



Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019 Order 2019

Elizabeth the Second, by the Grace of God Queen of New Zealand and her Other Realms and Territories, Head of the Commonwealth, Defender of the Faith:

To—

The Honourable Sir William Gillow Gibbes Austen Young, KNZM:

Greeting!

We, by this Our Commission, establish the Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019.

This Order in Council constituting Our Commission is made—

- (a) under the authority of the Letters Patent of Her Majesty Queen Elizabeth the Second constituting the office of Governor-General of New Zealand, dated 28 October 1983;* and
- (b) under the authority of section 6 of the Inquiries Act 2013 and subject to the provisions of that Act; and
- (c) on the advice and with the consent of the Executive Council.

*SR 1983/225

Order

1 Title

This order is the Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019 Order 2019.

2 Commencement

This order comes into force on the day after the date of its notification in the *Gazette*.

3 Interpretation

In this order,—

inquiry means the Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019 established by this order

relevant State sector agencies means the New Zealand Security Intelligence Service, the Government Communications Security Bureau, the New Zealand Police, the New Zealand Customs Service, Immigration New Zealand, and any other agency whose functions or conduct, in the inquiry's view, needs to be considered in order to fulfil the inquiry's terms of reference.

4 Royal Commission of Inquiry established

The Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019 is established.

5 Matter of public importance that is subject of inquiry

The matter of public importance that the inquiry is directed to examine is—

- (a) what relevant State sector agencies knew about the activities of the individual who has been charged with offences in relation to the 15 March 2019 attack on the Al-Noor Mosque and the Linwood Islamic Centre in Christchurch, before that attack; and
- (b) what actions (if any) relevant State sector agencies took in light of that knowledge; and
- (c) whether there were any additional measures that relevant State sector agencies could have taken to prevent the attack; and
- (d) what additional measures should be taken by relevant State sector agencies to prevent such attacks in the future.

6 Member of inquiry

The Honourable Sir William Gillow Gibbes Austen Young, KNZM, is appointed the member of the inquiry.

7 Date when inquiry may begin considering evidence

The inquiry may begin considering evidence on 13 May 2019.

8 Terms of reference

The terms of reference for the inquiry are set out in the Schedule.

9 Relevant department

For the purposes of section 4 of the Inquiries Act 2013, the Department of Internal Affairs is the **relevant department** for the inquiry and responsible for administrative matters relating to the inquiry.

Schedule

Terms of reference

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1 Background

- (1) On 15 March 2019, 50 people were killed and over 50 others injured, some seriously, when an individual attacked the Al-Noor Mosque and the Linwood Islamic Centre in Christchurch while worshippers were at prayer. An individual has been charged with offences in relation to the attack and awaits trial.
- (2) The Government has announced that a Royal Commission will be appointed to inquire into what relevant State sector agencies knew about the individual's activities before the attack, what, if anything, they did with that information, what measures agencies could have taken to prevent the attack, and what measures agencies should take to prevent such attacks in the future.
- (3) The inquiry needs to report on these matters urgently so that the Government has an independent and authoritative report on these matters to reassure the New Zealand public, including its Muslim communities, that all appropriate measures are being taken by relevant State sector agencies to ensure their safety and protection.
- (4) The Government expects the inquiry to connect with New Zealand's Muslim communities on these matters.
- (5) The Government has received assurances and expects that all relevant State sector agencies, officers, and employees will do their utmost to co-operate with the inquiry given the importance of the issues it is charged with examining and reporting on.

2 Purpose of inquiry and matter of public importance

The matter of public importance that the inquiry is directed to examine is—

- (a) what relevant State sector agencies knew about the activities of the individual who has been charged with offences in relation to the 15 March 2019 attack on the Al-Noor Mosque and the Linwood Islamic Centre in Christchurch, before that attack; and
- (b) what actions (if any) relevant State sector agencies took in light of that knowledge; and
- (c) whether there were any additional measures that relevant State sector agencies could have taken to prevent the attack; and
- (d) what additional measures should be taken by relevant State sector agencies to prevent such attacks in the future.

3 Scope of inquiry

In order to achieve its purpose, the inquiry must inquire into—

- (a) the individual's activities before the attack, including—
 - (i) relevant information from his time in Australia; and
 - (ii) his arrival and residence in New Zealand; and
 - (iii) his travel within New Zealand, and internationally; and
 - (iv) how he obtained a gun licence, weapons, and ammunition; and
 - (v) his use of social media and other online media; and
 - (vi) his connections with others, whether in New Zealand or internationally; and
- (b) what relevant State sector agencies knew about this individual and his activities before the attack, what actions (if any) they took in light of that knowledge, and whether there were any additional measures that the agencies could have taken to prevent the attack; and
- (c) whether there were any impediments to relevant State sector agencies gathering or sharing information relevant to the attack, or acting on such information, including legislative impediments; and
- (d) whether there was any inappropriate concentration of, or priority setting for, counter-terrorism resources by relevant State sector agencies prior to the attack.

4 Matters upon which findings are sought

The inquiry must report its findings on the following matters:

- (a) whether there was any information provided or otherwise available to relevant State sector agencies that could or should have alerted them to the attack and, if such information was provided or otherwise available, how the agencies responded to any such information, and whether that response was appropriate; and
- (b) the interaction amongst relevant State sector agencies, including whether there was any failure in information sharing between the relevant agencies; and
- (c) whether relevant State sector agencies failed to anticipate or plan for the attack due to an inappropriate concentration of counter-terrorism resources or priorities on other terrorism threats; and
- (d) whether any relevant State sector agency failed to meet required standards or was otherwise at fault, whether in whole or in part; and
- (e) any other matters relevant to the purpose of the inquiry, to the extent necessary to provide a complete report.

