



Listening, learning, changing
Mā Whakarongo me Ako ka huri te tai
Crown Response to the Abuse in Care Inquiry

COVERSHEET

Minister	Hon Erica Stanford	Portfolio	Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions
Title of briefing	Redress options for high tariff offenders and gang members	Date to be published	13 March 2026

Withholding grounds

Information within this document has been withheld as if it had been requested under the Official Information Act 1982. Where this is the case, the reasons for withholding have been listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

- section 9(2)(a) to protect the privacy of natural persons
- section 9(2)(h) to maintain legal professional privilege

Briefing



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Crown Response to the Abuse in Care Inquiry

Redress options for high tariff offenders and gang members

Date:	3 April 2025	Security level:	
Priority:	High	Report number:	CRACI 25/036

Actions sought	
Hon Erica Stanford Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions	<p>This briefing sets out initial advice and options on providing redress for abuse in care to high tariff offenders and gang members to support Ministerial bi-laterals scheduled for the week of 7 April.</p> <p>Forward this briefing to:</p> <ul style="list-style-type: none">Hon Simeon Brown, Minister of HealthHon Paul Goldsmith, Minister of JusticeHon Louise Upston, Minister for Social Development and Employment and with transferred responsibilities from the Minister for Children for redress decisions

Contact for discussion			
Name	Position	Telephone	1 st contact
Rajesh Chhana	Chief Executive, Crown Response Office	9(2)(a)	
Rebecca Martin	Head of Policy, Crown Response Office	9(2)(a)	✓

Agencies consulted
Ministry of Justice, Crown Law Office, Ministry of Social Development (note the Ministry of Education, Ministry of Health, Oranga Tamariki, Department of Corrections, and Te Puni Kōkiri were informed)

Minister's office to complete

<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> See Minister's notes <input type="checkbox"/> Needs change <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Declined <input type="checkbox"/> Referred to (specify) <hr/>	Comments
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Briefing

Redress options for high tariff offenders and gang members

For: Hon Simeon Brown, Minister of Health
Hon Erica Stanford, Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions and Minister of Education
Hon Louise Upston, Minister for Social Development and Employment and with transferred responsibilities from the Minister for Children for redress decisions

CC: Hon Paul Goldsmith, Minister of Justice

Date: 3 April 2025

Security level:

Priority: High

Report number: CRACI 25/036

Purpose

1. This briefing provides initial advice and options on the legal and operational implications of policy changes that would limit high tariff offenders' and gang members' entitlement to redress payments under the improved redress system.

Legal privilege

2. The paper references material that may be subject to legal privilege.

Recommendations

3. It is recommended that you:
 - a) **note** the status quo is for State claims agencies to treat claimants equally and provide redress payments for abuse in care based on the merits of their claim;
 - b) **note** a blanket exclusion of high tariff offenders and/or gang members from the State redress system 9(2)(h) would likely reduce trust in the integrity of the Crown's response to the Royal Commission of Inquiry into Abuse in State Care and in the Care of Faith-Based Institutions and is therefore not recommended by officials;
 - c) **note** officials have not been able to identify any options for imposing controls on access to redress purely on the basis of someone's status as a gang member 9(2)(h) or operationally workable and we do not recommend progressing this option;
 - d) **note** should Ministers wish to progress policy advice on access to redress for high tariff offenders, officials have identified three options which would put some controls around access to redress for this group 9(2)(h)
 - e) **discuss** the advice and options set out in this paper with your colleague Ministers at the bi-laterals arranged for the week of 7 April, noting officials

from the Crown Response Office are available to meet with you to discuss the advice set out in this paper if required;

f) **agree** to one of the following options:

i. do not progress any of the options set out in this paper;

Minister of Health Yes/No/Discuss

Lead Coordination Minister and Minister of Education Yes/No/Discuss

Minister for Social Development and Employment Yes/No/Discuss

ii. progress advice on option 1 (make redress payments available to the victims of a redress claimants' crimes);

