

Office of the Minister Responsible for the Crown Response to the Abuse in Care Inquiry

Cabinet Social Outcomes Committee

Crown Response to the Royal Commission of Inquiry into Abuse in Care: Overview and upcoming decisions

Proposal

- 1 This paper provides background to the Abuse in Care Royal Commission of Inquiry, an overview of the work completed to date by the Crown in response to the Inquiry, and an indication of the key upcoming Cabinet decisions to be made as part of the ongoing Crown response. Decisions are also sought on joint-Ministerial oversight of this work and the delivery of a public apology following the release of the Royal Commission's final report.

Relation to government priorities

- 2 The content in this paper does not have direct links to the Government's 100-day plan or coalition agreements.

Executive summary

- 3 The Abuse in Care Royal Commission of Inquiry (the Royal Commission) was established in 2018 to investigate abuse in state and faith-based care dating 1950 - 1999. It is the largest and most complex Royal Commission in New Zealand's history. It has received a large amount of evidence, including accounts from 2,300 people who have been abused in care (survivors), and the significant impacts and costs of abuse on survivors, their family, whānau and communities, and New Zealand as a whole.
- 4 The Royal Commission is concluding its inquiry and its final report is currently due on 28 March 2024. The Minister of Internal Affairs is seeking Cabinet agreement to the extension of the Royal Commission's final reporting timeframe to June 2024.
- 5 There will be survivor, media and public attention on the Government around the report's release, and expectations will be high for the Crown to respond in a way that is timely and meaningfully acknowledges survivor experiences of abuse. The final report will contain recommendations on the Crown's response to historic abuse, and measures that seek to prevent future abuse in the care system.
- 6 Ahead of its final report, the Royal Commission has published five interim reports, including one recommending wholesale changes to the way redress is provided to survivors (the redress report).

- 7 The Crown's participation in and response to the Royal Commission has been driven and co-ordinated by the autonomous Crown Response Unit. There is a significant cross-agency programme of work underway to respond to these initial reports and to prepare for the final report.
- 8 A public apology by the Prime Minister and Governor-General was recommended in the redress report and is a key part of the Crown's response to the Royal Commission. I am seeking agreement from Cabinet for an apology to be delivered as soon as is practicable after the release of the final report.
- 9 The Royal Commission also recommended the establishment of a new redress system to replace existing settlement-based agency claims processes. I have received proposals from a Ministerially-appointed Design Group, comprised primarily of survivors, for the design of a new redress system. This work has the potential to be transformational for survivors, but there are also potentially significant costs.
- 10 Due to the nature, scale, and complexity of this upcoming work, I am seeking agreement from Cabinet for a Ministerial group be established to assist in overseeing the Crown's response to the Royal Commission.
- 11 I will return to Cabinet over the coming months for decisions on the Crown response, including on the content of the public apology, the response to the recommendations contained in the final report, and decisions on a redress system.

A Royal Commission was established in 2018 to investigate abuse in care

- 12 The Royal Commission was established in 2018 to investigate children, young people, and vulnerable adults' experiences of abuse and neglect in State and non-State care in New Zealand between the years of 1950-1999. The Royal Commission has also heard about abuse that has occurred since 2000.
- 13 The Royal Commission was established after long-standing calls by survivors and their advocates for an inquiry. Inquiries of a similar nature have been established in recent years in comparable jurisdictions, including Australia, Scotland, England and Wales, and Ireland.
- 14 The Royal Commission is the largest and most complex inquiry established in New Zealand. It has held over 2,900 private sessions, hearing directly from over 2,300 survivors about their experiences and the impacts of abuse in care. Crown agencies have provided over 650,000 documents to the Royal Commission. Non-State care institutions, predominantly faith-based organisations, have also provided a similarly large volume of information. The Royal Commission has held 14 public hearings that heard from survivors, advocates, academics, senior officials from Crown agencies, and representatives of non-State care institutions.
- 15 The Royal Commission has heard evidence of experiences of abuse and neglect in children's homes, youth justice residences, foster care homes, community care providers, disability care settings, schools, churches, psychiatric and psychopedic hospitals, and borstals. The types of abuse

experienced include physical, sexual, emotional, psychological, cultural, and spiritual abuse and neglect. Evidence provided to the Royal Commission suggests that Māori, Pacific peoples, and Deaf and disabled people have disproportionately experienced abuse in care.

