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Responding to the Royal Commission into Historical Abuse in Care's redress findings – Arrangements and parameters for the high-level design of a new redress system

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These documents have been proactively released:

- Responding to the Royal Commission into Historical Abuse in Care's redress findings – Arrangements and parameters for the high-level design of a new redress system, 16 November 2022, Office of the Minister for the Public Service
- SWC-22-MIN-0214, Cabinet Social Wellbeing Committee Minute, 16 November 2022, Cabinet Office
- CAB-22-MIN-0513, Cabinet Minute, 21 November 2022, Cabinet Office

The following information has been withheld, due to not being part of responding to the Royal Commission into Historical Abuse in Care:

- The names of other Cabinet Social Wellbeing Committee minutes (from different portfolios) from the Cabinet Minute CAB-22-MIN-0513

Chair  
Cabinet Social Wellbeing Committee

## **RESPONDING TO THE ROYAL COMMISSION INTO HISTORICAL ABUSE IN CARE'S REDRESS FINDINGS – ARRANGEMENTS AND PARAMETERS FOR THE HIGH-LEVEL DESIGN OF A NEW REDRESS SYSTEM**

### **Proposal**

1. The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission) delivered its report on redress in December 2021, recommending the establishment of a new independent redress system. This paper seeks agreement on the arrangements to develop the high-level design of the system.

### **Executive summary**

2. Cabinet has agreed to develop an independent survivor-focused redress system<sup>1</sup> [SWC-21-MIN-0204 refers] and four immediate projects to improve survivors' current redress experiences [CBC-22-MIN-0035 refers]. The four projects are establishing a listening service, making improvements to records processes, developing rapid payments under existing historic claims processes, and starting work on the preparation of a public apology for abuse in care.
3. I was invited to report back with detailed advice on the Royal Commission's redress report and on options for the collaborative arrangements for designing the new redress system. This paper is focused on further detailed advice about the development of the new system and recommends areas of analysis to inform the terms of reference for the collaborative design process.
4. The Royal Commission has proposed a principles-based, independent, holistic redress system that is developed through a survivor-focused process. However, the Royal Commission has also noted the need for urgent action, in light of the significant number of aging survivors who may want to seek redress.
5. I am therefore proposing a high-level design process involving a survivor-focused design group, with key purpose, function, and scope parameters established in-principle by Cabinet. There will need to be Ministerial engagement and decision points within the process, including design commissioning, progress reports, briefings on key options for the system, and the formal receipt of the high-level design proposals.
6. To help give a more concrete basis for the design process, I propose the Royal Commission's recommended principles, purpose, and functions for the new redress system (set out in paragraphs 33 and 34 of this paper), are endorsed as drafts for inclusion in the design group's terms of reference. Further work is needed by Crown Response to the Abuse in Care Inquiry (Crown Response) officials on the principles and functions to give more explicit visibility to the Treaty of Waitangi and better articulate the role of the redress system in relation to the prevention of harm in current care settings.

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<sup>1</sup> The terms 'redress system' and 'survivor' are used in this paper for consistency with previous papers, and reflecting the language used by the Royal Commission. Some survivors find these descriptions unhelpful or disempowering. The terms can be reviewed and considered as part of the design process outlined in this paper, to arrive at more affirming and descriptive language that can be used in the new system.

7. The Royal Commission's recommendations that relate to the scope of the new redress system, both in terms of direct scope recommendations and the implications of the recommended principles, would see the system having a scope significantly wider than current historic abuse claims processes. This expanded scope is consistent with the need for an integrated support-based redress approach noted by Cabinet [SWC-21-MIN-0204 refers]. However, that creates potentially complex issues around system scale, interfaces with other systems, and support service capacity that will need to be worked through before process reaches the stage of doing detailed design and implementation planning.
8. For the initial, in-principle scope parameters that drive some of the complexity, I am proposing that, as recommended by the Royal Commission, the new redress system does include:
  - a) non-State care (faith-based institutions and private schools) survivors, subject to the Crown being able to agree suitable funding mechanisms with those institutions to support the operation of the redress system; and
  - b) current and future survivors, to prevent the need for parallel systems or processes to be established in future.
9. As two of the remaining key scale parameters, I am proposing the Crown Response report back to me with further analysis on:
  - a. potential definitions of the forms of abuse and neglect and care settings to be covered by the new system; and
  - b. the potential inclusion of whānau to receive particular supports and services as indirect survivors to help address the impacts of abuse within and across generations.
10. As the two parameters primarily affect scale rather than the fundamental experience of redress and the types of support the system needs to offer, the work can be undertaken in parallel with the high-level design process, drawing on insights from the proposed design group's work. I would then be able to report back to Cabinet on these parameters as part of the high-level design proposals.
11. During survivor engagement it has been noted the design group should not have to start from a blank slate. Material will therefore be compiled by the Crown Response, with appropriate agency consultation and Ministerial approval. The material will form the basis of the proposed design group's induction and work programme, and include:
  - a. a terms of reference setting out the work's purpose, the redress system's initial parameters (per the above), and key operating processes;
  - b. apology and payment frameworks, which would include proposed principles and considerations for meaningful apologies, and proposed principles, structuring, and treatments for recognition payments;
  - c. draft high-level redress design models, example proposals, and service design guidance, based on national and international experience and expertise; and
  - d. Royal Commission reports and evidence summaries, along with relevant findings from other New Zealand and international inquiries, investigations, and strategies.
12. Under its terms of reference, the design group<sup>2</sup> will be tasked with producing high-level design proposals that will be provided to me in June 2023. The proposals will be considered by Cabinet in July 2023, so we can make informed decisions on how to proceed with the

