openly in class would constitute serious misconduct as per the Disciplinary Rules and Procedures.

The list of behaviours which could constitute serious misconduct contained in the Disciplinary Rules and Procedures is not an exhaustive list. To allow or encourage masturbation to occur openly in class we are of the view would constitute serious misconduct. Such encouragement would amount to a gross dereliction of duties by a teacher, especially in a senior role of trust such as a Chaplain.

The background context of the boys involved may have contributed to the uptake of the behaviour, as clearly it was less popular and less persistent in other classes, however it did occur in at least 3 different classes over the two year period and therefore the background of the boys is not relevant.

2.14 The report was provided to Mr Browne who again submitted a written response.

He argued there was no truth or logic to the assertion that he caused or encouraged boys to masturbate in class. He said such an allegation 'defied common sense'. He maintained that actions he took to control a class containing some unruly individuals were misinterpreted and misrepresented when recalled by class members over ten years later.

2.15 The interim conclusion of the sub-committee was, however, accepted by the Board with the consequences set out in the letter to the Bishop of 6 March 2006.

2.16 Bishop John had accordingly been provided with a full account of the conduct which had led to the Board reaching a decision to dismiss Mr Browne. He knew that the Board had concluded that in 1994 and 1995 Mr Browne had both encouraged and acquiesced in boys openly masturbating in classes for which he was responsible.

3. Were the actions taken by the former Bishop of Auckland when Rev'd Ross Browne resigned appropriate, given what was known at that time?

- 3.1 On 9 March 2006, having received the letter of 6 March from the Chairman of the Board, Bishop John met with Mr Browne. Mr Browne was accompanied by his wife Ngaire who chose to remain.
- 3.2 Bishop John delivered an oral reprimand but concluded the meeting by advising Mr Browne that he remained a priest in good standing. The reprimand was not administered pursuant to any formal process. It was not the admonition which may be delivered as one of the formal outcomes where misconduct has been established.² Mr Browne was reprimanded by Bishop John as part of the pastoral relationship existing between bishop and priest.
- 3.3 Bishop John's advice to Mr Browne that he remained a priest in good standing was similarly proffered as part of the pastoral relationship. It would have conveyed clearly to Mr Browne, however, that he would continue to be eligible for appointments within the church.
- 3.4 The term "priest in good standing" is found in the schedule to Canon VI Title D. It is the operative part of the prescribed form of Letters Testimonial which is requested when a bishop, ordained minister or lay person seeks or is proposed for appointment to any office. The proposed appointee requests the Bishop of any Diocese where he or she has previously served to forward Letters Testimonial to the licensing Bishop for the sought or proposed appointment.³ In advising Mr Browne that he remained a priest in good standing, Bishop John was making it clear that his misconduct at Dilworth would not stand in the way of appointment to offices in the Church.
- 3.5 Bishop John's decision in that regard was based on his view that what Mr Browne had done was unlikely to be repeated. In reaching that judgment he took into account the time that had elapsed since the incidents had occurred and the assurance Mr Browne had given him that there had been no further incidents of that nature. He assessed the conduct that led to Mr Browne's resignation as 'isolated incidents unlikely to be repeated'.

² Canon 1 Title D Part D 4.

³ Canon VI Title D clause 2.

3.6 Having made the decision to treat Mr Browne as a priest in good standing, Bishop John supported his attempts to secure a position in the church. He met with Mr Browne from time to time and, in May 2007, after Mr Browne had unsuccessfully applied for a number of positions, reassured him that he remained a priest in good standing. The appointments to the positions at Bombay-Pokeno and Manurewa parishes followed.

3.7 A review of the actions taken by Bishop John following Mr Browne's resignation appropriately begins with a consideration of a bishop's powers and responsibilities. The starting point is the responsibilities assumed by a Bishop on ordination which, as stated on presentation, include:

Bishops are sent to lead by their example
in the total ministry and mission of the Church.
They are to be Christ's shepherds
in seeking out and caring for those in need.

...

Bishops are to ensure that an episcopal ministry is maintained.
They are to ordain, send forth and care for the Church's pastors,
and to preside over its worshipping life.

Bishop John saw these precepts as conferring on bishops a broad responsibility to care for members of the Church community and a specific obligation to care for its pastors.

3.8 A Bishop's duty of care is accompanied by an explicit obligation in relation to discipline in the Church. Canon 1 Title D Part C1 provides:

1. Bishops are the primary guardians of discipline in the Church.
- 1.1 The Licensing Bishop has by virtue of the Office of Bishop, jurisdiction over standards of Ministry in the Bishop's Episcopal Unit, but may delegate aspects of that responsibility in accordance with this Canon.

