



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	Further matters relating to the introduction of a presumption against redress for serious sexual and violent offenders	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)(f)(iv) to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials

Briefing



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Further matters relating to the introduction of a presumption against redress for serious sexual and violent offenders

Date:	23 May 2025	Security level:	
Priority:	High	Report number:	CRACI 25/057

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

This briefing provides options and advice on outstanding matters relating to the introduction of a presumption against making redress payments to new claimants who are also serious sexual and violent offenders.

Contact for discussion

Name	Position	Telephone	1 st contact
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Agencies consulted

N/A

Minister's office to complete

- Noted
- Seen
- See Minister's notes
- Needs change
- Overtaken by events
- Declined
- Referred to (specify)

Comments

Briefing



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Further matters relating to the introduction of a presumption against redress for serious sexual and violent offenders

For: 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

Date: 23 May 2025

Security level:

Priority: High

Report number: CRACI 25/057

Purpose

1. This briefing provides options and advice on outstanding matters relating to the introduction of a presumption against making redress payments to new claimants who are also serious sexual and violent offenders (serious offenders).

Recommendations

2. It is recommended that you:
 - a. **discuss** the options and advice set out in this briefing at the officials' meeting on 27 May; and
 - b. **note** we will provide you with a draft Cabinet paper seeking decisions on the matters set out in this paper for Ministerial consultation in the week of 26 May 2025, for consideration at Cabinet Social Outcomes Committee on 25 June.

Rebecca Martin
Head of Policy and Strategy
Crown Response Office
Crown Response to the Abuse in Care Inquiry

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

23 / 05 / 2025

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We are seeking your feedback on four outstanding policy matters associated with redress for serious offenders

3. On 5 May, Cabinet agreed to the introduction of a presumption against redress for some serious offenders and invited you to report back by June 2025 on outstanding policy matters.
4. The table below outlines the process for serious offenders seeking redress and the associated outstanding policy questions we are seeking to discuss with you.

Table One: Process for serious offenders seeking redress and associated policy questions

	Process step	Associated policy question
1.	Apply and declare criminal convictions and nature of offence (if an applicant fraudulently declares, subject to an offence)	Should a new offence be introduced as a sanction for any false declarations or should existing provisions in Crimes Act relating to crimes of deceit be applied?
2.	Identified as a serious offender	
3.	Claimant asked if they would like to be referred to the independent decision maker	
4.	Referred to independent decision maker	Who should perform the role of the independent decision maker?
5.	Independent decision maker receives relevant information to inform test about whether a redress payment should be made	What should the independent decision maker consider when exercising their discretion about whether a redress payment should be made?
6.	Independent decision maker invites submissions from the claimant	
7.	Independent decision maker makes decision on whether to overturn the presumption	Is a serious offender able to reapply following the outcome of the independent decisions makers decision not to overturn the presumption?
8.	Redress agency publishes summary of and rationale for any decisions to overturn the presumption (this would be anonymised to protect privacy rights)	

5. Key points to note about the proposed information gathering and verification arrangements:
 - a. all new claimants would be required to agree to a criminal history check and declare their criminal convictions. Redress agencies would verify criminal history information against relevant Courts data.
 - b. the independent decision maker would be enabled through legislative authority to access personal information relating to applicants' offences to inform their decision on whether to overturn the presumption against providing redress. Relevant information will likely include criminal records, probation reports, and reports from the Parole board, all of which are held by different agencies. It will be important that redress agencies explain the type of information that will be accessed by the

independent decision maker when making referrals, so claimants are informed of the process, including how information will be handled and who it will be shared with.

Should a new offence be introduced as a sanction for any false declarations or should existing provisions in Crimes Act relating to crimes of deceit be applied?

6. To deter people from giving false or misleading information when applying for redress ahead of the introduction of the legislation, it is proposed that existing penalties established through the Crimes Act 1961 relating to crimes of deceit (Section 240) will apply. This penalty could mean an individual receives up to three years in prison.
7. In the longer term, a new offence could be introduced as a sanction for any false declaration as part of the new legislation to better match the gravity of the offence. This would likely be more appropriate in this context.
8. Overseas redress models in Australia and Scotland have introduced offences within their respective redress acts for people who give false or misleading information. In Australia, individuals may be subject to a civil penalty of up to 60 penalty units (equating to a fine of up to \$19,800 AUD). In Scotland, an individual may be subject to imprisonment for a term not exceeding 6 months and/or a fine not exceeding level three on the standard scale (£1,000 GDP).
9. We consider an offence within category 1 (offence punishable by fine only), or category 2 (offence punishable for less than two years) should be considered as these offences do not attract the right to jury trial and are ordinarily dealt with by Judge alone in the District Court.
10. At this initial stage we consider that it should be a fine only, enough to create a disincentive to false declarations. As the average redress payment is \$30,000, a fine of \$50,000 could be imposed. We are testing the option of introducing a new offence and associated penalties with the Ministry of Justice's offence and penalties team.
11. There are likely to be additional costs associated with enforcing compliance as the redress system would seek to identify any fraudulent declarations through spot checking claimants. This will be identified as part of the draw down of funding but is expected to comprise FTE that would process and check claimants' criminal convictions. The resource would likely be held centrally by redress agencies.