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<sup>2</sup> The term 'design group' is used to denote the primary group responsible for the high-level design of the redress system and 'advisory group' is used to denote a group advising, consulted by, or supporting the design group. These terms are intended to offer greater descriptive clarity in this paper, instead of the term 'collective' as used in the Royal Commission's redress report, which outlined a Māori Collective to lead design of the new system and a Purapura Ora Collective that would be consulted in the design process. The two collectives represent particular forms of design and advisory groups.

detailed design and implementation work needed to establish the new system. The high-level proposals will cover:

- a. feedback on the system’s intended principles, purpose, functions, and scope, with the option to outline a strong case for alteration to any of the specific aspects, particularly when considering the principles from a Treaty perspective;
  - b. how the system should safely connect with and support survivors to navigate their redress journey –how redress needs to “look and feel” to give survivors confidence in the redress system and to provide them with a safe, accessible, trauma informed, and culturally responsive experience;
  - c. the types and mix of services and supports that should ideally be provided as part of each function;
  - d. feedback on the apology and payment frameworks, draft redress models, and example proposals, provided by the Crown Response to the Abuse in Care Inquiry (the Crown Response), with a focus on what is needed to support meaningful recognition of the harms people have experienced; and
  - e. an outline of the critical issues that will need to be considered in the detailed design and implementation planning, including cost estimates and phasing of implementation.
13. It is a priority for the new system to meet the needs of Māori, as survivors and whānau, hapū and iwi. I propose the design group has strong Māori leadership to lead the development of a redress system that gives effect to the Crown’s obligations under the Treaty.
  14. I am proposing a design group of up to 10 members that has a gender balance and strong Māori representation, and draws in wider survivor and expert representation. The proposed size is intended to balance the need for diversity across the membership and the group being small enough for consensus building. An impartial chair with recognised mana would be appointed directly by me to help facilitate the design group and maintain momentum.
  15. Diverse perspectives are needed via the advisory arrangements to help the new system’s design meet the needs of all survivors. Feedback has highlighted the voices of disabled people are regularly missing from many design processes. Many survivors find it difficult to engage as part of larger groups.
  16. I am therefore proposing an advisory group is established to support the design group with a gender balance and representing Māori, Pacific people, disabled people, Deaf people, rangatahi, LGBTQI+ people, State care and faith-based care survivors. I expect there to be up to 20 advisory members to provide adequate representation across these communities and that the group’s arrangements will allow survivors to caucus or work in smaller groups as needed.
  17. Survivor engagement has highlighted the importance of a formal nomination and appointment process for the design and advisory groups, to help provide transparency and confidence in the work. I propose a national nomination call and that I convene a small independent review panel to consider the nominations and prepare a design group nominee shortlist for consideration and appointment by myself in late January 2023. The review panel would then prepare an advisory group nominee shortlist for me to consider for appointment in early February 2023. The normal Cabinet Appointments and Honours Committee process would be used for all design and advisory group positions.
  18. The new redress system’s scale will likely be significant. Due to data limitations, the Royal Commission estimated two ranges for the number of people abused in State and faith-based care between 1950 and 2019 of 36,000–65,000 survivors and 114,000–256,000 survivors. The Crown Response is trying to improve the population estimates to help produce workable demand and cost models to help inform the design process and Cabinet’s decisions on the high-level design proposals. Using a range of illustrative demand and cost figures to produce

examples to help give a sense of potential scale, the total lifetime cost of the redress system could range from \$160 million to \$29 billion.

**Cabinet agreed a significant shift is needed in providing redress for survivors of abuse**

19. The Royal Commission's December 2021 redress report outlined:
  - a. the significant types of harm many people experienced in State and faith-based care, and the serious life-long, and intergenerational, effects that harm has had on individuals, whānau, hapū, iwi, and communities;
  - b. the failures of previous State and faith-based responses to that harm, including the Crown's current historic abuse claims processes; and
  - c. the need for, and functions of, a future independent, holistic redress system and how such a system could be developed through a survivor-led process.
20. In December 2021, Cabinet agreed [SWC-21-MIN-0204 refers]:
  - a. the Royal Commission's work showed an urgent and clearly demonstrated need for a significant shift from settlement-based claims processes to an integrated support-based approach to redress; and
  - b. to develop an independent survivor-focused redress system, informed by the Royal Commission's findings and recommendations, with a clear vision, purpose and characteristics that ensure the system is compassionate, equitable and meets survivors' needs.
21. In July 2022, Cabinet agreed [CBC-22-MIN-0035 refers] for the cross-agency Crown Response to work on four immediate projects and included an invitation for me to report back with detailed advice on the Royal Commission's redress report and on options for the collaborative arrangements for designing an independent trauma-informed redress system. Given the breadth of the Royal Commission's findings and analysis provided in previous papers on different elements of the redress report, I have focused this paper on detailed advice about the development of the new redress system.