- 16 The Royal Commission has provided two estimated ranges for the number of children, young people, and vulnerable adults who experienced physical and sexual abuse across State and faith-based care settings between 1950 and 2019: 36,000–65,000 survivors and 114,000–256,000 survivors. The wide and different ranges, arrived at using two methodologies, highlight the poor or absent information available on historical abuse and the total number of people who went through certain care settings. Inquiries in other jurisdictions have also struggled with poor availability of historical data. Research commissioned by the Royal Commission estimates that the highest prevalence of abuse in the inquiry period took place in the 1970s. Research also estimated almost half of those in care by the 1970s were Māori.
- 17 The evidence provided to the Royal Commission spoke of the loss of personhood, harm, and trauma that has been experienced by survivors of abuse in care. The often extensive and extreme abuse and neglect has had significant impacts, both for survivors and intergenerationally. Many survivors have shared the impacts of abuse on their physical, spiritual and mental health, identity and connection, family and whānau, their schooling and subsequent socio-economic situation.
- 18 The Crown Response Unit (CRU) was established in 2019 as a semi – autonomous unit to drive and coordinate the Crown’s overall response to the Royal Commission, and previously reported to the Minister for the Public Service. Over 17 agencies have been part of the Crown Response,¹ with the largest emphasis from the care provision and historic abuse claims agencies of the Ministry of Education, Ministry of Health, Ministry of Social Development, Oranga Tamariki – Ministry for Children, and since 2022, Whaikaha – Ministry of Disabled People.

The Royal Commission is due to release its final report in March 2024, but a Cabinet decision is being sought on a possible extension

- 19 The Royal Commission is due to provide its final report to the Governor-General on 28 March 2024. The Minister of Internal Affairs is seeking Cabinet agreement to the extension of the Royal Commission’s final reporting timeframe to June 2024. The Royal Commission have stated the significant scale and complexity of the inquiry, alongside ongoing legal action against it, means the delivery of the report on 28 March is not possible. The paper prepared by the Minister of Internal Affairs is scheduled to be considered by the Cabinet Legislation Committee on 21 March and Cabinet on 25 March. The

¹ Agencies part of the Crown Response include New Zealand Police, Public Service Commission, Accident Compensation Corporation, Ministry of Justice, Te Arawhiti – Office for Māori Crown Relations, Department of Internal Affairs, The Treasury, Oranga Tamariki – Ministry for Children, Ministry of Social Development, Ministry of Business, Innovation and Employment, Te Puni Kōkiri – Ministry of Māori Development, Ministry for Pacific Peoples, Crown Law Office, Ministry of Education, Ministry of Health, Whaikaha – Ministry of Disabled People, Ara Poutama Aotearoa – Department of Corrections.

possible implications of the extension being sought on the Crown response is discussed in paragraph 42.

20 The release of the final report will heighten survivor, media and public attention on the Government, and expectations will likely be high for the Crown to respond in a way that is timely and which meaningfully acknowledges survivor experiences of abuse.

21 We expect the final report will include a wide-ranging discussion of the history of care in New Zealand and detailed analysis of abuse in state and faith-based settings during 1950–1999, with a particular emphasis on the experiences of Māori, Pacific peoples, and Deaf and disabled people because of their over-representation in the care population. We also expect the final report to contain commentary on present-day care settings.

22 s9(2)(g)(1)



23

24 Once the report is released, I will be making a statement acknowledging its release and provide an initial response to its findings and recommendations. I will also signal work is underway on a detailed response from Government.

25 I have directed the CRU to co-ordinate an initial cross-agency analysis of the final report's findings and recommendations, once released, to consider the report in light of work programmes currently underway and Government priorities.

