

Hon. Kit Toogood QC

10 January 2020

The Chancellor
University of Canterbury
Te Whare Wānanga o Waitaha
Private Bag 4800
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Tēnā koe Chancellor

Release of findings and recommendations from the Mason Pendrous investigation

On 2 October 2019, the University Council commissioned me to conduct an independent investigation into the delay in discovering the death of Mason Pendrous at the Sonoda Christchurch Campus Village and to report to the Council as soon as was reasonably possible.

It is my privilege to provide with this the completed confidential report and appendices following my investigation into the delay. The Findings (Appendix 3) and Recommendations (Appendix 4) have been prepared on the basis that they will be published. The Report has been written on the understanding that it will be kept confidential to the University, Campus Living Villages, Mason's family, the Minister of Education and the Coroner.

In the report, I acknowledge the life of the young man whose sad death led to my investigation. As I state in my findings, Mason was regarded by those privileged to know him as a very likeable, friendly and helpful person, with a quiet, independent personality and a quirky sense of humour. His loss is deeply felt by his stepfather and father, and other family members. I extend my deepest sympathy to them and to Mason's friends.

Terms of Reference and Confidentiality

The terms of reference directed the principal focus of the investigation and report onto policies, processes and procedures in place in 2019 for student welfare issues at Sonoda.

The confidentiality of the report has been important in enabling me to write frankly about matters directly related to Mason. It is also important to support the orders made by Coroner Johnson prohibiting the publication of certain information relating to Mason, his death and the circumstances surrounding it.

Throughout my investigation, I have respected the coronial inquiry. I have taken into account that, while Coroner Johnson has released her report into the where and when Mason died, and the cause of his death, her inquiry into the circumstances of Mason's death has not yet concluded. I have acknowledged, particularly, that it was no part of my engagement under the Terms of Reference to make findings about, or to speculate on, the circumstances of Mason's death. I was neither authorised to express any view about whether Mason's death was preventable, nor qualified to do so.

I was required throughout my investigation to uphold the principles of natural justice. This has included providing all affected parties the opportunity to comment on my findings and recommendations prior to their completion and release.

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Process

I acknowledge the co-operation by all interested parties in this process, particularly the representatives of UC and CLV and students who were deeply shocked by Mason's death and the circumstances surrounding it.

I appreciate the respect shown for this process, and that the University Council has been patient in allowing me the time to complete what has been a complex investigation.

This concludes my work under the terms of reference. I do not consider it is appropriate for me to comment publicly on the Findings and Recommendations. Of course, I am happy to discuss all matters further with the Council and you if that will assist with any implementation of the recommendations.

I understand that you will release this letter with the documents for publication.

Ngā mihi nui

Hon. Kit Toogood QC

Appendix 3

**CONFIDENTIAL REPORT OF INVESTIGATION ON BEHALF OF
THE UNIVERSITY OF CANTERBURY INTO THE
CIRCUMSTANCES SURROUNDING THE DELAY IN THE
DISCOVERY OF THE DEATH OF MASON DRAKE PENDROUS, A
RESIDENT OF SONODA CHRISTCHURCH CAMPUS**

10 JANUARY 2020

FINDINGS FOR PUBLICATION

Hon. Kit Toogood QC

A. PREFACE

- [1] Late on the evening of the 23rd of September 2019, the body of a 19-year-old University of Canterbury (**the University** or **UC**) student, Mason Drake Pendrous, was found in his room at the Sonoda Christchurch Campus Village (**Sonoda**), an accommodation facility managed by Campus Living Villages NZ Limited (**CLV**) under a contract with the University. It was apparent that Mason had been dead for several weeks.
- [2] On 2 October 2019, I was commissioned by the Chancellor and Council of the University to conduct an independent investigation into the delay in the discovery of Mason's death and to report to the Council as soon as was reasonably possible. CLV supported the University's initiative and agreed to cooperate fully with the investigation process, sharing relevant information.
- [3] Before I begin my discussion of the issues arising from the investigation and the information I obtained in the course of it, I acknowledge the life of the young man whose sad death led to this report. As I record below, Mason was regarded by those privileged to know him as a very likeable, friendly and helpful person, with a quiet, independent personality and a quirky sense of humour. His loss is deeply felt by his stepfather and father, and other family members. I extend my deepest sympathy to them and to Mason's friends.
- [4] It cannot be easy having to cope with the circumstances of Mason's passing, including the consequences of the delay in finding him, while enduring public discussion of the last few months of his life. I very much regret that it has been necessary for me to contribute to that discussion and impinge on their privacy. During the drafting of this report, I provided Mason's stepfather Anthony Holland and Mason's father Steve Pendrous with copies of an extract from an early draft in which I addressed Mason's personality and conduct directly. Through his lawyer, Mr Holland said he did not want there to be any mistaken impression that he agrees with the ambit of what has been inquired into in this investigation. He did not agree that Mason's character and conduct prior to his application for a place in a hall of residence are relevant to the

terms of reference. I have noted these objections, as requested, but I respectfully disagree that the matters to which I have referred are irrelevant. Apart from anything else, respect for Mason's memory requires that his many positive attributes should be recorded.

- [5] I am particularly grateful to the students I interviewed at a time when many of them were still profoundly affected by Mason's death. I was also very conscious that the time they gave willingly to assist me interrupted their preparation for Semester 2 examinations.
- [6] In their dealings with me during the investigation, both UC and CLV acknowledged the tragic circumstances that led to this report and extended their condolences to Mason's family and friends.

Confidentiality

- [7] The University directed in the terms of reference that I should prepare, and provide to the Chancellor and UC Council in this report, a confidential summary of the conduct of the Investigation, the information obtained, and the findings and recommendations but that the findings and recommendations shall be disclosed publicly. It will be for the University to determine to whom the report should be disclosed but, as parties directly affected by the events leading to the report and by the findings and recommendations, and in the interests of natural justice, I have provided Mason's father and stepfather, and CLV, with drafts and with copies of the final report. The confidentiality of the report has been important in enabling me to write frankly about matters directly related to Mason that are intensely personal. I have been very conscious of the limitations imposed by my not having met Mason and his having no opportunity to respond to information obtained from other sources.