**The overall approach to designing the new redress system will need to balance the complexity of the system and design process with the urgent need for action**

22. The development of the new redress system has been agreed by Cabinet, as an important step towards recognising a long-standing wrong that has caused significant intergenerational harm to survivors and their whānau, hapū, iwi and other communities. The new system needs to be representative and inclusive of diverse survivors.
23. The Royal Commission has proposed a principles-based, independent, holistic redress system – that provides survivors with a wide range of acknowledgements and supports to restore and enhance their wellbeing – that is developed through a survivor-focused process. Appendix A summarises the Royal Commission's recommendations on the new system, using the Commission's own summarised version.
24. There are competing factors we need to balance in determining how the work to design the new system should be undertaken. These include that:
  - a. the design challenge is complex, involving considerable uncertainty around the scale of demand for the service, multiple policy and operational questions that cut across a number of agencies and into faith-based institutions and NGOs, and potentially complex design arrangements, involving multiple and highly diverse groups of survivors as well as Treaty partners;
  - b. there is an urgent desire to be able to deliver real changes for survivors, with the previously stated goal of having high-level design proposals developed by mid-2023; and

- c. the Crown is viewed with significant distrust by many survivors and has to respond and work in a way that is trauma informed and demonstrates humility, acknowledging that it has heard and understands survivors' profound concerns and is looking to change as part of showing it is worthy of survivors' trust.
  
25. To help manage these competing tensions, there are three options on how the initial design work can be undertaken (see Appendix B for options analysis):
  - a. the process proposed by the Royal Commission of an independent Māori collective leading the high-level design process in close engagement with a Purapura Ora (survivor) collective, providing complete design proposals for Cabinet's consideration;
  - b. a Crown-led process, where a cross-agency group of officials working with survivor representatives and a cross-section of other key stakeholders, produces proposals for Ministerial consideration; or
  - c. an independent high-level design process, with design group and advisory groups with diverse memberships undertaking the design process with Crown support and starting materials, and opportunities for testing design-thinking with Ministers at key points in the process. Foundational elements of the design would be set out in the terms of reference (together with supporting frameworks and models) for the design group from the outset, with the design group able to make recommendations for changes to these parameters, where it considered there is a strong case for alteration.
  
26. It is important to have a design process with credibility that brings together the right skills and experience. I recommend the third option on the basis that:
  - a. having the Crown in a lead role for the high-level design is highly unlikely to be acceptable to survivors, given the deep levels of distrust summarised by the Royal Commission and directly shared by survivor representatives;
  - b. considerable work has already been done through the Royal Commission process to understand what survivors are seeking in a redress system and that can be used as the basis for the design of the initial in-principle parameters;
  - c. a number of survivor and advocate representatives have noted the design process should not start from a blank slate, but needs to have a range of draft proposals and models to start from and react to – providing an in-principle redress scope and a suite of frameworks, models, proposals, and other material as the starting point for the design group helps address this concern; and
  - d. the combination of concrete starting point, diverse design input, and the Crown providing support and material would help deliver a design process that is more tightly focussed and produces a workable high-level design proposal, better positioning us to deliver substantive change for survivors through Budget 2024.
  
27. As noted in the preceding paragraph, the Crown has a significant role in providing the starting point for the system's design, as well as a range of supports for and input into the design process. Information can be provided to, and discussion facilitated with, the proposed design group as it considers the broad types and relative priorities of the functions and services the redress system should offer.
  
28. Faith-based institutions could have a similar input role, rather than a lead design role, given the similar survivor distrust of those institutions. The Crown Response has been engaging with the major churches that have historically operated care institutions, who are broadly supportive of their inclusion in the redress system and its development. Subject to Cabinet decisions on the design process, the Crown Response will look to formalise the relationship with faith-based institutions and key umbrella groups for other non-State care providers.
  
29. As the high-level design progresses, it will need to include consideration of interfaces with other systems, such as ACC, and how these are best reflected or connected in through the supports offered by the redress system. This will include consideration of how any redress

system services, supports and payments can best complement existing systems, and avoid duplication.

30. Following the proposed high-level design work outlined later in this paper and resulting Cabinet decisions, detailed design work will need to be undertaken involving a wide range of subject matter experts. This work will produce the detailed design and implementation plans for the new system, and will include:
- a. working through the detail of potentially complex intersections with other systems (such as ACC and health and assisted living entitlements), including operational and technical considerations, and how these are best reflected or connected in through the supports offered by the redress system;
  - b. workforce capability and capacity development, including where existing services can be supported or augmented and where new services may need to be established – which may, for example, require a staged implementation of different components within the redress system;
  - c. issues related to natural justice, such as the extent to which the redress system's apologies and other acknowledgements involve the determination of the liability of alleged perpetrators;
  - d. any potential legislative amendments that may be required, for example to better facilitate information sharing and redress record creation, or the exclusion of acknowledgement payments from means testing for other support systems; and
  - e. the form of the body that operates the redress system and its governance
31. The high-level and detailed work will both include engagement with different working groups both the design processes and Ministerial decision making, and development of a range of supporting briefings and frameworks.