Minister of Health Yes/No/Discuss

Lead Coordination Minister and Minister of Education Yes/No/Discuss

Minister for Social Development and Employment Yes/No/Discuss

iii. progress advice on option 2 (introduce control mechanisms around redress payments);

Minister of Health Yes/No/Discuss

Lead Coordination Minister and Minister of Education Yes/No/Discuss

Minister for Social Development and Employment Yes/No/Discuss

iv. progress advice on option 3 (introduce a discretion to exclude high tariff offenders); and

Minister of Health Yes/No/Discuss

Lead Coordination Minister and Minister of Education Yes/No/Discuss

Minister for Social Development and Employment Yes/No/Discuss

g) **note**, if Ministers agree to progress one of sub-recommendations f(ii)-(iv), officials from the Crown Response Office will meet with the Lead Coordination Minister to determine next steps on this matter.



Rajesh Chhana
Chief Executive, Crown Response Office
Crown Response to the Abuse in Care
Inquiry
03/04/2025

Hon Simeon Brown
Minister of Health

/ /

Hon Erica Stanford
Minister of Education and Lead
Coordination Minister for the
Government's Response to the Royal
Commission's Report into Historical
Abuse in State Care and in the Care of
Faith-based Institutions and Minister of
Education

/ /

Hon Louise Upston
Minister for Social Development and
Employment and with transferred
responsibilities from the Minister for
Children for redress decisions

/ /

Background and context to current state

4. State claims practices currently treat claimants equally and provide redress payments for abuse in care, based on the merits of the claim. This includes the recent approach taken to settle claims relating to torture occurring at Lake Alice Psychiatric Hospital Child and Adolescent Unit. This approach allows for claims against the Crown to be resolved and any agreed settlement sum paid out immediately. Claimants receive and have free use of any redress payments due to them. An exception is prisoners who do not have an external bank account to be paid into.
5. The Royal Commission recommended that redress should be open to all survivors, including those in prison or with a criminal record (recommendation 18). The Lead Coordination Minister for Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions has commissioned advice on this matter for redress Ministers and the Minister of Justice.
6. The issue of whether people who have committed serious offences and are subject to long prison sentences (referred to as 'high tariff offenders') should receive redress has been considered at different points by previous administrations between 2011 and 2017, but no changes have ever been implemented.
7. Making substantial payments to high tariff offenders could be regarded as repugnant by some New Zealanders. 9(2)(h)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
8. The Prisoners' and Victims' Claims Act 2005 was enacted to address this concern. It was a response to the awarding of substantial amounts of compensation to a group of serious offenders who were subject to a behaviour management regime that the Supreme Court found was unlawful. The Act restricts the circumstances in which an award of compensation can be made to prisoners in respect of their imprisonment and provides a process that enables victims to advance claims against any award of compensation. However, this legislation has little, or no application to redress payments for abuse in care.
9. When the issue was last considered in 2017, the underlying policy question was whether the practice of making large unconditional cash payments to prisoners upon release from long sentences was consistent with the Government's objective of reducing reoffending. The then Attorney General and Minister of Social Development agreed that this should be further explored and put a paper to Cabinet on managing the risks of Crown compensation made to high tariff offenders. The paper proposed an approach that would have provided for redress payments to be managed on behalf of the high tariff offender to ensure that the funds could only be applied to purposes that were consistent with rehabilitation. At the time, the Ministry of Justice expressed concern that the proposal was inconsistent with BORA. In the event, the proposal did not proceed following a change of Government.

Limiting gang members' and high tariff offenders' access to redress risks compromising trust in the integrity of the Crown's response to the Royal Commission

10. Throughout its reports, the Royal Commission pointed to the high correlation between abuse in care and subsequent high rates of criminal behaviour, imprisonment, and the

membership of gangs. It recommended that this context be considered in the design of any new redress system. Accordingly, any proposal to deny high tariff offenders or gang members access to the redress system would run directly counter to the Royal Commission's reports. Moreover, it would likely compromise trust in the integrity of the Crown's response to the Royal Commission and whether the Crown has fully engaged with the Royal Commission's proceedings and the case studies and evidence set out in its reports.