26 I will be seeking decisions from Cabinet on the direction of the Crown's response after the publication of the report. It is critical that, while recommendations from the Royal Commission are not binding on the Crown, we give careful consideration to these recommendations given the scale and nature of abuse that has been identified through the Royal Commission.

The Crown response is underway on recommendations from the Royal Commission's interim redress report

- 27 The Royal Commission has already released five interim reports, which are summarised in Appendix One. The only one of these reports to include recommendations was the 2021 redress report *He Purapura Ora, he Māra Tipu, from Redress to Puretumu Torowhānui*.
- 28 In the redress report, the Royal Commission recommended a fundamental shift in the response to survivors from the current multiple historic claims services to an independent integrated redress system. These recommendations are discussed further in paragraphs 45 – 57.
- 29 It also recommended immediate work to improve support for survivors ahead of an independent redress system and following Cabinet decisions in 2022 [SWC-21-MIN-0204 refers], work has been underway to respond to these recommendations in the areas of:
- a. rapid payments;
 - b. a survivor experiences service;
 - c. records improvement; and
 - d. a public apology.
- 30 To improve survivors' experiences in existing claims processes and address long wait times, the rapid payments approach was developed. The approach is currently being delivered by the Ministry of Social Development, the claims agency with the largest claims queue, of over 3000. The Ministry of Education has the second largest queue, approximately 340, and intends to implement its rapid payments process in March 2024. How rapid payments are administered by agencies differs. The approach could be extended to Oranga Tamariki – Ministry for Children and the Ministry of Health if their queues grow, though this is looking unlikely at this stage.
- 31 The Survivor Experiences Service was established in July 2023, for survivors to share their experiences of abuse in care following the conclusion of the Royal Commission's survivor accounts process, with the intention that it would run until a new redress system is in place. The service is housed in the Department of Internal Affairs and is guided by an independent Board made up of survivors.
- 32 The Crown Response Unit and Archives New Zealand are progressing work on five initiatives informed by the Royal Commission's recommendations for records improvement, to better enable survivors to request, receive and understand their care records, and to have an improved sense of control over their personal narrative as reflected in those records.
- 33 Work is currently underway in preparation of a public national apology for abuse in care. Cabinet decisions are needed to progress this work, outlined in paragraphs 34 – 44 below.

There are high expectations from many survivors for a public apology as part of the Crown response

- 34 In its 2021 redress report, the Royal Commission recommended the delivery of a public apology to survivors by the Governor-General, Prime Minister, and heads of relevant non-State institutions, and that the apology be accompanied by tangible actions to demonstrate the Crown's commitment to reconciliation with survivors.
- 35 This is consistent with the approach taken in other jurisdictions following the completion of a Commission of Inquiry of this nature. Examples include the apology in 2008 for residential schools in Canada, the apology in 2018 for child sex abuse in Australia, and the apology by the Irish Government and the Catholic Church in 2021 for abuse in mother and baby homes.
- 36 In response to the recommendations and following targeted survivor engagement by the Crown Response Unit on survivor expectations for an apology, Cabinet agreed in December 2022 for a public apology to be delivered to survivors of abuse in care following the release of the Royal Commission's final report. It was also agreed for the apology to be accompanied by tangible actions [SWC-22-MIN-0252 refers].
- 37 I am seeking agreement from Cabinet that the planning for a public apology progresses, with the intention for an apology event after the release of the Royal Commission report.
- 38 An apology made in a timely manner after the final report is released would provide an opportunity for the Crown to address and acknowledge the experiences of abuse in care at a national level and provide evidence of the Crown's commitment to survivor healing, particularly given the ill-health and age of some survivors, and the length of time many survivors have been waiting for a public apology. This should be balanced alongside the value of developing the public apology in a considered way.
- 39 In New Zealand, there has been a history of the Crown giving apologies that address significant historic grievances. Examples include the apology in 2008 for the treatment of Vietnam war veterans, the apology in 2017 for the invasion of the Parihaka settlement, and the apology in 2021 for the dawn raids.
- 40 These apologies have, overall, been successful in supporting the healing of affected communities and reconciliation between those communities and the Crown. There are complexities, however, around apologising for historic abuse in care when abuse is occurring in the care system today. Officials are reviewing the approach taken in other jurisdictions to managing this same issue. s9(2)(f)(iv)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. s9(2)(f)(iv)