**Following on from the proposed overall redress design approach, there are key system parameters for discussion and in-principle decisions, to assist with the design process**

32. If Cabinet agrees to option three, including the establishment of some in-principle parameters to provide a starting point for the design process, this section sets out proposals for those parameters. As set out above, the design group would be able to make recommendations for changes to these parameters, where it considered that necessary. We would make final decisions on these matters in July 2023 as part of considering the group's high-level proposals.

*Principles, purpose, and functions of the redress system*

33. The Royal Commission recommended seven principles to guide the operation of the redress system, as follows:
- a. **Te mana tāngata:** the restoration of and respect for the inherent mana of people affected by tūkino.
  - b. **Manaakitia kia tipu:** the nurturing of the oranga or wellbeing of survivors and their whānau so that they can prosper and grow. This includes treating survivors and their whānau with atawhai, humanity, compassion, fairness, respect and generosity in a manner that upholds their mana (this includes being survivor-focused and trauma-informed) and nurtures all dimensions of oranga including physical, spiritual, mental, cultural, social, economic and whānau, in ways that are tailored to, culturally safe for, and attuned to, survivors.
  - c. **Mahia kia tika:** fair, equitable, honest, impartial and transparent. In this context it includes a puretumu torowhānui system that has clear, publicly available rules and other information about how it works, and regular reviews of its performance.

- d. **Whakaahuru:** processes protect and safeguard people including actively seeking out, empowering and protecting those who have been, or are being abused in care, as well as implementing systemic changes to stop and safeguard against abuse in care.
- e. **Whanaungatanga:** refers to the whakapapa, or kinship, connections that exist between people. In this context, it reflects that the impact of tūkinō can be intergenerational and can also go beyond the individual and affect whānau, hapū, iwi and hapori or communities. Therefore, puretumu torowhānui should facilitate individual and collective oranga and mana, connection or reconnection to whakapapa, and cultural restoration.
- f. **Teu le vā / tauhi vā:** tending to and nurturing of vā, or interconnected relationships between people and places, to maintain individual and societal oranga. Where there has been abuse, harm or trauma steps must be taken to heal or re-build the vā and re-establish connection and reciprocity.
- g. **He mana tō tēnā, tō tēnā – ahakoā ko wai:** each and every person has their own mana and associated rights, no matter who they are. In this context, it means that a new puretumu torowhānui system and its underlying processes must value disabled people and diversity, accept difference, and strive for equality and equity. This includes challenging ableism – the assumptions and omissions that can make disabled people, the tūkinō and neglect they experience and their needs for restoration of mana and oranga, invisible.
34. The Royal Commission proposed the redress system having a three-part purpose: to apologise for the tūkinō (abuse, harm, and trauma) suffered by survivors; to support the healing or restoration of the mana, tapu, and mauri of people; and, to take steps towards preventing abuse. Flowing from the overall purpose, the Royal Commission's proposed functions are that the system:
- provide a safe, supportive environment for survivors to share their care experiences;
  - facilitate acknowledgements and apologies by the relevant institutions;
  - facilitate access to support services, financial payments and other measures that enable te mana tāngata; and
  - make recommendations on identified issues, to help prevent further abuse in care.
35. Overall, I consider these principles provide a strong basis to guide the new redress system. They are consistent with the principles<sup>3</sup> Cabinet agreed in 2019 to guide the Crown's response to the Royal Commission and survivors [CAB-19-MIN-0.139.01 refers]. They are grounded in what the Commission has learnt from survivors, their whānau and other experts about the opportunity to design the new redress system in a way that moves the focus away from purely financial settlements to one that supports healing and reconciliation, within and across generations, as well as providing a strong te ao Māori underpinning for the new redress system. The principles reflect the diverse needs of different survivor communities and in particular the diverse disabled communities. They could, however, be strengthened by giving explicit visibility to the Treaty, consistent with the Crown's response principles.
36. As with the principles, the proposed purpose also has implications for the nature of the redress system, that it will:

<sup>3</sup> **Manaakitanga:** Treating people with humanity, compassion, fairness, respect and responsible caring that upholds the mana of those involved; **Openness:** Being honest and sincere, being open to receiving new ideas and willing to reconsider how we do things currently and how we have done things in the past; **Transparency:** Sharing information, including the reasons behind all action; **Learning:** Active listening and learning from the Royal Commission and survivors, and using that information to change and improve systems; **Being joined up:** Agencies work together closely to make sure activities are aligned, engagement with the Royal Commission is coordinated and the resulting actions are collectively owned. **Meeting our obligations under the Treaty of Waitangi:** Honouring the Treaty and its principles, meeting our obligations, and building a stronger Māori-Crown relationship through the way we operate and behave.