11. Further detail on the Royal Commission's views on this issue is provided in Appendix One.

Excluding access to redress for gang members and high tariff offenders 9(2)(h)

12. 9(2)(h)

13.

14.

15.

16.

There are some options for controlling access to redress for high tariff offenders

9(2)(h)

17. Should Ministers wish to progress advice on options for controlling access to redress for particular types of offenders, 9(2)(h)

we have identified three options for consideration.

18. 9(2)(h) [Redacted]

19. At this stage, these options are identified at a high level only and further work would be necessary on the detailed design of any of the options that we discuss below.

Option One: Make redress payments available to the victims of a redress claimants' crimes.

20. A possible approach would be to build on the foundations of the Prisoners' and Victims' Claims Act 2005 and enact legislation that provides a mechanism for the victims of certain categories of offenders to make a claim against any redress payment. Further work would be needed on the design of such a scheme, including whether it should be progressed through an amendment to the existing Act or through separate standalone legislation.

21. An important consideration would be defining the category of claimants the scheme would apply to. 9(2)(h) [Redacted]

22. Legislation to do this would likely be controversial. The original Prisoners' and Victims' Claims Bill did not receive a section 7 report when it was introduced in 2005, as the then Attorney-General considered the measures in the Bill justified. However, a subsequent amendment bill introduced in 2011 did receive a section 7 report, reflecting differences of opinion on this matter between former Attorney-Generals. The Human Rights Committee has also been critical of the Prisoners' and Victims' Claims Act 2005.

Option Two: Introduce control mechanisms around redress payments

23. In 2017, advice from the Ministry of Social Development identified the option of placing controls on the expenditure of redress payments received by certain very high-risk offenders who were still subject to control and supervision by the State (the 2017 option), although the detail of the control mechanism was not fully worked through.

24. Options that were considered at the time were a statutory trust or some form of statutory management. The rationale was that the State still has some responsibility for these offenders and needs to ensure that redress payments are not used in a manner that is inconsistent with their rehabilitation and reintegration into the community and, in particular, for criminal or antisocial purposes. At the time, agencies noted a wide range of risks attached to these options, including fiscal, human rights, operational and reputational implications. These were still being worked through up until the proposal was discontinued.

25. 9(2)(h) [Redacted]

9(2)(h) [redacted]
[redacted]
[redacted]
[redacted]
[redacted]

26. 9(2)(h) [redacted]
[redacted]
[redacted] The 2017 option had a high threshold and would have applied only to those serious and violent offenders sentenced to indeterminate sentences (life and preventive detention) and those subject to extended supervision and public protection orders. Having regard to the objectives of the proposal, it is likely that the categories of offenders that could appropriately be caught by this kind of measure would be limited.

Option Three: Introduce a discretion to exclude high tariff offenders

27. Another option that could be explored is introducing a discretion to decline payments if the making of the payment would be contrary to the public interest, justice, or some similar test. This is the approach that has been taken with the Scottish redress system.
28. Under the Scottish system, redress decisions are made by a redress panel. The panel has the ability to decline to award redress to certain categories of offenders if the panel considers awarding redress is 'contrary to the public interest.'
29. In determining whether the payment is in the public interest, the panel is required to consider a number of factors, including the nature of the offence, the sentence, the length of time since the offence took place, any rehabilitative activities undertaken by the offender, and any other matter the panel considers to be relevant. The category of offenders caught by the Scottish scheme includes persons convicted of murder, rape, and sexual offending punishable by more than 5 years imprisonment. We understand that, to date, no offenders have been excluded from the scheme on the ground that the payment is contrary to the public interest.
30. Further consideration could be given to how discretion of this kind could be introduced within the New Zealand system. Under our system, redress decisions are made by departmental officials, whereas the exercise of a discretion of this kind is more appropriately vested in an independent expert. However, it should be possible to create a referral mechanism so that the claims of certain categories of offender would be referred to an independent decision maker. Further work would be necessary to settle on the precise formulation of the test, the relevant factors, and the category of offenders any discretion should apply to.
31. It is likely that few, if any, offenders would be precluded from redress under a regime of this kind, 9(2)(h) [redacted]
[redacted] It could also entail some cost because of the need for an independent decision maker. However, introducing a discretion to exclude certain types of offenders would provide some acknowledgement of any public concern about making redress payments to high tariff offenders.