41 If Cabinet agrees, officials will begin detailed planning for an apology to be delivered in the second half of 2024. This would allow necessary time for the Royal Commission's final report to be appropriately analysed and reflected in the text for the apology. I would work with the Prime Minister and the Governor-General on the apology wording, timing, and an outline of the event. Final decisions would be needed by Cabinet on the apology text, and I intend to bring options for Cabinet decisions following the release of the final report.

42 The Cabinet decision being sought by the Minister of Internal Affairs to extend the Royal Commission's final reporting timeframe to June 2024 has implications for the possible timing of the proposed public apology. For the reasons discussed in paragraph 41, an apology could not be delivered until at least three months after the release of the final report. If Cabinet agrees to an extension, the earliest the apology could be delivered would be towards the end of 2024.

43 s9(2)(f)(iv)

44

A new independent redress system was recommended by the Royal Commission to replace existing agency claims processes

The Royal Commission has identified issues with the settlement-based claims processes currently operated by agencies

45 To respond to a growing number of claims made in the 1990s in relation to abuse in care, the Crown developed a litigation strategy², which included ad-hoc processes to settle claims out of court. Later, in-house claims processes were formally developed by agencies at different times to respond to the early claims. As the scale of abuse became more apparent, claims processes were updated to respond to increased claims.

46 These claims processes are operated by different agencies, based on the care setting and time period and using different settlement models and approaches to payments and apologies:

² In 2019, Cabinet agreed that the Crown Litigation Strategy be renamed the Crown Resolution Strategy for historic claims of abuse in State care, to better recognise its key objective of resolving claims outside of the court process [SWC-19-MIN-0193 refers].

- a. the Ministry of Education handles claims related to State primary schools (including residential schools) before 1989 (prior to the implementation of Tomorrow's Schools) and any State schools that have closed;
 - b. school boards of trustees handle claims related to primary schools after 1989 and secondary schools for any time period;
 - c. the Ministry of Health handles claims related to psychiatric and psychopaedic institutions before 1993 (prior to the disestablishment of the Department of Health and Area Health Boards);
 - d. the Ministry of Social Development handles claims related to child protection and care and youth justice settings before April 2017; and
 - e. Oranga Tamariki handles claims related to child care and protection and youth justice settings since April 2017.
- 47 Faith-based institutions and other non-State care providers administer their own abuse claims processes, which can vary significantly depending on the institution.
- 48 The Royal Commission investigated these claims processes in its 2021 redress report and identified a number of issues. This includes findings that agencies:
- a. designed processes to suit their needs, not those of survivors, and as a result have added to survivors' harm and trauma;
 - b. offer only basic forms of wellbeing support, fail to offer meaningful payments, and take far too long, sometimes years, to come up with a settlement offer;
 - c. fail to meaningfully acknowledge and apologise for the abuse, harm, and trauma inflicted and suffered;
 - d. lack independence because the organisations tend to investigate themselves and control every part of the process and outcome; and
 - e. do not recognise the mana of survivors or offer genuine support for survivors to heal their lives or restore their mana and oranga (wellbeing).
- 49 The full list of findings from the redress report is provided in Appendix Two.
- 50 Although agencies have worked to make significant improvements to claims processes in recent years, most of these processes remain fundamentally settlement-based and operate within organisational and funding models and legislative frameworks that make it difficult to address the issues identified by the Royal Commission.
- 51 To address these issues, the Royal Commission recommended the establishment of:
- a. a new, independent redress system that is open to survivors of abuse in State and faith-based care; and
 - b. an independent group to lead the design of this redress system.
- 52 The Royal Commission also made recommendations in its 2021 redress report which proposed changes to the Accident Compensation Scheme, limitation

reform and other civil litigation settings. The former Ministers of Justice and ACC agreed to defer consideration of those recommendations until after the Royal Commission's final report is delivered. This was to enable a full and coherent consideration of these recommendations and how they connect with the wider redress system.