- a. be relational and trauma-informed, rather than a process-based transactional system;
  - b. require diverse service delivery partners, rather than a highly centralised bureaucracy;
  - c. involve the development and resourcing of different support mechanisms; and
  - d. involve humility by the Crown and an ongoing willingness to listen and learn from survivor experiences.
37. I note that the Royal Commission's proposed principles envisage an active role for the new redress system, seeking out survivors of abuse in care rather than simply stepping back to await redress 'claims'. I support this approach based on the experiences of previous listening services and the Royal Commission, that inclusive community engagement is necessary to connect with and establish trust with some survivors and their whānau, which then gives them confidence to come forward.
38. The principles also acknowledge the inter-generational impact of harm on survivors' whānau and other collectives. This has implications for the scope of the new redress system which I discuss further below. The emphasis on whakapapa, cultural connection and re-building the va'a also envisage access to services and supports that support re-connection and belonging. I consider that given the emphasis survivors have placed through the Royal Commission on the ongoing harm through loss of whakapapa, whānau connection and cultural belonging that this is appropriate and is core to our aspiration to enabling healing, reconciliation and restoration of mana for survivors and their whānau. We also know that belonging and connection is a strong protective factor against abuse, speaking to the transformational potential offered through this new redress system.
39. My main question in relation to the principles, purpose, and scope are the references to the role of the new redress system in *'implementing systemic change within the current care system'* (under the principle of *'whakaahuru'*) and *'taking steps towards preventing abuse'* (purpose). While I agree that the new system has an important role to play in continuing to fill out our understanding of harm in care (for example, through anonymised high-level reporting and other qualitative insights from survivors to inform prevention activity), I consider the primary focus of the new redress system should be on meeting the redress needs of survivors. I also consider that it would be premature to assign this purpose and function to the new redress system given we are expecting the Royal Commission to make recommendations relating to the oversight and operation of current care settings in its final report (due June 2023). I suggest we review the approach to redress and abuse prevention after we receive the final report and take a joined-up view on decisions about abuse prevention across care settings.
40. I therefore propose we endorse the principles, purpose and functions recommended by the Royal Commission, subject to changes that give more explicit visibility to the Treaty and better articulate the role of the redress system in relation to the prevention of harm in current care settings. I suggest we invite Crown Response officials to report back to me with these proposed changes, for inclusion in the terms of reference for the redress design group that I propose later in this paper.
41. If during the design process it is identified that a key aspect is not covered, or something has been included that should not be covered, by the principles, purpose and functions, the design group could suggest an expansion or narrowing as part of its proposals to Cabinet. The Crown Response would provide Cabinet with additional advice on the implications of any potential expansion or narrowing of the principles, purpose and/or functions proposed by the design group.

#### *Redress system scope*

42. The Royal Commission's redress report made some recommendations around scope that would entail significant expansion compared to the scope of agencies' current historic abuse claims processes. In other areas of scope, the Royal Commission was silent. For example,

there is no specific recommendation that hapū or iwi should be eligible to access the system. However, these scope aspects do need to be considered in light of the proposed redress principles.

43. The key questions of scope that would benefit from early discussion and potentially decisions from Cabinet are:
  - a. Should the new redress system cover harm caused by current and future abuse and neglect as well as past abuse and neglect? Should there be any time-limits on when survivors must seek redress from the new system by?
  - b. Should the new redress system include survivors of abuse in non-State care (such as faith-based institutions and private schools) as well as state-based care?
  - c. Should the redress system recognise and help respond to the harm experienced by whānau indirectly impacted by abuse in care as well as direct survivors of abuse?
  - d. What forms of abuse and neglect should be covered and in what care settings? Should it include schools? Should the system cover abuse and neglect by people other than caregivers and employees, such as visitors and other people being cared for in the care setting?
44. Appendix C sets out the Royal Commission's recommendations on these scope areas, provides insights into what survivors have said on the main issues, identifies some options, including phasing, and then outlines how other jurisdictions have approached the issue. It also provides some analysis against the Crown's and the Royal Commission's redress principles and in light of questions of cost, complexity, and feasibility.
45. There are two areas of scope, based on Royal Commission recommendations, where it would be particularly helpful to the design process to have some early in-principle decisions, and where I consider that we have enough information to make those decisions. These in-principle decisions would also provide a starting point for further work on service and support implications and the associated demand, cost modelling and funding models. We can then make final decisions around these questions of scope when the high-level design proposals come to Ministers and Cabinet mid-2023. In other areas, I consider that we need more analysis and information from Crown Response officials, and potentially from the Royal Commission and the proposed design group, before we can make decisions as part of the high-level proposals (see paragraphs 51–56 below).
46. Firstly, I recommend that Cabinet endorse, in-principle, the inclusion of faith-based care and private school survivors in the redress system, subject to the Crown being able to agree suitable funding mechanisms with those institutions to support the operation of the redress system. Having an early decision on this would enable officials to commence work with the main faith groups in parallel with the design group process on how this would work. I acknowledge that these are likely to be fairly complex arrangements and if Cabinet does agree to this approach, we may need to consider phasing the inclusion of non-State care survivors into this new system. I recommend that the design group considers phasing options as part of the proposals it provides, to support a Cabinet decision on this in July 2023.
47. Secondly, I recommend that Cabinet endorse, in-principle, the inclusion of current and future survivors into the new redress system. The alternative, of excluding these survivors, would require agencies such as Oranga Tamariki to design and continue to operate parallel claims services to meet the needs of future survivors coming forward to seek redress for abuse within the current (or future) system. This would defeat our primary objective of establishing a single and independent redress system providing a consistent approach to meeting the needs of all survivors. Having an early decision on the inclusion of current and future survivors would help make sure the design of the Oranga Tamariki interim claims process, for example, is aligned to the direction of work on the new redress system and would enable