B. TERMS OF REFERENCE

[8] The Terms of Reference for the investigation state that:

The aim and scope of the investigation is to establish:

- a. The circumstances surrounding the delay in the discovery of Mason's death.
- b. Whether any concerns about Mason's welfare were raised by any party with UC, CLV, or anyone else.
- c. Whether there was any response to any such concerns.
- d. The policies, processes and procedures in place at UC and CLV to monitor and respond to student welfare issues at Sonoda, and whether those policies were adhered to.
- e. Whether any improvements to those policies, processes and procedures are recommended by the Investigator, and any additional policies, processes or procedures required, and
- f. Any other relevant matter that the Investigator considers necessary.

[9] The terms of reference do not require or invite me to express any view about whether Mason's death might have been avoided if there had been early intervention by UC or CLV. It is important in approaching these findings to understand the clear distinction between that issue, which is a matter on which the Coroner may find it appropriate to make findings, and the questions raised by the delay in the discovery of Mason's death. I have kept the distinction in mind throughout the investigation.

[10] The terms of reference direct the principal focus of the investigation and report onto policies, processes and procedures in place in 2019 for student welfare issues at Sonoda. At all material times up to the discovery of Mason's death, Sonoda was operated as a village providing fully catered residential accommodation for first-year students. Since the investigation was commissioned, however, it has been decided that Sonoda will not be used for first-year accommodation in 2020. That means that any recommendations made under paragraph (e) of the terms of reference might be regarded as redundant if they were predicated on a continuation of first-year accommodation at Sonoda.

[11] The 2020 accommodation offerings, however, include fully catered first-year accommodation at University Hall (533 beds) and Ilam Apartments (up to 106 beds, depending on demand)¹ and self-catered first-year accommodation at Kirkwood Avenue Hall (64 beds, with meal plan options for dining at University Hall). The recommendations, therefore, draw on what was in place and what occurred at Sonoda in 2018 and 2019, but have been drafted with a view to suggesting improvements and additions that might be implemented for first-year accommodation offered by CLV at UC at other villages or halls in 2020 and beyond.

[12] Moreover, by implication, the terms of reference do not require consideration of the student welfare needs of CLV residents who are second-year students or older. Some of the recommendations, however, may be considered by CLV and UC to be useful to inform their decisions about the provision of pastoral care to residents other than first-year students.

[13] The following paragraph headings marked C to G refer to the five matters I was specifically required to address in my report.

C. THE CIRCUMSTANCES SURROUNDING THE DELAY IN THE DISCOVERY OF MASON'S DEATH

Introduction

[13] The obligation to establish the circumstances surrounding the delay in the discovery of Mason's death is an aspect of the aim and scope of my investigation, as defined by the terms of reference, that is similar to the jurisdiction of a coroner under s 57 of the Coroners Act 2006. Coroner Sue Johnson opened an inquiry into Mason's death pursuant to s 57 of the Act. As at the date of my report, she has established, so far as possible, when Mason died, the place of his death and the cause of his death.

[14] It was widely reported at the time the discovery of Mason's death was first made public that he had died eight weeks prior to the discovery of his body.² It is now clear,

¹ At Ilam, all meals will be provided at Ilam Homestead, next door.

² See, for example, https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12275408; <https://www.stuff.co.nz/national/education/116334275/canterbury-student-now-likely-to-have-been-dead-four-weeks-before-discovery>.

however, that Mason was alive on 24 August 2019; he had audio-visual contact with a friend with whom he was playing a wargame over the internet. The Coroner has found that his computer was last used on 26 August. She held that she was satisfied that he died between 26 August 2019 and 10 September 2019.³

[15] On 11 December 2019, Coroner Johnson released her findings on the cause and place of Mason's death. In that determination, the Coroner said:⁴

[26] It is impossible to know when exactly Mason died during the 26 August to 10 September period. It could have been anytime up to 10 September. Given Dr Lawrence's evidence that he cannot exclude infective causes of death, I cannot rule out that before his death Mason was ill in his room.

[16] I acknowledge and respect those reasons and conclusions and regard them as binding on me. But the circumstances that I am required to establish, "surrounding the delay in the discovery of Mason's death",⁵ include identifying if possible both the length and the cause of the delay. Bearing in mind the overarching purpose of benefitting student welfare in the future provision of student accommodation by the University and CLV, I considered the purposes of the investigation would be best served by taking the start of the period identified by the Coroner as the start of the period of delay. That means that the delay to be investigated was one of about four weeks up to 23 September 2019.

[17] On 12 December 2019, Coroner Johnson made permanent orders under s 74 of the Coroners Act prohibiting publication of:

- (a) Mason's academic record;
- (b) all names and any name or particulars likely to lead to the identification of students or former students of the University of Canterbury, and Scots College whose name or personal information is contained in the evidence before her inquiry, and

³ *Re Mason Drake Pendrous, Oral Findings of Coroner S Johnson CSU-2019-CCH-000691*, 5 November 2019 at [13].

⁴ *Re Mason Drake Pendrous, Findings of Coroner Johnson as to Cause of Death and Place of Death CSU-2019-CCH-000691*, 11 December 2019.

⁵ Paragraph (a) of the aim and scope of the investigation in the Terms of Reference.

(c) all submissions made at or for the purposes of her inquiry.

[18] At the same time, the Coroner made interim orders prohibiting publication of:

(a) evidence not already in the public domain pertaining to express or implied assertions of fact relating to Mason's personality or conduct which might suggest a cause of death, or the circumstances of his death, and

(b) all names or particulars likely to lead to the identification of staff of the University of Canterbury and CLV staff and RAs whose name or personal information is contained in the evidence before my inquiry.

[19] Those orders have not prevented me from reporting fully, in the confidential section of my report, on factual matters necessary to support my findings, reasons and recommendations to the University and CLV. But they do restrict the information that can be disclosed in this Appendix of the findings for publication.

[20] At the request of the University, I have provided courtesy copies of the report and its appendices to the Coroner for her information.

About Mason

[21] I considered that, in conducting this investigation, it was important that I should keep in mind throughout that it concerned a young man, only 19 years old. Because I had not had the privilege of knowing him, I needed to find out who he was. It seemed to be necessary that, to understand how it was that no-one at Sonoda noticed that Mason was not around between 26 August 2019 and 23 September 2019, I should ask the people who knew Mason about his personality and behaviour, both prior to his time at Sonoda and after his arrival.