Work is underway on options for a new redress system that was recommended by the Royal Commission to replace existing claims processes, with upcoming decisions for Cabinet

- 53 In response to these recommendations, Cabinet agreed [SWC-21-MIN-0204 refers] to the development of a single independent redress system for implementation by July 2025. The paper proposed three broad interconnected phases of the design of a redress system: high-level design, detailed design, and implementation/stand-up. In December 2022, to assist with the design of a redress system, Cabinet agreed [SWC-22-MIN-0214] that a design group would lead the development of the high-level redress system design.
- 54 Independent Design and Advisory Groups, consisting primarily of survivors, were appointed by the previous Minister for the Public Service to produce high-level design proposals for a new redress system for Cabinet consideration. The proposals were delivered to the current Minister for the Public Service in December 2023. Cabinet invited the previous responsible Minister to report back following receipt of the high-level design proposals [SWC-22-MIN-0214 refers].
- 55 I am currently considering these high-level proposals and intend to return to Cabinet with a series of papers through to August 2024 with options for progressing decisions on the design of a redress system. A staged decision-making approach to redress development will enable Cabinet to make informed choices on complex issues while also recognising that the work needs to continue at pace to help give survivors certainty about future redress. It is unlikely the proposed extension to the Royal Commission's final reporting timeframe would impact on the work on a redress system.
- 56 A redress system has the opportunity to be transformational for survivors and their family and whānau but there are potentially significant costs. Decisions around the redress system are complex and will need to be carefully considered in light of other Government priorities.
- 57 The common characteristics of redress systems overseas are provided in Appendix Three.

I am proposing establishment of a Ministerial group to help drive the Crown's response to the Royal Commission

- 58 The work on a public apology and accompanying tangible actions, new redress system, and response to the recommendations in the final report will cover a range of Ministerial portfolios. Collaboration and commitment across the Crown will be needed to ensure an effective response which delivers genuine change for survivors and for children, young people and vulnerable adults in care.

Considering this, I propose to establish a Ministerial group to help drive and coordinate the Crown's response to the Royal Commission.

59 There are a number of portfolio Ministers that have an interest in the Crown's response to the Royal Commission. I propose the group would be chaired by myself as Minister responsible for the Crown Response to the Abuse in Care Inquiry and membership would include the:

- Minister of Health and Minister for Pacific Peoples;
- Minister of Justice;
- Minister for Social Development and Employment;
- Minister of Corrections and Minister of Police;
- Minister for Māori Development;
- Minister for ACC, Minister for Mental Health and Minister for Youth;
- Minister for Disability Issues; and
- Minister for Children and Minister for the Prevention of Family and Sexual Violence.

Cost-of-living implications

60 The proposals in this paper have no cost-of-living implications.

Financial implications

61 As referred to in paragraph 56, the costs of a redress system are potentially high, depending on Cabinet decisions around what form of redress is offered and to whom and the pace at which a new redress system is introduced. These costs would be offset, however, by savings against existing claims processes and potential downstream savings associated with reduced demand for services.

62 Data on the number of survivors has low levels of confidence, and therefore demand for redress is hard to estimate. The Crown Response Unit is undertaking modelling and analysis of the potential costs associated with options and this will be provided to Cabinet to consider the fiscal risks around these decisions.

Legislative implications

63 There are no immediate legislative changes proposed.

Impact analysis

64 Impact analysis is not required, since there is no proposal to amend, repeal or introduce new legislation at this time. Any future legislative proposals arising from the response to the Royal Commission will be accompanied by impact analysis.