work to begin between agencies on the interface between the redress system and current safety, complaints, claims, monitoring, and oversight processes.

48. Taking a current and future survivor inclusive approach could involve building in regular reviews, such as every 5 years, to test the needed scale, time periods, and support mix of the redress system. The expectation is that with the ongoing work to improve the monitoring and operation of the care system, and as the new redress system starts to make a difference for survivors, the demand for the new system should decline over time.
49. If we agree to this scope, there would be a number of complex design issues to work through before we can move to implementation. In all areas of expanded scope, we may therefore wish to make some decisions around using a phased approach, starting with a focus on a smaller group of survivors at the outset rather than standing up the expanded scope from the start of the new redress system. I also note that whatever decisions we make around scope as part of high-level design, that further decisions will need to be made to help make sure that the funding eventually allocated to the new redress system is directed towards redress priorities for those in most need. This could be achieved, for example, through phasing decisions, eligibility criteria and the level of services, payments and supports available through the system to those within its scope.
50. I note that if Cabinet confirms this expanded scope when it makes final decisions in 2023, that it would mean our redress system would be wider than the scope of redress systems in other comparable countries (Australia, Canada, Ireland, and the United Kingdom). This is consistent with the particular historical and cultural context within Aotearoa and the importance of healing and reconciliation in te ao Māori which is reflected in the Royal Commission's findings and the proposed principles for the system. These differ from the heavy focus on financial compensation common in many other jurisdictions.
51. On the question of what forms of abuse and neglect are covered by the new system, I note that the Royal Commission has proposed an expanded scope from the original terms of reference to include racial and cultural abuse and spiritual neglect. These forms of abuse and neglect are not particularly well-understood within agencies, and they are not consistently covered across current agency claims processes. I also note they were not covered in the initial work undertaken by the Commission to estimate the numbers of survivors of abuse and neglect. Officials have invited the Royal Commission to provide more detailed information on what forms of cultural abuse and spiritual neglect it considers should be covered by the new redress system and some estimates of the numbers of survivors affected.
52. In parallel, I recommend that Crown Response officials undertake further work on what definitions of abuse and neglect and the care settings they occur in should be used by the redress system. State care alone covers a broad range of child welfare, education, health, and justice settings involving both direct and indirect care that need to be carefully considered. There is, for example, a question whether or to what extent abuse involving voluntary community-based programmes should be covered by the system.
53. The Royal Commission has also recommended whānau be included as indirect survivors within the scope of the new system, to be able to access a range of supports and services. This is consistent with te ao Māori grounding articulated in the proposed principles for the new redress system. Given what we know about the outward-rippling impacts of abuse within and across generations, recognising and helping to respond to harm experienced by some survivor whānau will also help healing and support broader social benefits. The Royal Commission has estimated the societal costs of abuse total \$1.07–2.35 billion. Including whānau within the redress system could see future societal costs reduced.
54. While including whānau within the scope of the new redress system would likely to increase costs and scale, it would not be expected that whānau would be eligible for the same full set

of payments, supports and services as direct survivors. in line with the Royal Commission's recommendations, whānau would be able to access some of the support services. For example, a recognition of the impact of the abuse on whānau oranga could be reflected in an apology and access to a new listening service to share their experiences.

55. I recommend that Crown Response officials also undertaken further work on the potential inclusion of whānau in the new system, looking at the harms experienced by whānau as indirect survivors, the mix of supports being identified in the high-level design that may be most beneficial for whānau, the potential scale of demand, and how support could be prioritised so direct survivors are not adversely affected. Note that the related question of whether whānau should be enabled to make claims on behalf of direct survivors (with that survivor's permission) was left open by the Royal Commission and I consider that this question of scope does not need to be resolved now and can be worked through as part of the detailed design phase.
56. The parallel parameter work would involve further review of international experiences, testing of core concepts and issues with the proposed design group and other experts, and targeted Ministerial consultation. As the two parameters primarily affect the potential scale of the new system rather than the fundamental experience of redress and the mix of supports that it needs to offer, undertaking the work in parallel will not have a significant effect on the overall design process. I would then be able to report back to Cabinet on the two parameters as part of considering the high-level design proposals for the new redress system.