5 Matters upon which recommendations are sought

- (1) The inquiry must make any recommendations it considers appropriate on the following:

- (a) whether there is any improvement to information gathering, sharing, and analysis practices by relevant State sector agencies that could have prevented the attack, or could prevent such attacks in the future, including, but not limited to, the timeliness, adequacy, effectiveness, and co-ordination of information disclosure, sharing, or matching between relevant State sector agencies; and
 - (b) what changes, if any, should be implemented to improve relevant State sector agency systems, or operational practices, to ensure the prevention of such attacks in the future; and
 - (c) any other matters relevant to the above, to the extent necessary to provide a complete report.
- (2) To avoid doubt, recommendations may concern legislation (but not firearms legislation), policy, rules, standards, or practices relevant to the terms of reference, maintaining consistency with the widely accepted values of a democratic society.

6 Limits to inquiry's scope of power

- (1) In accordance with section 11 of the Inquiries Act 2013, the inquiry has no power to determine the civil, criminal, or disciplinary liability of any person but may, in exercising its powers and performing its duties, make findings of fault or recommendations that further steps be taken to determine liability.
- (2) The inquiry must not inquire into the guilt or innocence of any individual who has been, or may be, charged with offences in relation to the attack.
- (3) The inquiry must not inquire into, determine, or report in an interim or final way on, any of the following matters:
 - (a) amendments to firearms legislation (because the Government is separately pursuing this issue):
 - (b) activity by entities or organisations outside the State sector, such as media platforms:
 - (c) how relevant State sector agencies responded to the attack on 15 March 2019, once it had begun.

7 Inquiry may consider other investigations or reviews

The inquiry may take account of the outcome of any other investigation or review into matters relevant to its terms of reference, but is not bound in any way by the conclusions or recommendations of any such investigation.

8 Inquiry may consult other entities or persons

- (1) The inquiry may consult with other entities or persons, including the Inspector-General of Intelligence and Security, if it considers that consultation will assist it to perform its duties.

- (2) The Government expects that the inquiry will appoint a suitably qualified person or persons to assist the inquiry in its dealings with New Zealand's Muslim communities, and that the inquiry will consult those communities whenever it needs to do so in order to discharge its responsibilities.

9 Conduct of inquiry

In conducting its inquiry, the inquiry is expected to consider evidence of—

- (a) relevant agency officers and employees; and
- (b) other relevant persons, including members of Muslim communities.

10 Principles of inquiry

- (1) Subject to the need to report effectively on the matters set out in these terms of reference, the inquiry is directed to exercise its powers and perform its duties and report in such a way as to minimise the possibility that its processes or its report, or any part of it, is used by any individual or group (including the individual who has been charged with offences in relation to the attack) to promote unlawful activities, or otherwise to damage the public interest.
- (2) The matters the inquiry is charged with investigating directly concern the operational practices of relevant State sector agencies, including intelligence and security agencies, which are and must remain confidential in the public interest in order to ensure public safety, to avoid prejudice to the international relations of the Government of New Zealand and the entrusting of information to the Government of New Zealand on a basis of confidence, and for the maintenance of the law.
- (3) Accordingly, the inquiry must, wherever it considers it necessary to preserve such confidentiality, hold the inquiry, or any part of it, in private. The inquiry must also restrict access to inquiry information (including evidence, submissions, rulings, hearing transcripts, and the identity of witnesses or other persons) where it considers such steps are required—
- (a) in order to—
 - (i) protect the security or defence interests of New Zealand or the international relations of the Government of New Zealand;
 - (ii) protect the confidentiality of information provided to New Zealand on a basis of confidence by any other country or international organisation;
 - (iii) protect the identity of witnesses or other persons;
 - (iv) avoid prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences;
 - (v) ensure that individual fair trial rights are protected;
 - (vi) ensure that current or future criminal, civil, disciplinary, or other proceedings are not prejudiced; or

- (b) for any other reason that the inquiry considers appropriate.
- (4) The inquiry report must not disclose sensitive information (as defined in section 202(1) and (2)(a), (b), or (c) of the Intelligence and Security Act 2017).

11 Reporting

- (1) The inquiry must present its report, including its findings and recommendations, to the Governor-General, in writing, no later than 10 December 2019.
- (2) Having regard to the need to ensure that any steps to ensure public safety are taken without delay, once appointed the inquiry is directed to consider, with all possible urgency, whether it should make interim recommendations to the Governor-General, and, if so, when those interim recommendations might be made, and to present those recommendations to the Governor-General at any time before presenting its final report.
- (3) The inquiry must, before presenting its final report, determine whether there are any matters arising from its inquiry—
 - (a) that it should seek to report to the Intelligence and Security Committee referred to in section 192 of the Intelligence and Security Act 2017; or
 - (b) that are operationally sensitive, including any matter that relates to intelligence collection and production methods, or sources of information, that it should report to the Minister responsible for the intelligence and security agencies, or the Inspector-General of Intelligence and Security, or both; andif so, it should seek to report or report accordingly.

In witness whereof We have caused this Our Commission to be issued and the Seal of New Zealand to be hereunto affixed at Wellington this 8th day of April 2019.

Witness Our Trusty and Well-beloved The Right Honourable Dame Patsy Reddy, Chancellor and Principal Dame Grand Companion of Our New Zealand Order of Merit, Principal Companion of Our Service Order, Governor-General and Commander-in-Chief in and over Our Realm of New Zealand.

Patsy Reddy,
Governor-General.

By Her Excellency's Command,

Jacinda Ardern,
Prime Minister.

Approved in Council,

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 8 April 2019.
This order is administered by the Department of Internal Affairs.