Population implications

65 Māori, Pacific, Deaf, and disabled peoples have been over-represented in care, and therefore over-represented as survivors of abuse in care. As a result of impacts of abuse in care, many survivors experience lifelong lower socio-economic status and poor health. These in turn have significant impacts on survivors as they become elderly. It is important that the Crown response considers the specific culture, context and needs of the over-represented groups.

Human rights

- 66 The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 and Human Rights Act 1993.
- 67 Human rights issues have been raised through the inquiry process, and in the Royal Commission's case studies and interim report, which note possible breaches of human rights in the care provision in state and faith-based care settings. It is possible there will be findings and recommendations in the final report relating to possible breaches of human rights.
- 68 The Royal Commission has also noted a 2019 decision where the United Nations Committee Against Torture considered the abuse suffered by survivors at the Lake Alice Hospital Child and Adolescent Unit met the threshold of torture for the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Use of external resources

69 No external resources have been used in the preparation of the advice in this paper.

Consultation

70 This paper was developed by the Crown Response Unit. The following agencies were consulted: Crown Law Office, Ministry of Health, Māori Crown Relations – Te Arawhiti, New Zealand Police, Oranga Tamariki–Ministry for Children, Ara Poutama – Department of Corrections, Accident Compensation Corporation, Ministry of Education, Ministry of Justice, Ministry for Pacific Peoples, Ministry for Social Development, Whaikaha – Ministry of Disabled People, Te Kawa Mataaho – Public Service Commission, Te Puni Kōkiri – Ministry of Māori Development, Treasury.

Communications

71 There is a high level of interest from survivors about the Crown response. My office will work with Crown Response officials to identify opportunities to communicate Cabinet decisions as they are made over the coming months.

Proactive release

72 I intend to proactively release this paper as soon as practicable. The paper will be published on the Crown Response Unit's website.

Recommendations

73 It is recommended that the Committee:

- a. **note** the Royal Commission of Inquiry into Abuse in Care commenced in 2018 and is concluding with the release of its final report, due on 28 March 2024;
- b. **note** the Minister of Internal Affairs is seeking Cabinet agreement to the extension of the Royal Commission's final reporting timeframe to June 2024;
- c. **note** that it will be a significant report and will contain details of abuse of children, young people and vulnerable adults across a wide range of State and non-state care settings, as well as recommendations for change that will impact a number of State agencies;
- d. **note** I will bring options for Cabinet decisions on the direction of the Crown response to the report following its release;
- e. **note** the Royal Commission has released five interim reports, including a report recommending wholesale changes to the way redress is provided to survivors of abuse in care and the delivery of a public apology to abuse survivors;
- f. **note** the Crown Response Unit has begun preparation work on a public apology;
- g. **agree** for the delivery of the public apology as soon as is practicable after the release of the final report;
- h. **note** that, if Cabinet agrees to a public apology later in 2024, I will return to Cabinet for decisions on the content of the apology;
- i. **note** I will return to Cabinet for decisions on proposals for a new redress system for survivors through a series of papers through to August 2024;
- j. **note** the Crown Response has a significant work programme over 2024 that could benefit from a focused Ministerial group;
- k. **note** that membership of the Ministerial group would consist of the Minister of Health and Minister for Pacific Peoples, Minister of Justice, Minister for Social Development and Employment, Minister of Corrections and Minister of Police, Minister for Māori Development, Minister for ACC, Minister for Mental Health and Minister for Youth, Minister for Disability Issues and Minister for Children and Minister for the Prevention of Family and Sexual Violence;
- l. **endorse** the establishment of a Crown Response to the Abuse in Care Inquiry Ministerial group to assist in overseeing the Crown's response to the findings and recommendations of the Royal Commission; and

- m. **authorise** myself as the Minister responsible for the Crown Response to the Abuse in Care Inquiry as Chair of the Crown Response to the Abuse in Care Inquiry Ministerial group.