[22] Mason Drake Pendrous was born on 17 March 2000. Mason's mother Michelle died when he was aged 14. Mason had a close relationship with his stepfather Anthony Holland, to whom he referred as "Dad". He maintained close and regular contact with his father Steve Pendrous (whom he also called "Dad"), particularly in recent years, and usually spent a week or so with Steve and his partner during each school holiday.

[23] Mason attended Scots College in Miramar, Wellington from 2014 to 2018, initially as a day boy and then as a boarder for three years from 2016. Information provided by Anthony Holland and young men who were Mason's friends at school indicates that he was an active member of his school community, including being a member of the Scots College rowing squad in 2015 and 2016 and having a leadership role in his school house in 2018. Anthony Holland says Mason was socially active at school, had good friends, and participated in sports such as badminton and shooting. The Common Confidential Reference Form (CCRF) provided to the University by Scots College in support of Mason's application for tertiary accommodation records complimentary observations about Mason's personality and character.

[24] According to former contemporaries of Mason at Scots College who are now UC students, Mason had a quiet, independent personality; he was approachable and friendly with a quirky sense of humour. One described him as "a tall, silent giant". According to one of his close friends, Mason was easy to get on with and good company, but he acknowledges that Mason was often very slow to respond to attempts to engage with him. In his last year or so at school, Mason was known to spend his lunchtimes, and free time after school or in the evening, playing games on his computer. Steve Pendrous says he was aware that Mason spent a lot of time playing computer games when he stayed with Steve during school holidays.

Summary of findings about Mason's life at UC

[24] I make the following relevant findings about Mason Pendrous's life at the University of Canterbury as a resident of the Sonoda Christchurch Campus from 13 February 2019:

- (a) Although Mason was known to be the resident of Room 209 in the Hinoki building at Sonoda Christchurch campus, he was rarely seen to be present in his flat, in the village or on the University campus by other students or village or academic staff after the first few weeks of the academic year. He did not eat meals in the Sonoda dining room located in the Hinoki building, directly below his flat, or in the University hall dining room.

- (b) On 8 May 2019, Mason met two experienced student care staff employed by CLV at his room, when they handed him a new swipe card for his building and flat. He seemed to them to be in good spirits and there were no warning signs in his room or in his appearance that should have alerted them to any need to provide pastoral assistance.
- (c) Between 5 April and 12 May 2019, Mason ignored efforts by University staff to contact him with offers to assist him with his studies or in any other way.
- (d) By the beginning of June 2019, Mason had disengaged completely from his studies and he continued to ignore emails from University staff attempting to assist him.
- (e) Between mid-June 2019 and 26 August 2019, despite apparently living in a room only a few metres away from the rooms of two flatmates, Mason was not seen or heard by his flatmates who assumed that he was absent for most of the period.
- (f) Evidence of Mason's laptop being logged on the University's WIFI system every day between 13 February 2019 and 26 August 2019, and the volume of data that was downloaded to and uploaded from his laptop during that period, establishes that he did not leave the campus, except for making a few trips of a short duration, at any time during that period.
- (g) From early June 2019, Mason confined himself to his room, engaging in high levels of computer activity, particularly during July and August. The times at which Mason's laptop was logged on to the WIFI network indicate that he was usually online overnight until the early hours of the morning, and often until daybreak, and that he would then sleep until the afternoon.
- (h) The start of the four-week period of delay coincided with the two weeks of the mid-semester break from 26 August 2019 to 6 September 2019.

Restructuring and management changes at CLV's Canterbury offices and villages in late 2017 and mid-2019

- [25] In late 2017, a reorganisation of CLV's student care services was undertaken following a change in the UC properties it was contracted to manage; three properties were added to its portfolio under the UC Accommodation "brand". CLV says UC was concerned to ensure that the services being offered by CLV was consistent across all CLV sites, both leased and managed. This led to the creation of a single team structure. CLV says that no staff were displaced, but new roles were created.
- [26] The pre-2018 arrangements meant that the office/reception area in the Keyaki building at Sonoda was open and usually occupied by at least one CLV staff member between 8.30am and 4.30pm on Mondays to Fridays. CLV described these arrangements as "very labour intensive, and a costly customer service solution." In preparing its 2017 proposals for change, CLV said a time study on the nature of enquiries of residents going into the office had identified 70 per cent of the enquiries as having "potential to be redirected through process improvements and automation."
- [27] As a result of the changes made in 2017/2018 the positions of Community Manager (Ilam/Sonoda) and Community Manager (Uni Hall) were abolished and a new position of Community Development Manager (**CDM**) was created. That role was intended to "lead the residential life team with a focus on community development ... to manage the development of a healthy vibrant learning community through programming and engagement, and the delivery of pastoral care, behavioural and incident management." CLV says its intention was to separate the "business" functions (sales, marketing, contracting, facilities management, health and safety) from the delivery of the residential life programmes, and from the pastoral care delivery "so that there was more dedicated delivery of pastoral care services." CLV says the "community team" expanded from 9 to 12 full-time equivalent employees.

Closure of CLV office at Sonoda in 2018

- [28] The restructuring was a matter on which UC was informed and consulted, presumably under the consultation provisions of the Sonoda Agreement and the other contractual documents between UC and CLV. On 21 November 2017, UC said in an email to CLV

that it agreed broadly with the proposed changes to the staffing structure and found it “reassuring” to see that CLV “was splitting community development away from day-to-day functions, as this focus should produce some innovation and provide consistency of delivery.” UC noted that in their discussion with CLV over the proposals, CLV went some way to allay UC’s “concerns around noticing students changing behaviour as the same staff will go to the halls regularly.” I infer from that comment that UC had expressed misgivings about the withdrawal of daytime staff from the village offices/reception areas where regular face-to-face interactions with residents occurred. The change plan suggested that, after the reduction of office hours to four hours per day (in the evenings):

Current levels of customer service will not be compromised, taking into consideration the increased focus on resident engagement, detailed in the Residential Life Services change of focus in this document. This can also be flexible, pending RA hours and the needs of the Village. Clear redirection of customer account enquiries and other such enquiries will ensure high levels of customer service.