3.9 In 2006, Canon 1 Title D provided for the powers and duties of a Bishop in the discharge of that function. It included the ability to refer acts constituting misconduct to a tribunal.

3.10 Clause 3 of Part C2 relevantly provided:

3. All persons who are subject to episcopal jurisdiction in this Church shall be liable to discipline for any of the following acts or omissions.

- 3.1 Conduct inappropriate or unbecoming to the office and work of a Minister or Office Bearer, to include;
- 3.1.3 Any act or habit of corruption of immorality;
- 3.1.4 Any act or habit of sexual or other harassment or disregard for responsible personal relations;

3.11 By clause 4.1 of Part C3, any person could complain against a Minister or Office Bearer of the Church for any misconduct. Further, by clause 4.1.1:

A Bishop may treat an issue regarding misconduct under this Title, coming to the knowledge of the Bishop, as a complaint under clause 4.1. In that event, there is no complainant and the Bishop shall not be under any obligation of mediation or reconciliation in respect of that complaint.

3.12 A Bishop in receipt of a complaint had a discretion as to the consequences. He was required to make a determination for which purpose he could be advised by a Chancellor or Legal Advisor or any other person.⁴ However, he could determine to take no further action on the complaint.⁵

3.13 Each Episcopal Unit had a Tribunal to mediate or otherwise inquire into complaints or any matters referred to it by the Licensing Bishop.⁶ The Tribunal could hear and determine any issue referred to it by the Bishop.⁷ However, because the Bishop is the guardian of standards in the Church, he was not bound by any Tribunal recommendations.⁸

3.14 Where a Tribunal determined and reported to the Bishop that there had been misconduct or misconduct had been admitted, the Bishop could decide to take no further action or to impose one or more of the following outcomes:

- Admonition
- Suspension from the exercise of Ministry or Office
- Deprivation of Office or Ministry
- Deposition from the exercise of ordained Ministry⁹

3.15 It would have been open to Bishop John to invoke the processes available under Canon 1 Title D to assist him to decide on the consequences that should follow

⁴ Clause 4.4.

⁵ Clause 4.4.1.

⁶ Part D1 clause 1 and Part D3 clause 5.

⁷ Part D1 clause 3.3.

⁸ Part D1 clause 1.1.2.

⁹ Part D4 clause 9.1.

Mr Browne's resignation from Dilworth. Although historical, I consider Mr Browne's conduct as found by the Board, to have been inappropriate and unbecoming to the office and work of a minister and to have involved disregard for responsible personal relations, in this case the relationship of teacher and pupil. Bishop John could have treated the advice from Dilworth as a complaint¹⁰ and sought a determination from the Tribunal as to whether Mr Browne's actions constituted misconduct and its recommendations on the complaint including any action that the Bishop should take.¹¹

3.16 In my view, however, Bishop John's decision not to involve the Tribunal was a reasonable one in the circumstances. He had the benefit of a full report from Dilworth that had followed a searching investigation. It is doubtful that an inquiry by the Tribunal would have added materially to the evidence at his disposal. A finding of misconduct would still have left him with responsibility for deciding what should happen.¹²

3.17 On balance, I also find his decision to reprimand (or admonish) Mr Browne while allowing him to retain the status of a priest in good standing was defensible. A judgment was required as to Mr Browne's fitness to discharge clerical office. It required Bishop John to decide whether Mr Browne's actions rendered him unfit for pastoral duties. In my view, he was entitled to find as he did that, having regard to Mr Browne's blameless history before and since, the incidents should be seen as isolated and aberrant and not such as to warrant permanent exclusion from office in the church. To Mr Browne he said, in effect:

'Not fare well
But fare forward...'¹³

3.18 It is fair to say Bishop John's judgment in this regard was vindicated. Although evidence of prior offending while Mr Browne was at Dilworth was later to emerge, it appears he satisfactorily discharged his responsibilities as priest in charge at Bombay-Pokeno and Vicar of Manurewa. Indeed a 360-Degree Feedback and Professional Development Programme undertaken in August 2018 involving 31 respondents representing Vestry, clergy, Diocesan representatives and parishioners found the overwhelming majority (84%) rated

¹⁰ Clause 4.1.1.

¹¹ Clauses 3.4 and 8.1.

¹² Part D4 clause 9.1.

¹³ T.S. Eliot, *The Dry Salvages*.

Mr Browne's performance as Vicar of Manurewa as good or excellent. It is also to be borne in mind that the Bishop was in a position to monitor Mr Browne's performance and to prevent his securing any position in the Church that he deemed unsuitable

4. What decision-making processes were followed in appointing Rev'd Ross Browne as priest in charge of the parish of Bombay-Pokeno in June 2007 and as Vicar of the parish of Manurewa in mid-2008?