We have not been able to identify any workable 9(2)(h) options for controlling gang members' access to redress and therefore do not recommend progressing on this front

32. 9(2)(h)
33. Additionally, we have not been able to identify a solid basis for establishing whether someone is a gang member. Corrections holds some information on gang affiliation of the current prison population, although there will be issues with the comprehensiveness, accuracy and timeliness of this information. Further, it would require legislation to enable them to share it with redress agencies. The Privacy Commissioner is unlikely to be willing to support this. Additionally, self-identification is unlikely to be effective if its consequence was to bring the gang member under a restrictive regime.

Cabinet authorisation and implementation considerations

34. The first two options are likely to, and the third option may, require legislation. 9(2)(h) This is likely to impact on the timeframe within which any new regime can be announced and implemented. None of the options are likely to be able to be implemented at the time of the improvements to the redress system in July 2025.
35. All three options would involve some costs and further consideration would need to be given to the way in which any options that are progressed are funded, including whether any new funding is needed on top of the Budget 2025 redress funding.
36. There would also be transitional matters to work through as any new system will impose limitations that have not previously existed. For example, early decisions would be needed on whether the new policy should only apply to claims made after the implementation date or whether it should also apply to claims in the pipeline.

Next steps

37. The Lead Coordination Minister has set up a series of Ministerial bi-laterals for the week of 7 April to discuss the options and advice set out in this paper. Officials from the Crown Response Office are available to meet with you to discuss the advice if required.
38. Following Ministerial bi-laterals, Crown Response Office officials will meet with the Lead Coordination Minister to determine next steps on this matter.
39. Subject to decisions, communications will be provided to support the Budget 2025 announcement, including key messages and questions and answers around high tariff offenders to support survivor, stakeholder or media enquiries.

Appendix One – Further detail on Royal Commission findings and recommendations in relation to the relationship between abuse in care and subsequent criminal behaviour and imprisonment

1. The Royal Commission found in [Pathways to Prison](#) through State-care: “Rates of imprisonment were especially high for survivors of abuse and neglect in care. Previous research has found that one in five, and sometimes as many as one in three, individuals who went through social welfare residences during the Inquiry period went on to serve a criminal custodial sentence later in life. This experience was worse for Māori survivors, who experienced disproportionate entries into social welfare residences and disproportionate entries into prison.”¹
2. The Royal Commission also found in [Pathways to Gang Membership](#) through State-care: “Social welfare institutions played a significant role in gang formation. Many Māori survivors shared how their time in care introduced them to gangs and gang life. Joining was often in response to the violence, isolation and disconnection they experienced in care, including disconnection from their identity, culture, whānau, communities and society. Some survivors shared that joining gangs gave them a home, whānau, and a place to feel like they belonged and were safe.”²
3. A key finding from the Royal Commission was the correlation between abuse in care and subsequent criminal behaviour and imprisonment (care to prison pipeline) and gang affiliation³. A submission to the Royal Commission supported this finding (Arewa Ake te kaupapa)⁴.
4. Further, the Royal Commission recommended that survivors should not be unduly penalised for previous convictions, especially when such offences were a direct result of the abuse experienced while in care (rec 27 Whanaketia).
5. The Royal Commission advocated for a redress system that acknowledges this context, ensuring that all survivors, regardless of their subsequent life choices, have access to justice and support.

¹ [Summary of key findings | Abuse in Care - Royal Commission of Inquiry](#)

² [Summary of key findings | Abuse in Care - Royal Commission of Inquiry](#)

³ [Summary of key findings | Abuse in Care - Royal Commission of Inquiry](#)

⁴ [Arewa-Ake-te-Kaupapa-Gang-Independent-Submission-.docx](#)