- [29] UC said that “shortening” most of the reception times made sense and that it freed up resources for more value-adding activities. UC would not have been able to direct CLV not to make the changes; its powers under the Sonoda Agreement were limited to enforcing the standards prescribed. Its concurrence with CLV’s proposed change was founded on CLV’s assurances that current levels of “customer” [i.e. resident] service would not be compromised and that high levels of customer service would be ensured, and the assumption that “the same staff” would go to the villages regularly.
- [30] I have found, however, that the references by CLV and UC, in their correspondence over the 2017 reorganisation, to a reduction in the office hours at Sonoda and other villages obscured the real impact of the changes. In fact, the office in the Keyaki building at Sonoda was closed during the day until parcel collection (supervised by the Resident Advisers) was available at 5pm. Unless they were doing their rounds, the duty RAs at Sonoda remained on site during the evening until 10pm at reception, in the common room at the Keyaki building, or in the dining area at Hinoki. It is not clear to me that the office at Sonoda has been open at weekends, other than in the evenings.

- [31] Acknowledging that I have had the benefit of looking back on what occurred at Sonoda during 2019, I regard CLV's decision to close the Sonoda office to have been detrimental to the delivery of pastoral care services to the first-year residents accommodated there. The effect of the 2017 changes on the delivery of pastoral care services to the first-year students who took up residence in Sonoda in February 2018 and 2019 was that there has been no regular staff presence at the office in the Keyaki building during weekday working hours or at weekends. Although the managers appointed to the Community Services Manager and Community Services Co-ordinator roles have visited Sonoda as needed on particular occasions, they have had responsibilities for a wide range of pastoral care activities for some 1800 residents of seven CLV villages. Even if it was the case that they would spend most of their time focusing their attention on first-year residents of CLV villages, that would be between 650 and 700 students. It would be wholly unrealistic to expect that they would be visiting each village so frequently as to get to know the individual students sufficiently to be able to monitor their wellbeing. The Community Services Manager resides in a manager's apartment at Sonoda and he is known to residents as being a CLV employee. He was on hand and responded promptly and effectively when Mason was discovered on 23 September. The Community Services Manager has some personal knowledge of the residents he may have been required to meet to address a particular issue, but he acknowledges that he does not know all of the residents.
- [32] Resident Assistants remained stationed at Sonoda village. The effect of the changes was that they provided the only regular, frontline pastoral oversight of the 100 or so first-year residents. The 2019 RA cohort appear to have known most, if not all, of the residents; some better than others. They undertook regular rounds of the buildings in which the residents were accommodated; at organised events, they met the residents who wished to participate; and the two RAs assigned to the two key groups of students occupied rooms in the village. But each key group in 2019 comprised 50 students and the RAs engaged with individual students only to the extent that the student seeks or responds to engagement. That is consistent with CLV's reactive rather than proactive approach to the provision of that aspect of pastoral care.
- [33] The consequence was that any student, like Mason, who chose – as he or she was entitled to choose – not to engage with the RAs or their fellow residents, was not

under any form of observation. Moreover, the RAs are not provided with relevant information about a resident's identification as a student of concern, or the resident's academic performance and engagement with LEARN, their meal attendance, or their engagement with UC's StudentCare services. They are not expected, nor trained, to be involved in ongoing pastoral care once an issue has been escalated to CLV's management and they are not given any follow-up information if a resident is provided with individual care. Their primary role in looking out for a student's welfare is to interact with students who welcome such interaction and to ensure any concerns that come to notice are referred to CLV management or university services.

- [34] The experienced CLV and University managers and staff spoken to in the course of this investigation, particularly those who have engaged directly with students in the hands-on provision of student care, acknowledge overwhelmingly that the regime for pastoral care of students, particularly those in their first year of study, must take account of the relative immaturity of students who have left home for the first time and the reluctance of many to seek help, even when the opportunities for assistance are drawn to their attention.
- [35] The withdrawal of staff from the office at Sonoda meant that a student who was grappling with the consequences of having made a poor course choice, or who was coping with a bereavement or a relationship break-up, or who was suffering from depression, would be required to make the 12-minute walk across to the CLV office at Ilam to speak to someone with whom they had no established relationship. At a superficial level, it may be arguable that such an arrangement meets the assurances given by CLV of having staff available to provide resident support throughout the day or on a 24-hour basis, but it does not reflect a realistic understanding of how the needs of a first-year student in need of pastoral care are best met.
- [36] The benefits of having a full-time and properly qualified staff member based at a first-year village or hall like Sonoda, such as in the role of Village Manager, are:
- (a) The building of rapport between the residents and the manager so that residents feel comfortable talking to the manager about personal issues.

- (b) The immediate availability of the manager to respond to a resident who wants to talk or to seek help or guidance.
- (c) The personal knowledge of the residents that enables the manager to notice changes of mood or personality.
- (d) The availability of a person with direct personal knowledge of the residents to receive, collate and analyse relevant information about residents to enable better identification of possible behavioural or other problems.
- (e) The availability of an employee responsible for obtaining and monitoring information about residents' whereabouts, to the extent at least of knowing whether a resident is absent for an extended period such as at public holiday weekends, during study breaks or between semesters.

[37] Since the 2017 restructuring, and the closure of the office/reception area at Sonoda during the day, there has been no CLV staff member routinely present throughout the day. CLV now acknowledges that having a staff presence at the Sonoda office (or its equivalent) during the day could enhance the service received by residents. It says it is one of the changes that it has been considering making in the wake of the discovery of Mason's death, as a result of its own internal review. I accept that Mason showed no inclination for proactive contact with staff and that it is not reasonable to conclude that an open office would have made any difference to him. But the regular presence on site of a trained employee whose duties included getting to know all of the residents personally, and who was provided with relevant information that might have raised flags about their wellbeing, would likely have led to more frequent interaction with Mason, whether he welcomed it or not.