- 4.1 The Bombay-Pokeno position to which Ross Browne was appointed was as priest in charge of the parish. It was a part-time, short-term appointment pending a decision on longer term arrangements to serve the parish. Such temporary, bridging appointments are made by the Bishop alone.
- 4.2 The suggestion that Mr Browne would be a suitable appointment to that position came from Rev'd Bruce Owen. Rev'd Owen was for many years the deputy principal at Dilworth. He was in that position in 1994-95 and was one of the former staff members spoken to by the Board sub-committee at Mr Browne's suggestion. Rev'd Owen suggested to Mr Browne that he apply for the position. Rev'd Owen's support of Mr Browne in this regard was conveyed to Bishop John.
- 4.3 In deciding to appoint Mr Browne to the position, Bishop John saw the Rev'd Owen's endorsement as, to use his words, 'fairly strong affirmation'. As Rev'd Owen had worked alongside Mr Browne during the whole time he was at Dilworth and was advocating him for an appointment to a position in his own parish, Bishop John took Rev'd Owen's support as confirming that what happened at Dilworth was 'a school-related issue and not a parish-related problem'.
- 4.4 The process for the appointment of a Vicar to a parish is prescribed in The Licensed Ministry Statute, 1999. Ross Browne's appointment as Vicar of Manurewa parish followed the prescribed process. The Bishop gave notice of the vacancy and invited expressions of interest.¹⁴ A Parish Profile was prepared and provided to the Bishop¹⁵. A Nomination Committee was formed.¹⁶ Membership comprised the Bishop, three Parish Nominators, the Archdeacon and two Diocesan Nominators.
- 4.5 The Committee was provided with a list of those who had expressed interest. From this the Committee composed a short list of those whom they wished to

¹⁴ Clause 2.6.

¹⁵ Clause 2.7.

¹⁶ In accordance with clause 2.8.1.

interview. That list had to be approved by the Bishop as well as the Diocesan Nominators and Parish Nominators on the Committee.¹⁷ The list included Mr Browne who was duly interviewed. His was the name forwarded to the Bishop as the nomination of the Committee.¹⁸ The Bishop made an Offer of Appointment to Mr Browne.¹⁹ Before doing so, he satisfied himself that the nominee was an appropriate person for the Ministry by examining his Letters of Orders, Letters Testimonial and the results of a Police check.²⁰

- 4.6 Bishop John said it was his practice to attend the first two or three meetings of the Nomination Committee including the meeting at which the Committee was advised of those who had expressed interest. On those occasions he was often asked to talk in confidence about those interested and to provide a personal assessment. He recalled being asked to make such an assessment of Mr Browne and in particular about his resignation from Dilworth. Bishop John told the Committee it was a case of discipline at the school. He did not disclose the nature of the misconduct that had led to the resignation. He told the Committee there was no police involvement; that Mr Browne had been at the school too long.
- 4.7 Bishop John said that in deciding against making full disclosure to the committee he was conscious of the fact that Browne had signed a confidentiality agreement. He said, 'the school really required the Bishop to be very careful about that'. He was concerned that Dilworth's reputation could be damaged by his actions. However, Bishop John acknowledged that even if he had not believed himself to be constrained by confidentiality obligations, he would probably not have disclosed the real reasons for Mr Browne's resignation from Dilworth. He was conscious of his pastoral obligation to support Mr Browne and believed that disclosure would have been fatal to his prospects of appointment as Vicar of the Manurewa Parish.

¹⁷ Clause 2.9.3.

¹⁸ Clause 2.9.9.

¹⁹ Clause 2.12.1.

²⁰ Clause 2.12.2.

5. Were the decision-making processes and the decisions appropriate given what was known by the former Bishop of Auckland about Rev'd Ross Browne at the time the decisions were made?