Who should perform the role of the independent decision maker?

12. We have identified two options for the independent decision maker:
 - Option A: an officer who is a retired Judge, KC, or lawyer with at least 7 years standing; and
 - Option B: a panel modelled on the Parole Board, whereby members would include a retired Judge, KC or lawyer with at least 7 years standing and a community member who can perform the function due to the relevant qualities, experience and skills (recommended).

Table Two: Indicative fiscal implications associated with Option A

Option A	Number of claims (110 claims a year)
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Independent Decision Maker	\$0.096 million
Secretariat (2 FTE)	\$0.300 million
Total	\$0.396 million

Table Three: Indicative fiscal implications associated with Option B

Option B	Number of claims (110 claims a year)
Independent Decision Makers	\$0.192 million
Secretariat (2 FTE)	\$0.300 million
Total	\$0.492 million

13. The costings are based on the 2195 projected number of claims for the 2025/26 financial year. We have estimated that 5% of this population will be serious offenders within the scope of these provisions. However, costings are difficult to forecast given the unknown population of survivors with unresolved claims. Further, introducing a presumption and declaration as part of the redress process is likely to dissuade some people from coming forward to access redress.
14. We recommend Option B, a panel, to bring together legal understanding with community insights supported by a secretariat. This would likely promote the greatest public trust and confidence, due to the diverse expertise.
15. Appointments would be made through the Cabinet Appointments and Honours Committee, and the independent decision maker would be remunerated in line with the Cabinet Fees Framework. We are engaging with the Public Service Commission to confirm our approach to remuneration.
16. We also considered a tribunal, similar to the model under the Prisoners' and Victims' Claims Act, where the Chief District Court Judge could designate a District Court Judge to perform the role. However, we do not recommend progressing this option as it would likely raise concerns around the workload for District Court Judges and impact on judicial resources. If you would like further advice on this option, this would require consultation with Justice and engagement with the judiciary.

What should the independent decision maker consider when exercising their discretion about whether a redress payment should be made?

17. We have been doing further work on the nature of the test that the independent decision maker would use. As modelled from the Australian scheme, we consider the test should include information on:
 - a. assessing the nature of offence;
 - b. length of sentence;
 - c. length of time since the offending occurred;
 - d. and any rehabilitation.
18. In addition to the above, we also recommend the ability to consider overturning the presumption on compassionate grounds. This would take into consideration matters

relating to illness and age. This aligns with the approaches taken for practising payments to elderly and terminally ill survivors.

19. Officials considered assessing the severity of abuse in care, but this would create considerable complexity and likely change the approach to the presumption being more adversarial in nature. The approach also differs significantly from how redress agencies assess claims.
20. We are also engaging with Oranga Tamariki on the specific needs of children and young people who may be eligible for the regime, to determine whether other relevant factors need to be considered.

Is a serious offender able to reapply following the outcome of the independent decision makers decision not to overturn the presumption?

21. Given the purpose of the scheme, we have considered whether it would be appropriate to enable a serious offender to reapply for redress after having an application to have the presumption against redress overturned declined. This would enable offenders who have taken meaningful rehabilitation activities and have ceased offending to be reconsidered for redress after a set period of time.
22. Options considered:
 - Option A: cannot reapply following a redress payment being declined;
 - Option B: can reapply three years after a redress payment is declined; and
 - Option C: can reapply five years after a redress payment is declined.
23. It is likely that the many of the cohort will be elderly, and on that basis enabling serious offenders to reapply after three years seems most appropriate. Officials are also considering whether and to what degree applicants could be considered in exceptional circumstances if a period of three years has not elapsed.

Other matters to note

24. In parallel with the development of this Cabinet paper, we are drafting a Cabinet paper that seeks decisions on legislative change to enable the delivery of more meaningful apologies to survivors of abuse in State care. These provisions would be included in the serious offenders' legislation.

25. 9(2)(f)(iv)



26. We will need to confirm the preferred approach as part of finalising the drafting instructions.

Next steps

27. Officials will discuss options outlined in this briefing at the officials meeting on Tuesday 27 May. A Draft timeline is also included below.

Table Four: Timeline for Cabinet consideration of matters on serious offenders

Milestone	Date
Paper to Minister's office	29 May
Ministerial Consultation begins	3 June
Ministerial Consultation closes	17 June
Paper lodged	19 June
Cabinet Committee Date - SOU	25 June
Cabinet	30 June

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