Underlying issues of privacy and autonomy

[33] CLV says that student experience and wellbeing is a key priority for its operations globally. It recognises that the transition to tertiary education can be both an exciting and a challenging time for students, and it seeks to provide students with the support they need during that transition, while still treating them as adults with freedom and independence. In CLV's view, it is required to "balance the two competing objectives

of ensuring students have the support they need on the one hand and providing them with sufficient space and independence on the other.” It says that, in addition, it must ensure that it meets its obligations to residents to allow them privacy and quiet enjoyment in their rooms in terms of the UC Accommodation Village Rules. As well, it must not cause or permit any unreasonable interruption of a student’s right to hold and quietly enjoy the accommodation, as required by the residential agreement with each student. CLV also refers to its obligations under the Privacy Act. Although it has not identified the statutory obligations that are said to have an impact on these issues, I assume they include Privacy Principle 4(b)(ii) which provides that an agency shall not collect information by means that, in the circumstances of the case, intrude to an unreasonable extent upon the personal affairs of the individual concerned.

[34] CLV’s position is that it has processes and procedures in place regarding welfare checks when concerns are raised about students in its halls. However, those processes and procedures rely on a concern being raised by someone, whether the residents themselves, other students, parents, the University or through observations by its staff. In this case, the concerns raised about Mason were limited to his academic performance and engagement and did not extend specifically to his health and welfare. CLV has not, in the past, actively monitored residents electronically through swipe cards or meal access records. CLV recognises that, in this case, its reliance on concerns being raised about a resident has meant that there was a delay of some weeks in discovering the death of a student on its premises. While it is willing and open to learn from this event, it remains cautious about intruding too far into the freedoms and independence of the young adults that it accommodates and is mindful not to breach its obligations by allowing unreasonable interference with their privacy.

[35] CLV’s view that students are entitled to be treated as adults with rights of privacy and independence appears to be the basis for its policy of not making proactive efforts to monitor or check on student welfare in the absence of a specific reference or trigger. CLV does not consider that a weekly roll call or check-up would be workable in practice. It argues that the residents lead busy lives and cannot be relied upon to attend a room check every week. CLV considers this would be unworkable and lead to dissatisfaction among residents who will likely resent the monitoring involved.

Increasing numbers of students spending increasing amounts of time in their rooms

- [36] A common theme of my discussions with students, UC and CLV staff engaged in the provision of pastoral care, and senior university managers is that increasing numbers of students are spending increasing amounts of their time doing their socialising online from within the privacy of their rooms.
- [37] The prevalence of students not sharing the physical company of their friends or other students, or not engaging face-to-face with their teachers and other university staff, appears, in part at least, to be a reflection of the increasing availability of online tuition. Lectures are commonly streamed online, or recorded and downloaded, meaning a student does not need to attend in person. Research is almost entirely conducted online; assignments are submitted, tests are completed, and examinations sat by students who never have to leave their computer screen.
- [38] Student care managers and practitioners report having to make determined efforts to create and run programmes designed to increase the person-to-person engagement between residents of the same hall or village. They express a degree of frustration at the resistance they encounter when proposing community activities outdoors or in a common room where students will meet in person.
- [39] These phenomena result in a significant decrease in the opportunities for university staff and accommodation providers to observe and engage directly with students in ways that would enable them to build a rapport with a student who may be unconfident, withdrawn or depressed and who may find it difficult to ask for help with personal problems, physical or mental health issues or study-related difficulties.
- [40] Acknowledging that every tertiary student has a right to live their life as they choose, and to be free from undue interference, the way in which pastoral care is provided to first-year tertiary students accommodated on campus requires more than assumptions that students will seek help if and when they need it, and that opportunities will present themselves for others to detect a need for help when there is no request for it. Moreover, while academic disengagement or under-performance may raise a flag about a student being under some form of disability, a student whose academic performance is adequate may nevertheless be physically, emotionally or

mentally unwell. It should not be assumed that such a student will seek help or that an RA, or a friend, will be aware of the need for it.

A proactive approach to the provision of pastoral care is justified

- [41] It is reasonable to assume that the principal (but not necessarily sole) objective of a student's enrolment at university will be the achievement of academic success. Students and parents will consider the extent to which the various accommodation options are likely to provide a supportive environment for successful study. But, for first-year students, an important consideration will be the extent to which the university experience will facilitate the transition from secondary school student to a mature and self-sufficient adult. While it is strictly true, therefore, that even first-year students attending university are adults whose independence and privacy should be respected, they are also only recently school students. Many of them will have chosen, in collaboration with their parents, the environment of a university hall of residence because it will continue to provide a measure of the support formerly available at home. The attraction of a hall of residence is not just the opportunity to live communally with other young people and be freed of catering responsibilities. It is attractive also to have the benefit of oversight and the provision of care by qualified and committed staff who act, at least to a degree, as parent substitutes during a period of transition.
- [42] It is strongly arguable, therefore, that ensuring reasonable access to services that support student learning and their wellbeing involves more than simply responding to a student's request for assistance, sending an email or message containing student care contacts and other information when a student is underperforming academically, or referring the student to available student care services or some other professional adviser when a student's need for assistance becomes obvious through self-harming or other signs of distress.
- [43] Remembering that this review of the provision of student care at the University of Canterbury arose from the sad death of Mason Pendrous, I am wary of setting up what may be an extreme case as an exemplar of when, and in what manner, pro-active intervention may be called for. Mason made choices that isolated himself from other

students and from University and CLV staff; he would not have been alone in making them. But society is disadvantaged if young people are not assisted to make better choices or helped to address and remedy the consequences of poor choices that have been made.

- [44] Moreover, the documents describing the relationships between the University and CLV, students and the University, and students and CLV contain provisions that indicate that a proactive approach to the provision of pastoral care for residents of tertiary halls of residence is called for by best practice standards. CLV acknowledges in its promotional material that providing the form of residential support set out “is more than a matter of having the phone number of a caretaker available, but rather having people available on a 24-hour basis who understand the needs of tertiary students.” As CLV said often in its promotional material for 2019, it offered residents “more than just a room”.

The Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019

- [45] The very recent promulgation of the 2019 Interim Code supports the reasonable inference that the government considers that the providers of education and accommodation to tertiary students should be proactive in meeting their “responsibilities for supporting the wellbeing, personal development and educational achievement of students in their learning environment and student accommodation”.⁶
- [46] In the section of the 2019 Interim Code dealing with pastoral care in tertiary student accommodation, the required outcome is that students “have a positive and supportive residential environment that assists with their learning and wellbeing.”⁷ One of the processes for achieving that outcome is a requirement that providers must have risk monitoring and responsive pastoral care practices.⁸ The required practices include:

⁶ Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019, at [5], definition of “pastoral care”.