- 5.1 Two distinct issues are raised in relation to the two separate decisions which I am asked to consider – the decision-making processes and the decisions themselves.
- 5.2 In the context of Bishop John's prior judgment that Mr Browne was a priest in good standing and the support given by Rev'd Bruce Owen, Bishop John's decision to appoint Mr Browne as priest in charge at Bombay-Pokeno was, in my opinion, appropriate and the decision-making process, such as it was, unobjectionable. The position was in the nature of a caretaker role. It required the priest in charge to conduct services and undertake administrative duties such as chairing meetings of Vestry, but it did not involve close and continuing engagement with parishioners, in particular children or youth groups.
- 5.3 The Manurewa appointment was, of course, very different and the process appropriately rigorous. It was undertaken as prescribed by the relevant statute. However, it is necessary to confront the reality that the Appointment Committee was denied information about Mr Browne which, in my opinion, it was entitled to receive and should have received.
- 5.4 The Appointments Committee should have been furnished with all and any information about the applicant that was known to the Church unless, of course, the information had no bearing whatsoever on the applicant's suitability or fitness for the position or legitimate privacy considerations militated against disclosure.. The circumstances in which Mr Browne left Dilworth were plainly relevant to the Appointment Committee's decision-making process. Their relevance was implicitly acknowledged by Bishop John. Pivotal to his decision not to disclose them, was his belief that doing so would have put paid to any prospect of Mr Browne being appointed. As a result, the decision-making process and the decision itself were irremediably tainted.
- 5.5 The Bishop should not have felt constrained by obligations of confidentiality. The Church was not a party to the agreement reached between Dilworth and Mr Browne. It did not commit itself to any duty to keep confidential the information disclosed to it. The chairman's letter advised that Mr Browne committed himself to a strict confidentiality clause while the Board reserved the

right to communicate with any party on the matter. The Church was advised because it had an obvious interest in knowing the full circumstances. The Bishop was fully entitled to use that information as he saw fit and, on this occasion, should have done so.

- 5.6 The consequences of non-disclosure were to some extent mitigated by a condition of appointment stipulated by the Bishop at the request of the Appointments Committee that Mr Browne make firm arrangements for regular professional supervision on a monthly basis. Bishop John explained that at the time it was generally recommended that clergy involved in full-time appointments should consider entering into an arrangement for supervision but it was not a rule because professional supervision would come at a cost to the parish. In the case of Mr Browne, the Appointments Committee stipulated that supervision should be a condition of appointment out of what Bishop John said was “a sense of general caution”.
- 5.7 However, the fact remained that the Appointments Committee acted in ignorance of information about Mr Browne that it was entitled to receive in order to effectively perform its functions. That was not the fault of the decision-making process but of the way in which Bishop John resolved his conflicting pastoral obligations.

6. Were the decisions made once the current Bishop of Auckland became aware of potential criminal offending by Rev'd Ross Browne during his time as Chaplain at Dilworth School and in the period leading up to his arrest appropriate in the circumstances?

6.1 There were two occasions on which the current Bishop (Bishop Ross) became aware of potential criminal offending by Mr Browne.

6.2 The first was when the mother of a former pupil, wrote to Bishop Ross by letter of 10 December 2013. She wrote that during the period her son was at the Senior School in Dilworth he joined a group of boys whom Mr Browne had 'taken under his wing' and who often met together in the crypt after school.

6.3 In 2006²¹ C's mother said she was invited to meet with the school guidance counsellor who disclosed to her that Mr Browne had promoted sexual exploitation within the group. He was said to have condoned or encouraged older boys to engage in sexual activities with younger boys. C spoke of one incident in which Mr Browne unlocked a room so that an older boy could have sex with a younger boy. C's mother said that the guidance counsellor arranged for the SAFE network²² to come to the school and run some sessions. C attended twice-weekly counselling sessions for much of the year. C's mother was unsure whether other boys came forward and availed themselves of the services offered by SAFE.

6.4 In the letter, C's mother also stated that she was told by her former partner that in mid-2007 he had contacted the Anglican Diocese to discuss what had been disclosed by C. He told her that he 'spoke to someone high up, close to the Bishop'. He told this person what had been happening at Dilworth and was assured by this person that Browne was no longer in a position where he had access to children and young people. C's mother said she was dismayed, therefore, to learn that Mr Browne is now a Parish Priest.

6.5 Bishop Ross' response was to make inquiries in three areas. First, he referred the letter to Donald MacLean who responded by email that neither C nor his mother had complained to him about Mr Browne's conduct. Mr MacLean explained that had he received a complaint he would have acted on it although

²¹ She said 2007 but it is clear she was mistaken in this regard.

²² An organisation which provides specialised therapeutic services for persons who have engaged in concerning, problematic or harmful sexual behaviour.

he questioned whether he would have had the right or power to investigate allegations against Mr Browne after he had left Dilworth. Mr MacLean confirmed to me that he was not advised by the guidance counsellor or anyone else of Mr Browne engaging with boys in the way alleged by C's mother. He said the SAFE network was routinely used by the school and the guidance counsellor would have acted on her own initiative to make its services available to C.