Authorised for lodgement

Hon Erica Stanford

Minister Responsible for the Crown Response to the Abuse in Care Inquiry

PROACTIVELY RELEASED UNDER THE
GOVERNMENT'S
COMMITMENT TO OPEN GOVERNMENT

Appendix One: Interim reports by the Royal Commission

Published	Report title	Report description
July 2023	Stolen Lives, Marked Souls - The Inquiry into the Order of the Brothers of St John of God at Marylands School and Hebron Trust	Examines the historic abuse at the Marylands School for Boys with Learning Disabilities, run by the Roman Catholic order the Brothers Hospitallers of St John of God from 1955 to 1984.
December 2022	Beautiful Children – Inquiry into the Lake Alice Child and Adolescent Unit	Examines the torture, tūkino (abuse, harm and trauma) and neglect suffered by children and young people admitted to Lake Alice Psychiatric Hospital’s child and adolescent unit from 1972 to 1980
December 2021	He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui	Outlines the struggle of many survivors of abuse in care to restore their lives, regain their mana and hold previous and current governments, State and faith-based institutions to account for the abuse survivors suffered.
December 2020	Interim Report – Tāwharautia: Pūrongo o te Wā (Tāwharautia)	Identifies key themes and common issues from the experiences shared with the Royal Commission so far.
November 2020	Administrative Report	Reports on the administrative aspects of the inquiry, with a focus on the Royal Commission’s workload and costs.

PROACTIVELY RELEASED
COMMITMENT TO OPEN GOVERNANCE

Appendix Two: Royal Commission's redress findings

The Royal Commission found that in most state redress systems, agencies and institutions:

- take far too long, sometimes years, to come up with a settlement offer;
- fail to offer meaningful financial payments;
- fail to meaningfully acknowledge and apologise for the abuse, harm and trauma inflicted and suffered;
- designed processes to suit the institutions' own needs, not those of survivors, and as a result have added to survivors' harm and trauma;
- do not recognise the mana of survivors or offer genuine support for survivors to heal their lives, or restore their mana and oranga;
- are narrowly focused on settling individual claims and do not investigate or hold to account the individuals or organisations concerned or take measures to prevent further abuse;
- offer only the most basic forms of wellbeing support;
- typically offer no more than a limited apology and some money, inadequate as each of these invariably is;
- lack independence because the organisations tend to investigate themselves and control every part of the process and outcome;
- require evidence of abuse, often disbelieve survivors, and do not adequately support survivors through their processes;
- offer redress that is inconsistent with other offers they have made, and also with offers other institutions have made;
- rarely provide survivors with adequate information on how to make a claim or how they arrive at their decisions;
- have developed processes without regard to te Tiriti o Waitangi and its principles, and in isolation from survivors;
- do not include tikanga Māori or reflect te ao Māori concepts and values, including te mana tangata, whanaungatanga, or manaakitanga, in their processes;
- take no account of Pacific peoples' values, or the importance of cultural restoration to many Pacific survivors, in their processes;
- fail to consider the impact of abuse on survivors' whānau, hapū, iwi and hapori or communities; and
- have processes that do not meet the needs of many Deaf and disabled survivors for information and support that enable them to seek redress.

Appendix Three: Common Characteristics of Redress Systems

The Crown Response Unit has undertaken research on schemes in Australia, Austria, Belgium, Canada, England and Wales, France, Germany, Iceland, Ireland (Republic of), Northern Ireland, Jersey, the Netherlands, Norway, Scotland, Sweden and Switzerland.