⁷ At [18].

⁸ At [21].

- (a) evaluating the specific needs of residents and planning for how these can be reasonably and practicably met and monitored; and
- (b) encouraging residents to disclose health or mental health needs so that the provider can **proactively** offer them support and resources; and
- (c) requesting that residents supply the name and contact details of a nominated person should their wellbeing or behaviour cause concern; and
- (d) having clearly defined processes within the student accommodation for referring and responding to instances of resident behaviours that are a risk to self or others; and
- (e) **having appropriate welfare-checks**, including –
 - (i) developing and implementing a welfare management plan for residents assessed as being at risk, which could include referral to external services; and
 - (ii) **systems to regularly check that residents continue to be active within their student accommodation** and, if a resident is identified as being at risk, developing and implementing a welfare management plan; and
 - (iii) **appropriate arrangements for residents under 18 including for effective communication with the parent or parents regarding wellbeing**; and
 - (iv) information in the house rules advising that **staff members are mandated to enter a resident's room without permission for safety and health reasons**; and
- (f) having co-ordinated information channels across the provider to link emerging concerns about residents' wellbeing or behaviour so that they can be connected quickly to the appropriate student services....

(Emphasis added)

[47] It is clear from my discussions with UC and CLV senior managers that there is a common recognition that the contractual arrangements between them for the provision of accommodation to students, particularly those in their first year of study, require extensive revision in the light of the current offerings and contemporary circumstances. The requirements of the 2019 Interim Code will need to feature in that revision.

Acting on information about academic engagement and results

- [48] The University accepts that it has the principal responsibility for encouraging students to perform to the best of their abilities and it monitors the academic engagement of its students and communicates with them with that in mind. A student, however, is entitled not to accept advice about contacting relevant sources of help or, knowing they were not doing well, to decide not to open an email from the University they might expect to include such advice.
- [49] It is generally accepted that poor academic engagement and performance may be markers of a student welfare issue. CLV and the other accommodation providers at the University co-operate in this regard, by receiving information about their residents from UC (with the consent of the students) and following up by making personal contact through emails and face-to-face meetings where appropriate. Once contact is made, CLV will refer residents to such counselling or other support services provided by UC or other agencies as may be relevant.
- [50] In the confidential section of the report, I have addressed at some length actions taken by UC and CLV respectively regarding Mason's academic performance. My conclusions are summarised below.

Access to residents' rooms – room checks

- [51] CLV's protocol for entry into a resident's room by an authorised person where consent has not been given or is not presumed⁹ requires the giving of 24-hours' notice and a measured entry process involving several door-knocks. The RAs have no ability to enter a student's room without consent and must engage a CLV staff member if a health and safety concern arises, or some other good reason for access exists. The protocols adopted by CLV at Sonoda and other properties on the UC campus reflect the provisions of the New Zealand Tertiary Students Accommodation Code which provide that house rules, including those which govern the right of entry into a student's room, must reflect the spirit of the Residential Tenancies Act except where

⁹ Consent is presumed to enable, for example, the carrying out of requested maintenance.

it is impracticable to do so. CLV's policy is respectful of the right of adult students to quiet enjoyment of their rooms.

[52] Some of the RAs and University or CLV managers who have experienced the arrangements for access to students' rooms at other halls of residence, such as at the University of Otago, contrast the position in properties managed by CLV with those at the other institutions. I was told, and it was confirmed in the case of two of the independent halls of residence at UC, that it was common practice for cleaners to enter each student's room weekly, or sometimes daily, to empty rubbish bins and weekly to vacuum clean the room. The cleaners are entitled to enter a student's room without express consent, for cleaning purposes, after giving an appropriate warning.

[53] The pastoral care advantage of such licence, beyond cleanliness, is that the cleaners can make observations about the welfare of the occupants either by seeing the resident in person or by making observations about the state of the room. RAs and managers say that frequently a cleaner's informal observation will lead to a follow up visit which can reveal a student in difficulty because of illness, excessive alcohol consumption or the consumption of illicit drugs, or mental health issues. It is probable that a regime of that kind would have resulted in the earlier discovery of Mason's death or any illness if that were the case.

[54] The cleaners at CLV-operated villages do not clean students' rooms. CLV's view is that learning to keep one's room clean is the development of a life skill that young adults should be encouraged to adopt. I understand that position. I am also mindful that what might seem like a simple fix may not be as easily implemented as might appear to be the case at first glance:

(a) Introducing a cleaning service for residents' rooms (even if it was confined to the emptying of a rubbish bin) would add a cost that would inevitably be passed on to residents.

(b) Not all cleaning staff are full-time employees and there is no guarantee that the same cleaner would routinely empty the bins of the same residents each week, or however frequently it was done.

- (c) To be most effective, the cleaning staff would have to be selected because of their particular personalities and capabilities, and they would need training.
- (d) Not all cleaners would agree to taking on a responsibility for engaging in even a modest level of pastoral care.

[55] On the other hand, emptying rubbish tins from residents' rooms would occupy only a brief amount of time to a cleaner's activities if done in conjunction with a regular clean of the common areas of a flat. And student antagonism to the practice would be likely to diminish once it had become routine and part of the culture of the Village.

[56] Even if there were justifiable impediments to the introduction of regular checks by cleaners, the RAs are trained to notice "red flags" or warning signs and could be authorised to carry out brief room checks from time to time during their rounds. The frequency of the checks would need to accommodate one of their purposes, being the detection of a student suffering from illness.

RA rounds

[57] A change to the CLV welfare check policy to require RAs to have face-to-face contact with every member of their key group, say once a fortnight, would mean that residents in self-imposed isolation from the village community would at least be required to have that level of engagement. A trained RA would then have an opportunity to make a quick appraisal of wellbeing.