- 6.6 Secondly, Bishop Ross made inquiries of those who were working in the Bishop's Office who might have spoken to C's mother's former partner. No one recalled any such conversation.
- 6.7 Thirdly, Bishop Ross made inquiries into the nature of Mr Browne's ministry at Manurewa in order to ascertain whether he had any interactions with children or young people. He was told there was no Sunday School or youth group at Manurewa and that a daughter church, St Davids, Wiri, for which Mr Browne was responsible had a Sunday School run by parents but which took place at the same time as Mr Browne was conducting a church service.
- 6.8 After thus inquiring into the issues raised by the letter, Bishop Ross sought advice from the Chancellor of the Diocese, Bruce Gray QC, before formally responding to the letter. He concluded that there was insufficient reason for him to pursue the matter further. He took into account that there had been no formal complaint made to Dilworth; the allegations relied on were a hearsay account of what C had told the school counsellor; there had been an investigation in 2006 which had disclosed no evidence of criminal behaviour; Bishop John had decided Mr Browne was fit to undertake parish duties; and his current position posed no risk to children.
- 6.9 In his letter to C's mother, Bishop Ross summarised his position as follows:

Your original approach to me was on the basis that you had been told that Mr Browne would have no further contact with children. This information came to you from your ex-partner, but I have not been able to determine its source, neither any reason why such a statement would have been made. During our meeting you advised me that your ex-partner did sometimes make things up.

The allegation about Mr Browne allowing access to a room for the purpose of two boys having sex has come to you secondarily, and thus to me at a further distance again. There are no names or dates associated with the alleged incident. The School advises that no complaint was ever made about this. I am aware that there was a good deal of speculation and hearsay at the time of Mr Browne's resignation.

These are insufficient grounds to warrant me initiating an investigation or taking action against Browne.

Finally, your concern that Mr Browne should not be in a position of parish priest. For the reasons stated above, I can find no basis for accepting that view. Mr Browne had been in his current parish role for 6 years and there has been no hint or assertion of any behaviour that has been less than professional.

6.10 In my view, Bishop Ross' decision to take no action was justified and appropriate. Absent a complaint from C himself or a complaint to Dilworth, there was an insufficient basis to treat the letter as a complaint and by this means to initiate an investigation. I also accept that the Church would have been ill-equipped to undertake an investigation into historical allegations of misconduct at Dilworth that had not been the subject of a complaint to the school. I consider Bishop Ross was rightly concerned that any such investigation would be unfair to Mr Browne. He was entitled to derive some comfort from Bishop John's decision to permit Mr Browne to continue to undertake pastoral duties and the apparently blameless way in which he had discharged those duties. Any residual concerns were met by Bishop Ross satisfying himself that Mr Browne had no opportunity to interact with children. Seen in this light, his response was proportionate and appropriate.

6.11 The second occasion on which Bishop Ross became aware of potential criminal offending was in early 2019 when he was informed by the then chairman of the Dilworth Board, Aaron Snodgrass, that complaints of abuse by Mr Browne had been made by former Dilworth pupils and brought to the attention of the Board by an Anglican priest from Te Tai Tokerau. Mr Snodgrass also asserted that, as a result of a Supreme Court decision in 2015, it appeared that the conduct of Mr Browne which led to his resignation would now be considered criminal offending. In the circumstances, Mr Snodgrass expressed concern that Mr Browne should be continuing in his role as Vicar at Manurewa with responsibility for the care and safety of children. He said he had similar concerns about Mr Browne's role as director of the Gang Show.²³

6.12 Bishop Ross again consulted Bruce Gray QC and asked the Archdeacon, Southern Region, to again inquire into the possibility of Mr Browne interacting

²³ A production undertaken by Scout New Zealand.

with children and young persons in his capacity as Vicar. He was advised that the situation in that regard had not changed since 2014.

6.13 In the absence of new or additional evidence of misconduct by Mr Browne while he was at Dilworth, and reassured by what he was advised by the Archdeacon, Bishop Ross advised Mr Snodgrass that he did not intend to take any steps to remove Mr Browne from office.

6.14 Dilworth responded by its general manager, Rob Campbell, writing to Oranga Tamariki and the New Zealand Police on 17 June 2019 stating that Dilworth 'has reason to believe that a child and/or a young person may have been, or is likely to be, at risk of risk (whether physically, emotionally, or sexually) and wishes to report the matter..'. After setting out a short history of Mr Browne's employment by and resignation from Dilworth excluding, however, any reference to the fresh allegations being made, the letter continued:

After further consideration of such matters, Dilworth remains uncomfortable with Mr Browne's current positions in the ministry and his association with the Gang Show. Based on Mr Browne's history of abuse at Dilworth, Dilworth has genuine concerns that he is being allowed to take responsibility for the care and safety of children. Dilworth considers that on the basis of his past behaviour, he may constitute a serious threat to the safety of children in his care.