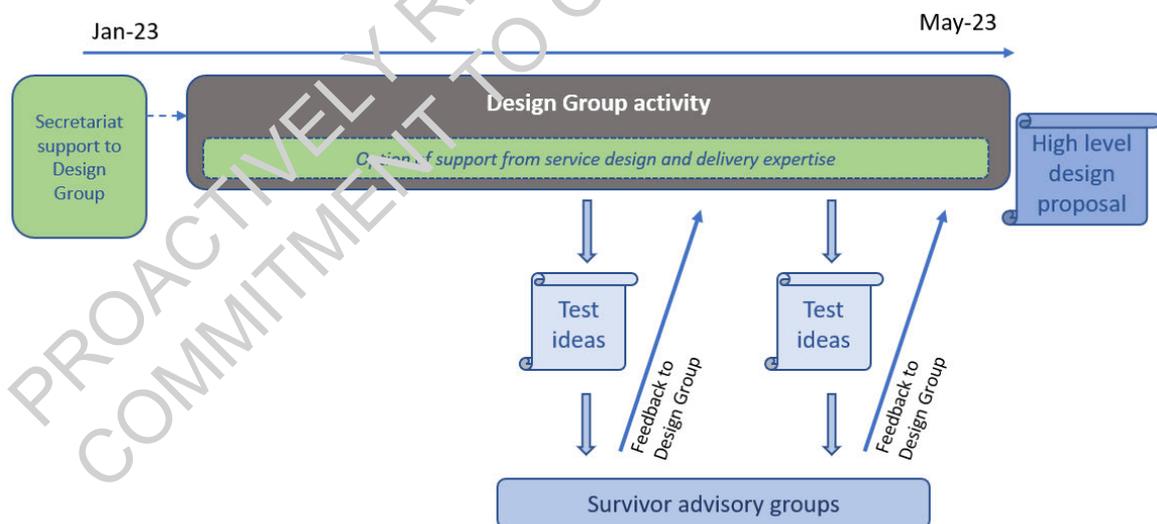
### **The proposed high-level design work to be undertaken**

57. The design structure that is being agreed in this paper will be tasked with developing high-level design proposals for the new redress system, in line with the overall functions and parameters set out above. The design process will be assisted by a set of starting materials prepared or compiled by the Crown Response, with appropriate agency consultation and Ministerial approval depending on the particular item, that will form the basis of the proposed design group's induction and work programme. The material will include:
- a. a terms of reference that set out the work's purpose, intended outcomes, milestones, and a range of key operating processes and terms. The terms would, subject to Cabinet decisions, include the redress system's principles, purpose, functions, and scope parameters as proposed in this paper's preceding section;
  - b. apology and payment frameworks, which would include proposed principles and considerations for meaningful apologies, and proposed principles, structuring, and treatments for recognition payments. The frameworks will be submitted for in-principle approval by myself and the Minister of Finance and the Attorney-General – as a small group of portfolios with relevant whole of system views the three of us can provide prompt consideration and agreement;
  - c. draft high-level redress design models, example proposals, and service design guidance, based on national and international experience and expertise; and
  - d. Royal Commission reports and evidence summaries, along with relevant findings from other New Zealand and international inquiries, past reviews of and lessons from historic claims processes, investigations, and strategies – for example, Te Aorerekura provides holistic frameworks for healing, redress and prevention that could usefully inform the new redress system's design.
58. The high-level design proposals will need to be provided to me as responsible Minister in early June 2023. The proposals would then be considered by Cabinet in July 2023. We will then be in a position to consider what is proposed and make decisions on how to proceed with more detailed design and implementation work. The latter will likely need to be led by the Crown Response, drawing on cross-agency expertise, given the potentially complex policy and legislative impacts that will need to be worked through. I acknowledge the

timeframe is ambitious, but this reflects the urgent demand for action and our commitment to make change for survivors.

59. The high-level design proposals the design group will be tasked to produce would cover:
- feedback on the system’s intended principles, purpose, functions, and scope – with the option to outline a strong case for alteration to any of the specific aspects;
  - how the system should safely connect with and support survivors and whānau to navigate their redress journey –how redress needs to “look and feel” to give survivors confidence in the redress system and to provide them with a safe, accessible, trauma informed, and culturally responsive experience;
  - the types and mix of services and supports that should ideally be provided as part of each of the redress system’s functions;
  - feedback on the draft apology and payment frameworks, draft redress models, and example system proposals, provided by the Crown Response, with a focus on what is needed to support meaningful recognition of the harms people have experienced; and
  - an outline of the critical issues that will need to be considered as part of the detailed design and implementation planning, needed to give effect to the overall design.
60. The design group members would be working part-time and supported by a secretariat drawn at least in part from the Crown Response, supplemented with specialist expertise as and when required. It is envisaged the secretariat arrangements would be discussed with the design group chair. If the chair considered an external secretariat should be contracted there would be cost and time implications to get such a service stood up quickly. Design group members would have access to a range of personal and wellbeing supports. The design group would test key elements of the high-level design proposals with an advisory group (or groups) at key points through the design process, as set out in Figure 1.

**Figure 1: Example design and advisory groups interaction, with secretariat support**



61. Subject to the decisions made as part of this paper, the Crown Response will draft terms of reference for the design group, which will be consulted on with key agencies and groups, before being provided to me for consideration. The terms of reference will then be brought to the Cabinet Social Wellbeing Committee, at the start of 2023, for approval.

