

PRO 022



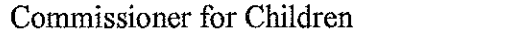



# Ministerial Inquiry into the Peter Ellis Case

Rt Hon Sir Thomas Eichelbaum

31 Aug 2000

MEMORANDUM for:

31 August 2000

  
  
 Commissioner for Children  
  
  
  




1. This is to inform you of progress.
2. Two factors have delayed the Inquiry. First, finalising the arrangements for representation of the parents of the children took much longer than expected. Immediately the arrangements were finalised, I wrote to all parties for submissions, but this was not until 10 May 2000, 2 months after my appointment.
3. Second, it proved longer and more difficult than anticipated to check out, appoint and make the arrangements with the International Experts, as required by the Terms of Reference. Despite constant attention, it was only possible to engage the second expert this week.
4. The experts appointed are Professor Graeme Davies, University of Leicester, UK, and Dr Louise Sas, of London, Ontario, Canada. Their projected reporting dates are November 2000/early January 2001.
5. My own work is well advanced, but in view of timetable for the experts' reports it was inevitable that I had to request the Minister an extension of time for completing my Report. The Minister has agreed to extend the time to 28 February 2001.

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PRO 02

# Ministerial Inquiry into the Peter Ellis Case

Rt Hon Sir Thomas Eichelbaum

MEMORANDUM for:

9 October 000

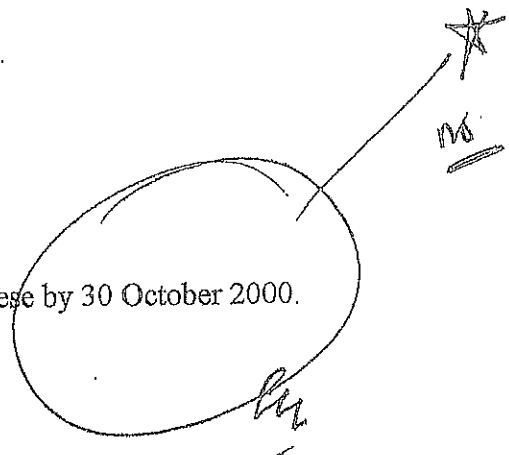
  
  
 Commissioner for Children  
  
  




Interpretation of Terms of Reference

Attached is a draft dealing with 2 issues of interpretation.

If you wish to make any comments please let me have these by 30 October 2000.



## DRAFT

### 3.1 The Terms of Reference

(set out)

### 3.2 Interpretation

I need to deal with two issues of interpretation. The Crown Law Office filed a Submission on behalf of the Solicitor-General, the New Zealand Police, and the Department of Child, Youth and Family Services. In that Submission Crown Counsel stated that he understood the Inquiry was not concerned with a further examination of the interviews themselves, but rather, was to consider the interviews in the light of “new understandings” about interviewing children in a mass allegation context. The Submission stated there was no such new understanding, but nevertheless was prepared to go on and address “some of these general issues” which had already been canvassed at the appeals. In view of this last concession it may not be a significant matter, but my understanding of the Terms is not as limited as that proposed by the Crown. Paragraph 1(b) is clear and unqualified: it requires me to assess whether the interviews were conducted in accordance with best practice “as now understood”. This does not seem to preclude from consideration any deficiency I may find, merely because it was already recognised as not being best practice in 1992. I could understand a basis for the limitation the Crown has proposed: if the deficiency was one already known in 1992, it was available to be dealt with by the trial and appeal procedures of the time. However, that is not how the Terms have been framed, and the introductory paragraph implies the contrary, in saying that I am to inquire into “matters which may be relevant to the reliability of evidence given by the children”. I also note that at a later stage (55) the Crown Submission frames the task of the Inquiry, in this respect, in different terms, which accord with my own view as just expressed.

The second matter relates to para (1)(c) of the Terms of Reference. It requires me to identify the nature and extent of any risks arising which might affect the assessment of the reliability of the children’s evidence, in the event that I conclude that *the interviews* were not conducted in accordance with best practice. Later, the paragraph states that I am

not required to attribute or apportion blame to particular individuals who undertook *the interviews*. The italicised words represent the only occasions in the Terms where the inquiry is limited to the interviews, as distinct from the investigation as a whole. The opening paragraph refers generally to “matters” relevant to the assessment of the reliability of the evidence of the children; and sub-paragraphs (a)(i) and (b) of paragraph (1) each refer to both investigating and interviewing, as does para (2)(a), requiring reference of issues to internationally recognised experts. I consider that the omission of reference to “investigation” in para (1)(c) was accidental, a conclusion strengthened by the fact that if the contrary were the case, the effect of the Terms would be to direct me to inquire into the investigation, but without giving any direction as to what advice was required, should I conclude that the investigation fell short of best practice. I have therefore proceeded on the basis that para (1)(c) should be approached as if, in both places, the reference to “interviews” was to “interviews and investigations”.

# Ministerial Inquiry into the Peter Ellis Case

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Rt Hon Sir Thomas Eichelbaum

17 JAN 2001

16 January 2001

## MEMORANDUM for:

→ [REDACTED]  
[REDACTED]  
Commissioner for Children  
[REDACTED]  
[REDACTED]  
[REDACTED]

Original signed  
returned by Cowie  
on 17/1/00

## Experts' Reports

1. The attached sealed envelope contains the reports of the 2 international experts.
2. If you wish to read the reports at this stage, before you open the envelope you are required to sign and return this letter. An extra copy is enclosed.
3. By signing this letter you and your client/s acknowledge that the reports and contents are to be treated as confidential until such time as the Report of the Inquiry is publicly released.
4. (For legal representatives): If you wish to forward the reports to your client/s you must send him/them a copy of this letter, together with a copy of the reports in a sealed envelope, and inform him/them that he/they must sign and return the letter before opening the envelope.
5. Apart from any copy/ies for your client/s, you/your client/s agree that you/your clients will not copy the reports pending public release.
6. If you/your client/s do not wish to receive the reports on these terms, please return the envelope unopened.
7. The experts reserve the right to make typographic or other changes of detail to the reports.
8. As stated in my memorandum of 8 December 2000, seeing the Reports at this stage is an opportunity to correct any factual errors, or respond to any comments or conclusions that reflect unfairly or incorrectly on any persons concerned. I am