6.15 After conferring further with Bruce Gray, Bishop Ross wrote to Mr Snodgrass and separately to Oranga Tamariki and the New Zealand Police on 26 June 2019. In his letter to Mr Snodgrass he reiterated that there was no new evidence which would lead him to suspend or remove Mr Browne from his post. He added: 'I would be pleased to learn quickly of any new evidence'. He reassured Mr Snodgrass that in his capacity as Vicar of Manurewa Parish, Mr Browne did not interact with children or have direct supervision of them. He concluded:

Mr Campbell's letter to Oranga Tamariki and the Police is written in a way that implies it is apparent that I should have acted to remove Mr Browne and that it is a failure for me not to have done so. I am disappointed that the approach taken now appears to lay responsibility for historic matters at the School solely at my feet. I have written to those organisations to clarify my own position in this matter.

I am always anxious to ensure that Licensed Ministers behave appropriately towards those who are vulnerable, particularly children and young persons. I share the desire of the school to pay good attention to the wellbeing of its present and former students. But I must reiterate that at present I do not consider I am in a position to act in the way that you believe is incumbent on me.

- 6.16 In his letter to Oranga Tamariki and New Zealand Police, Bishop Ross explained that he had not removed Mr Browne from his current position as Dilworth had said he should because there was not sufficient cause for him to do so. He said that in his current church role, Mr Browne did not have unsupervised contact with or direct oversight of children or young persons and that no complaints or even hints of inappropriate behaviour in his current role had arisen. He asked that if either organisation had any information which bore on the fitness of Mr Browne to continue to hold office, to please disclose it to him.
- 6.17 The Police advised on 8 July 2019 that an investigation had been commenced into the allegations following receipt of Mr Campbell's letter. Having not heard further for almost a year, Bishop Ross wrote a follow-up letter to the Police on 24 June 2020. He again asked if there was any information that could be shared with him and repeated his offer to discuss with the Police the scope of the duties performed by Mr Browne. One of the investigating officers then telephoned and wrote to Bishop Ross. He advised him to take no action unless he was concerned for the safety of any person. He said the investigation had grown significantly since the initial complaint was made and that Mr Browne should not be made aware of the investigation until the Police were ready to speak to him.
- 6.18 At this point, with confirmation that allegations of criminal offending by Mr Browne were being investigated, Bishop Ross was concerned to resolve the claim that the misconduct which led to Mr Browne's resignation would now be regarded as criminal. He sought an opinion from an eminent Queens Counsel with expertise in criminal law. He was advised that, although the applicable law had indeed been restated by the Supreme Court, in his view the conduct of which Mr Browne had been accused would be unlikely to lead to a conviction.
- 6.19 Thereafter events moved quickly. Bishop Ross was advised by the Police that an arrest was imminent. On 10 September 2020 Mr Browne was arrested and charged. On 11 September Bishop Ross suspended him pursuant to Canon 1 Title D part C3 clause 5.1. On 3 October 2020, Browne tendered his resignation.
- 6.20 In my judgment, the actions taken by Bishop Ross after the Dilworth Board reactivated its interest in allegations of offending against Mr Browne were entirely appropriate. He was right to conclude that, without evidence of wrongdoing that had not previously been addressed, there was no basis for

taking action against Mr Browne. Legal advice confirmed his position. Any concern that children may be at risk were addressed. A further five years had elapsed with no concern about Mr Browne's ministry. Even knowing what is known now, I do not think Bishop Ross could or should have responded at any stage in any other way.

7. Recommendations

- 7.1 This report has highlighted the challenges faced by bishops who receive information which touch on the fitness of clergy to hold office. They are required to balance competing interests and to reconcile duties of care owed to office holders on the one hand and the wider church community on the other. With the benefit of hindsight, it can be seen that they did not always get the balance right. Arguably, this outcome could have been avoided by a reference to the Tribunal but that in itself would have required a decision by the Bishop that involved weighing the same competing considerations.
- 7.2 The Church is to be commended, therefore, for recognising that when misconduct is in issue, decisions of this nature are unfairly burdensome to bishops and have adverse consequences for the Church. As a result of amendments to Title D which took effect in January 2020, bishops no longer have a discretion to take no action on a complaint. They are referred instead to the Registrar of the Ministry Standards Commission.²⁴
- 7.3 The Ministry Standards Commission relieves bishops of their former burden when in receipt of complaints and obviates the need for any recommendations in that regard. It will not, however, relieve bishops of their ultimate pastoral and disciplinary responsibility.²⁵ They will continue to be called upon to make difficult judgments on other matters affecting the rights and interests of clergy for whom they are responsible. A decision on the disclosure of personal information held is an example. Another is the decision to issue Letters Testimonial. Such decisions invariably turn on their own particular circumstances. There is no single right way to approach them. However, the following observations arising out of the issues traversed in this report may be of assistance.
- 7.4 First, is the importance of using available resources. In the Chancellor and/or legal adviser, a bishop has an immediately available source of legal expertise. Bishop Ross' decision-making was underpinned by consultations with the Chancellor.
- 7.5 Next, is for the Church to ensure that supplementary resources and training are made available to bishops tasked with undertaking supervisory responsibilities