Knowledge of a resident's whereabouts – Rule 50 of the Village Rules

[58] Rule 50 of the CLV Village Rules requests a resident to notify CLV if they expect to be absent from their room for more than 48 hours, to leave an emergency contact number and to inform CLV if they are detained away from the village for any reason. It is a reasonable provision, if for no other reason than to assist CLV to identify as far as possible which residents it may expect to locate in the village in the event of an emergency such as a fire or earthquake. The rule was only loosely observed at Sonoda. The RAs were requested, in proximity to each study break or holiday weekend, to ask the residents in their key groups to notify them by electronic means such as Facebook Messenger of their intentions to be away or to remain in the village. The RAs reported

to me that not all students comply with the request and there is no follow-up if a resident does not provide the information.

[59] Mason did not provide any such information. CLV did not organise any room inspections at Sonoda during the mid-semester break that began on 26 August 2019. That combination of factors meant that CLV did not know whether Mason was expected to be residing in, or absent from, his room between 24 August and 6 September 2019, and had no plans to find out.

[60] I do not accept that the likelihood that some students will not comply with a more rigorous regime for obtaining whereabouts information is a reason not to have one. A village manager stationed at Sonoda could have had the responsibility for checking on students like him from to time during the break.

Findings as to the circumstances of the delay in the discovery of Mason's death

[61] I am mindful that it is no part of my engagement under the Terms of Reference to make findings about, or to speculate on, the circumstances of Mason's death. I am neither authorised nor qualified to express any view about whether Mason's death was preventable. But I am required to establish the "circumstances surrounding the delay in the discovery of Mason's death".

[62] I make the following findings:

(a) The principal reason for the delay in the discovery of Mason's death is that his apparent absence from his room during the period from 26 August 2019 to 23 September 2019 was not noticed by any fellow Sonoda resident, or by CLV staff. Factors contributing to this circumstance were these –

(i) The closure of the CLV office at Sonoda from the beginning of 2018. That move was not opposed by UC, based on its understanding that an appropriate level of pastoral care would be maintained. If a CLV staff member had been present at the Sonoda village office during daylight hours on weekdays, whose duties included getting to know the residents and having regular face-to-face contact with each of them (whether or not it was welcomed by the residents), Mason's apparent absence would

more likely have been noticed and his death may have been discovered earlier.

- (ii) The absence of regular “without cause” room checks. The arrangements between UC and CLV was consistent with the TSA Code and did not require CLV to conduct such checks, but that position should be re-assessed. At other tertiary student accommodation, such room checks are conducted by cleaners or RA’s. A practice of conducting regular “without cause” room checks, with the consent of residents and on adequate notice, may have resulted in the earlier discovery of Mason’s death.
 - (iii) Mason’s choice to stay in his room for extreme periods and not to mix with other residents. That choice isolated him from the people living around him, to such an extent that he was believed by those who lived closest to him to have been away from his room or Sonoda.
- (b) A policy of requiring RAs to have face-to-face contact with every resident in their key group at least once each fortnight may have resulted in the earlier discovery of Mason’s death.
 - (c) In August 2019, CLV failed to follow up information given to its senior manager at UC about academic issues related to CLV residents (including Mason) during Semester 1 that it had received at the end of July. It did not make any attempt to contact Mason about those matters until 18 September 2019. As well, CLV did not follow up information about his lack of engagement with the LEARN learning management system it was given on 7 August 2019. Such follow-ups would be likely to have led to a face-to-face contact with Mason prior to the commencement of the mid-semester break on 26 August 2019.
 - (d) Rule 50 of the Village Rules requests a resident to notify CLV if they expect to be absent from their room for more than 48 hours, to leave an emergency contact number and to inform CLV if they are detained away from the village for any reason. The rule was only loosely observed at Sonoda. The RAs were requested, in proximity to each study break or holiday weekend, to ask the

residents in their key groups to notify them by electronic means (such as Facebook Messenger) of their intentions to be away or to remain in the village. Not all students comply with the request and there is no follow-up if a resident does not provide the information. Mason did not provide any such information. CLV did not organise any room inspections at Sonoda during the mid-semester break that began on 26 August 2019. That combination of factors meant that CLV did not know whether Mason was expected to be residing in, or absent from, his room between 24 August and 6 September 2019, and had no plans to find out.

D. WERE ANY CONCERNS ABOUT MASON'S WELFARE RAISED BY ANY PARTY WITH UC, CLV, OR ANYONE ELSE?

[63] Neither Mason nor any other person raised concerns about his welfare with UC or CLV at any time prior to the date his body was discovered.

E. WAS THERE ANY RESPONSE TO ANY SUCH CONCERNS?

[64] No answer required

F. THE POLICIES, PROCESSES AND PROCEDURES IN PLACE AT UC AND CLV TO MONITOR AND RESPOND TO STUDENT WELFARE ISSUES AT SONODA, AND WHETHER THOSE POLICIES WERE ADHERED TO

[65] The policies, processes and procedures in place at UC and CLV related to student welfare issues at Sonoda are contained in several documents, including:

The Education Act 1989

The New Zealand Code of Practice for Tertiary Student Accommodation 2004

The Sonoda Christchurch Campus Student Accommodation Agreement 2006

The Sonoda Christchurch Campus Variation Deed – Student Accommodation Agreement 2007

The CLV Resident Agreements between CLV and residents of its villages

The UC Accommodation Village Rules

The UC Accommodation Resident Handbook/Survival Guide

Various ad hoc arrangements between UC and CLV for the implementation of the policies and obligations arising under the above documents

- [66] The policies, processes and procedures are described and discussed at length in the confidential section of the report. I have found that some of the provisions in the Student Accommodation Agreement 2006 and the Variation Deed 2007 are out of date and that they do not match contemporary arrangements. Ad hoc arrangements made to take account of changing circumstances should be incorporated into the revised agreements. As well, the agreements will need to be reviewed in the light of the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019, which came into force on 1 January 2020.
- [67] In August 2019, CLV failed to follow up information given to its senior manager at UC about academic issues related to CLV residents (including Mason) during Semester 1 that it had received at the end of July. It did not make any attempt to contact Mason about those matters until 18 September 2019. As well, CLV did not follow up information about his lack of engagement with the LEARN learning management system it was given on 7 August 2019.
- [68] The arrangements for UC to provide information about academic engagement to CLV, and for CLV to follow up such information by engagement with its residents, did not contain express times for those actions. Nevertheless, the accepted purposes for which the information was provided and acted upon required that UC and CLV should act promptly and that had been the practice. CLV's failure to follow up the LEARN log-in information and the information about student grades provided to it in late July and early August was inconsistent with the accepted practice.
- [69] The failure of CLV to act on the information it received was contributed to by:
- (a) CLV's failure to remedy a staff shortage arising from illness, injury and a staff member being absent on parental leave; and

(b) CLV having not made an appointment, until the middle of August 2019, to a key role (that became vacant in June 2019) for the provision of pastoral care to the residents of CLV's villages at UC.