While all redress schemes vary in scope and design, to a large extent driven by each country's unique political and cultural contexts, there are some core elements that all schemes have tended to adopt:

- A process for survivors to apply for redress, which includes sharing their experiences of abuse and naming institutions where abuse occurred or individuals who perpetrated abuse.
- A process of assessing, determining, and reviewing applications that has a level of independence from the Government control or involvement, even if the Government is involved in receiving the applications themselves and/or organises the provision of payments and additional support services.
- Some level of participation by named institutions (State or non-State). Institutions are often given an opportunity to respond to claims and, in many instances, institutional participation in terms of providing evidence and/or financial contributions to the redress scheme comes with an offer of legal protection from future action by survivors, but only if they accept an offer of redress.
- Monetary payments of varying sizes, usually depending on the nature and impact of the abuse. Many countries have fixed-level payments which require less evidence from applicants and are set at a relatively low rate, with the opportunity for survivors to apply for larger payments in more serious cases of abuse, albeit with greater evidential requirements.
- In some countries, the offer of personalised apologies and emotional and psychological support as part of the redress package.
- Support services to assist survivors in applying for redress, which almost always includes emotional and psychological services for survivors during and after they apply, and often includes legal support or aid for applicants, and financial advice for those receiving large lump-sum payments.



Cabinet Social Outcomes Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Crown Response to the Royal Commission of Inquiry into Abuse in Care: Overview and Upcoming Decisions

Portfolio Education

On 27 March 2024, the Cabinet Social Outcomes Committee:

Background

- 1 **noted** that the Royal Commission of Inquiry into Historical Abuse in Care and in the Care of Faith-based Institutions (the Royal Commission) commenced in 2018 and is concluding with the release of its final report, due on 28 March 2024;
- 2 **noted** that the Minister of Internal Affairs has sought Cabinet agreement to the extension of the Royal Commission's final reporting timeframe to June 2024 [SOU-24-MIN-0013];
- 3 **noted** that the Royal Commission's report will be significant, and will contain details of abuse of children, young people and vulnerable adults across a wide range of State and non-state care settings, as well as recommendations for change that will impact a number of State agencies;

Crown response

- 4 **noted** that the Minister of Education, as the Minister responsible for the Crown response to the Inquiry (the responsible Minister), will bring options for Cabinet decisions on the direction of the Crown response to the Royal Commission's report following its release;
- 5 **noted** that the Royal Commission has released five interim reports, including a report recommending wholesale changes to the way redress is provided to survivors of abuse in care and the delivery of a public apology to abuse survivors;
- 6 **noted** that the Crown Response Unit has begun preparation work on a public apology;
- 7 **agreed** that the public apology be delivered as soon as is practicable after the release of the final report;
- 8 **noted** that, if Cabinet agrees to a public apology later in 2024, the responsible Minister will return to the Cabinet Social Outcomes Committee (SOU) for decisions on the content of the apology;
- 9 **noted** that the responsible Minister will return to SOU for decisions on proposals for a new redress system for survivors through a series of papers through to August 2024;

Ministerial group

- 10 **noted** that the Crown response involves a significant work programme over 2024 that could benefit from a focused Ministerial group;
- 11 **noted** that membership of the Ministerial group would include the following Ministers:
- 11.1 Minister of Health and Minister for Pacific Peoples;
 - 11.2 Minister of Justice;
 - 11.3 Minister for Social Development and Employment;
 - 11.4 Minister of Corrections and Minister of Police;
 - 11.5 Minister for Māori Development;
 - 11.6 Minister for ACC, Minister for Mental Health and Minister for Youth;
 - 11.7 Minister for Disability Issues;
 - 11.8 Minister for Children and Minister for the Prevention of Family and Sexual Violence;
- 12 **endorsed** the establishment of a Crown Response to the Abuse in Care Inquiry Ministerial Group (the Ministerial Group) to assist in overseeing the Crown's response to the findings and recommendations of the Royal Commission;
- 13 **authorised** the responsible Minister to be the Chair of the Ministerial Group.

Rebecca Davies
Committee Secretary

Present:

Rt Hon Christopher Luxon
Rt Hon Winston Peters
Hon David Seymour
Hon Chris Bishop
Hon Dr Shane Reti
Hon Erica Stanford
Hon Louise Upston (Chair)
Hon Mark Mitchell
Hon Tama Potaka
Hon Nicole McKee
Hon Penny Simmonds
Hon Chris Penk
Hon Karen Chhour

Officials present from:

Office of the Prime Minister
Officials Committee for SOU