²⁴ Canon III Title D Part C.

²⁵ Canon III Part A clause 1.

for which they have had no specific training. They should be encouraged to acquire relevant expertise if appropriate by undertaking courses of study and/or attendances at conferences and, where necessary, to consult with experts.

- 7.6 Then, there is the importance of maintaining comprehensive and readily accessible records. I was provided with two files of information concerning Mr Browne. One was a file of correspondence and memoranda kept by the Bishops themselves. The other was a personnel file. Neither contained the information every Bishop is required to keep under Canon VI Title D or a record of the deliberations which preceded Mr Browne's appointment as Vicar at Manurewa. It should be possible to find in a single file all information held in relation to a minister.
- 7.7 It is important, too, in my view, that the Church administration maintains a chronological record of complaints received, including those made orally or by telephone. Had a log of incoming calls been routinely kept, it would have been possible to know with certainty whether there had been a complaint by C's mother's former partner, when it was made and to whom.
- 7.8 Then there is the issue of confidentiality. Both Bishops called upon to address concerns regarding misconduct by Mr Browne were exercised by confidentiality concerns. A right to confidentiality is easily claimed but should not be lightly accepted. It should be justified and established. The information disclosed to the Church by Dilworth had no conditions of confidentiality attached. The Church was free to use the information as it saw fit and should not have allowed confidentiality concerns to interfere with the discharge of its overriding duty to keep its parishioners safe.
- 7.9 A related issue is whether misconduct constitutes criminal offending. It was a key issue for the Dilworth Board and the legal opinion it received saved Mr Browne from summary dismissal. It is likely also to have extended Mr Browne's career with the Church. Events would have unfolded very differently if the Police had become involved. It is, however, worth emphasising that the question of whether behaviour amounts to criminal offending is not always clear and can involve a finely balanced judgment. It should not be seen as setting some sort of threshold or standard. The Church should judge the actions of its priests by its own standards, fitness for office being one of the overriding considerations.

This is reflected in the definition of misconduct which must continue to condition the response of the Church to questionable behaviour by office holders.

28 April 2022
Rodney Hansen CNZM QC
Shortland Chambers
Auckland

Appendix 1

Confidential and Legally Privileged

Anglican Diocese of Auckland

Terms of Reference for Inquiry by the Honourable Rodney Hansen
into matters relating to Rev'd Ross Browne

February 2022

1 Background

- 1.1 Ross Browne was chaplain at Dilworth School between 1980 and 2006.
- 1.2 Ross Browne was appointed priest in charge of the parish of Bombay-Pokeno in June 2007 and continued in that role until mid-2008 when he was appointed Vicar of the parish of Manurewa.
- 1.3 Ross Browne pleaded guilty and was convicted of 13 charges of doing an indecent act on boys, one charge of sexual violation and one of indecent assault between the years of 1987 and 2002. He also admitted to having objectionable publications.
- 1.4 On 2 December 2021 Ross Browne was sentenced in the High Court to six and a half years imprisonment.
- 1.5 The Bishop of Auckland wishes the Honourable Rodney Hansen QC to conduct an independent inquiry into the circumstances and handling of Ross Browne's ministry appointments following his resignation from Dilworth School, in particular as Vicar of the Parish of Manurewa, and the decisions made once the Bishop of Auckland became aware in the period prior to his arrest of potentially criminal conduct by Ross Browne while he was Chaplain at Dilworth School.

2 Investigator

- 2.1 The Investigation will be carried out by the Honourable Rodney Hansen QC ("the Investigator") as an independent investigator.
- 2.2 The Investigator is to be provided access to all relevant information.