G. WHETHER ANY IMPROVEMENTS TO THE POLICIES, PROCESSES AND PROCEDURES IN PLACE AT UC AND CLV TO MONITOR AND RESPOND TO STUDENT WELFARE ISSUES AT SONODA ARE RECOMMENDED, AND ANY ADDITIONAL POLICIES, PROCESSES OR PROCEDURES REQUIRED

[70] Recommendations for improvement and additions to the policies, processes and procedures are attached as Appendix 4.

Appendix 4

**CONFIDENTIAL REPORT OF INVESTIGATION ON BEHALF OF
THE UNIVERSITY OF CANTERBURY INTO THE
CIRCUMSTANCES SURROUNDING THE DELAY IN THE
DISCOVERY OF THE DEATH OF MASON DRAKE PENDROUS, A
RESIDENT OF SONODA CHRISTCHURCH CAMPUS**

10 JANUARY 2020

RECOMMENDATIONS FOR PUBLICATION

Hon. Kit Toogood QC

[The Sonoda Christchurch Campus is not being offered as accommodation for first-year students. These recommendations have been drafted with the intention that they should be applied to any CLV village at the University of Canterbury offering accommodation predominantly to first-year students.]

1 **UC and CLV** should review and update:

- (a) The Management Structure provisions of the Sonoda Christchurch Campus Student Accommodation Agreement Schedule 1, Operational Standards. Particular attention should be paid to reaching agreement on the minimum number of qualified residential staff members (not including RAs and staff primarily engaged in the delivery of residential programmes, however defined) required to maintain “the highest level of service to residents” as required by the Operational Standards.
- (b) Other provisions of the Sonoda Agreement and other relevant contractual documents to accord with current arrangements, any new arrangements implemented following these recommendations, and the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 (the **Interim Code**), which came into force on 1 January 2020.
- (c) The overall objectives of the Sonoda Christchurch Campus Student Accommodation Agreement (Clause 2.1) so that it expressly recognises the provision of pastoral care to residents and otherwise accords with the spirit and intent of the Interim Code.

2 **UC and CLV** should agree that Villages accommodating first-year students should have a suitably trained Village Manager (not an RA) onsite during the day each weekday. The hours of attendance should be set by the Village Manager in consultation with UC. A trained manager or staff member should also be on site for not fewer than four daylight hours during each Saturday and Sunday. The Village Manager should be assigned to the Village for the academic year so that residents get to know them and vice-versa. Either the Village Manager or another trained CLV manager or staff member should live on site.

The Village Manager's duties should include -

- (a) engaging with each student on a regular (not less than fortnightly) but informal basis to monitor their wellbeing;
- (b) receiving, collating and monitoring resident information uploaded to StarRez, including information about –
 - students of concern
 - meal data
 - LEARN log-ins
 - academic engagement and results

and other information received from UC about the resident's wellbeing.

Consideration should be given to whether the Village Manager's duties may involve undertaking other responsibilities not directly related to the Village, and whether they may also be the manager of another CLV village, provided that their other responsibilities are not such as to impede the effective carrying out of their duties for any village.

3. **UC and CLV** should review CLV's Standard Operating Procedure for Welfare Checks with a view to amending it to include and implement a system of regular welfare checks for each resident's room without cause, as frequently as may be practical and effective, by staff suitably trained to look for signs of illness, distress, excessive alcohol consumption or other warning "flags". The review should consider the use of cleaning staff and/or RAs for this purpose. The SOP for "without cause" welfare checks should be explained in promotional and all contractual material provided to prospective residents. Although the express consent of each resident to permit "without cause" welfare checks should be obtained at the time the resident accepts an offer of accommodation, residents should not be permitted to opt out of the regime. "Without cause" checks should be made on not less than 24-hours' notice and could be subject to a pre-determined rotation.

4. **CLV** should consider the imposition and enforcement of a requirement for regular (not less than fortnightly) face-to-face contact between RAs and each member of their key groups.
5. **UC and CLV** should consider the imposition and enforcement of a requirement for residents to notify the Village Manager –
 - (a) of any planned absence from the Village for a lengthy period (to be defined), and
 - (b) of planned departure and return dates for mid-semester and mid-year breaks.
6. **UC and CLV** should review the existing protocols for the use of academic data as one indicator of the need for a welfare check.

In particular, the review should:

- (a) Consider whether it is necessary or desirable for UC to provide CLV with the grades of all CLV residents or whether CLV should be given only the grades of residents that are at or below an agreed level (such as 1.0 grade point average).
- (b) Address the frequency of the reporting of LEARN log-in data to CLV; the periods to be reported on; the residents whose failure to log in for a continuous period of seven days or more should be reported; and the time within which an informal follow-up with the resident should be undertaken.
- (c) Consider–
 - (i) A structured protocol for reporting information to CLV about a first-year resident's failure to sit examinations and term tests, failure to submit assignments or poor performance in term tests or assignments, including the duration of the period to be reported, and determining the criteria for and timing of an informal follow-up with the resident.

- (ii) A structured protocol for reporting information to CLV after mid-year examinations about the need for individual follow-up with poorly-performing first-year residents, and to determine the criteria for and timing of an informal follow-up with the resident.

7. **UC and CLV** should review and consider improvements to the protocols for the downloading of information about first-year residents to the StarRez system, including information about–

- students of concern
- meal data
- LEARN log-ins
- academic engagement and results

and other information relevant to a resident’s wellbeing.

8. **UC and CLV** should examine the merits of enforcing an RA:resident ratio of between 1:25 and 1:30 for RAs and their key groups.

9. **UC and CLV** should agree on relevant criteria for the exercise of CLV’s discretion, under clause 7.3 of the UCA Resident Agreement, whether to contact a resident’s parent or guardian about the resident’s welfare.