3 Scope of Investigation

- 3.1 The Investigator will make findings of fact with respect to the following questions or issues:
 - a) What was known to the former Bishop of Auckland about the circumstances of Rev'd Ross Browne's resignation from Dilworth School in 2006.
 - b) Were the actions taken by the former Bishop of Auckland when Rev'd Ross Browne resigned appropriate, given what was known at that time?
 - c) What decision-making processes were followed in appointing Rev'd Ross Browne as priest in charge of the parish of Bombay-Pokeno in June 2007 and as Vicar of the parish of Manurewa in mid-2008?
 - d) Were the decision-making processes and the decisions appropriate given what was known by the former Bishop of Auckland about Rev'd Ross Browne at the time the decisions were made?

- e) Were the decisions made once the current Bishop of Auckland became aware of potential criminal offending by Rev'd Ross Browne during his time as Chaplain at Dilworth School and in the period leading up to his arrest appropriate in the circumstances?
- 3.2 The Investigator will make any recommendations for improvements in policies and processes to ensure that the response to any similar event in the future is appropriate and achieves an appropriate balance of the duties, entitlements and interests of the Church, the clergy person and victims of the clergy person's actions.

4 Diocesan Support

- 4.1 Sonia Maugham, the Diocesan Manager, will provide assistance to the Investigator such as locating any relevant documentation and setting up interviews as requested by the Investigator.

5 Approach

- 5.1 The Investigation will be conducted through interviews with individuals who have relevant knowledge and examination of documentation.
- 5.2 The Investigator will interview the following individuals who have been identified as potentially being able to assess the Investigator:
- a) Archbishop John Paterson (Bishop of Auckland at the time of Rev'd Ross Browne's offending as Chaplain and appointment as Vicar of Manurewa);
 - b) Donald Maclean, (principal of Dilworth School at the relevant time);
 - c) Bishop Ross Bay, Bishop of Auckland 2010 - present;
 - d) Bruce Gray QC, former Chancellor of the Diocese of Auckland.
- 5.3 If the Investigator identifies any other person whom he believes can assist the Investigation (including any person suggested by the interviewees named above), he will seek approval from the Diocesan Manager before interviewing that person.
- 5.4 It is anticipated that interviews will be conducted in person with appropriate Covid-19 protections.

6 Process

- 6.1 The following provides guidance as to the process to be adopted in this Investigation:
- a) Each interview will be recorded and a written transcript will be produced following the interview.
 - b) All interviewees will be reminded to treat the Investigation and what they have said as strictly confidential.
 - c) The Investigator will provide each interviewee with their transcript within a reasonable period of time (as determined by the Investigator).
 - d) Procedural fairness will be observed throughout the Investigation, based on the principles of natural justice.
 - e) Interviewees may be accompanied by a support person or legal advisor if they wish.

7 Timing

- 7.1 Interviews are expected to take place in the week beginning 22 February 2022. Should it be necessary for any reason for interviews to take place after the week beginning 22 February 2022, they will take place as soon as practicable thereafter.
- 7.2 The Investigator will provide a draft report to the individuals interviewed and to the Diocesan Manager by 31 March 2022.
- 7.3 The individuals interviewed, the Diocese, and any person in respect of whom there is adverse comment in the draft report will provide their comments by 14 April 2022.
- 7.4 The Investigator will provide a final report to the Diocesan Manager.

8 Role of Investigator

- 8.1 The Investigator is to follow these Terms of Reference. If the Investigator requires clarity on the role, the Investigator should contact the Diocesan Manager.
- 8.2 The information obtained by the Investigator will be used to make factual findings and recommendations to Diocesan Council as to any learnings and improvements that can be made to Diocesan processes.

9 Confidentiality and Legal Privilege

- 9.1 The information gathered in this process and the draft report (including attachments and any supplementary or final reports) are being prepared by the Honourable Rodney Hansen as Investigator instructed by the Diocese and will be protected by solicitor-client privilege. The report is intended to be confidential and for the purpose of the Honourable Rodney Hansen providing findings and recommendations to the Diocese in relation to the matters specified above. The report should not be copied to any person without the consent of Bishop Ross Bay.

- 9.2 All of the individuals interviewed during this investigation must keep the issues discussed during their interview strictly confidential and must not discuss the investigation or their interview with each other, or any other person (other than their support person, legal representative or advocate, if any). Each interviewee will be told this at the outset of their interview process.
- 9.3 Any information provided to the Investigator will be provided on the basis that it may be disclosed by the Investigator to any other person involved in the investigation. The Investigator will only disclose information provided to him to other persons where that is necessary for the purposes of conducting the investigation in accordance with the principles of natural justice.
- 9.4 The Diocese does not waive legal privilege in any document provided to the Investigator for the purposes of this Inquiry.
- 9.5 Notwithstanding clauses 9.1-9.4, the Bishop of Auckland may publicly release excerpts from, or a summary of, the report if he considers appropriate.