**I propose there are active Ministerial engagement points with the high-level design process**

62. To help the design process start off on the right track and deliver proposals that are fit for purpose, I suggest several key Ministerial engagement points (separate to the discussion sought in this paper):

- a. the appointment and commissioning of the design structure;
  - b. review of progress reports;
  - c. briefings on options ahead of key decision points where required; and
  - d. receipt of the final high-level design proposals.
63. Other engagement could be considered as needed, based on the potential implications for different portfolios. A summary of potential portfolio considerations is included as Appendix D. Different Ministers may wish to be involved at different points in the process. I propose continuing to act as responsible Minister and circulate progress reports and briefings, which can then be discussed or followed up as required.

**I propose having a design group that has strong Māori representation while including other survivor communities, and advisory groups representing key survivor communities**

64. The Crown Response engaged with members of different survivor communities to explore how the high-level design arrangements recommended by the Royal Commission might work in practice. Hui and one-on-one discussions were held with Māori, Pacific, disabled, rangatahi, and State and faith-based survivors. Individual survivors can be members of different communities, reflecting intersecting identities and experiences.
65. A summary of what survivors and supporting advocates shared about the design process is set out in Appendix E. Key common messages from across survivor communities are:
- a. the centrality of the survivor voice, with a diverse design membership of people able to manage their own trauma;
  - b. Māori need to be the majority in the design process, with the design reflecting te ao Māori and the Treaty partnership;
  - c. the importance of access to appropriate materials, supports, and spaces to do the work well; and
  - d. the need for a formal, transparent appointment process that helps build trust in the design work.
66. A number of survivors and advocates also highlighted the importance of having a clear starting point or proposal, for the design process to then respond to and work from. Given the scale and complexity of the likely system, it was noted that it would not be appropriate to expect a survivor-focused design group to start from a blank slate.
67. Given Māori over-representation in care, and therefore the disproportionate level of abuse suffered, Māori survivors should play a leading role in the design group. Iwi, urban Māori authorities, and key Māori service organisations should also be represented both as key supporters of survivors and as part of the Treaty relationship.
68. Feedback from Pacific survivors, as another group disproportionately impacted by abuse in care, noted the importance of having a voice directly into the design group. This would support inclusion of Pacific values, models of wellbeing, and healing and restoration, which would complement a system grounded in te ao Māori. Similarly, disabled survivors noted the important place of voices of disabled people in design and advisory processes. The needs of disabled people are often overlooked or poorly understood by non-disabled people.
69. There has also been feedback the design group should ideally include expertise in service design and delivery. There may be survivors who are part of the design group that would have these skills, or it may be necessary to include a small number of non-survivor subject matter experts in the design group. Alternatively, the design group could draw on such expertise through its secretariat support or consult external experts as needed.

70. I am therefore proposing a broader design group that has up to 10 members with a gender balance and strong Māori representation, that draws on the wider survivor and expert representation highlighted. The proposed size offers a balance between offering scale for diversity of membership and keeping the group small enough for effective consensus building.
71. The design group should also have an effective impartial chair to help maintain the work's pace and broker any design discussions where the group cannot reach an initial consensus. Regardless of the composition of the design group, I recommend the appointment of a senior Māori leader as chair, providing the mana to help bring the design group together effectively.
72. As with the design group, the issue of membership size for the advisory group needs to be considered. Again, looking to balance diversity of views with group workability, I am therefore proposing advisory arrangements are established to support the design group, with a diverse membership, including Māori, Pacific people, disabled people, Deaf people, LGBTQI+ people, rangatahi, State care and faith-based care survivors. I expect there to be up to 20 advisory members, with a gender balance, to provide adequate representation across these communities and that the arrangements will allow survivors to caucus or work in smaller groups if desired.
73. It is expected there will be agreed hui with the design group and advisory groups coming together at key points in the design group's work, per Figure 1 above. The advisory group or its sub-groups would provide informed advice and feedback on major elements of the high-level redress design. Relevant members of the design group could sit in on the advisory group's (or sub-group's) preparatory discussions, with all relevant material shared in accessible formats well in advance. The specific hui timetable and arrangements (including making sure there are mechanisms for disabled members to fully participate in real time) would be confirmed once the membership is in place but would be guided by the terms of reference.

**A formal appointment process is proposed to provide transparency and help build confidence in the design process**

74. The Royal Commission's redress report is silent on the process to be used for appointing members to the design and advisory groups. Crown Response survivor engagement has highlighted the importance of a wide call for nominations as part of a formal appointment process. A transparent nomination process will help minimise any risk that the groups are seen as being too closely aligned with government agencies.
75. I propose the Crown Response coordinates a broad national nomination call, starting shortly after the decisions set out in this paper are confirmed. A short list of nominees, offering a mix of expertise and experience (Appendix F sets out draft key criteria), would be prepared by a small independent review panel. I would select the panel members, with a focus on individuals that have sufficient independence to provide a visible distance between Crown agencies and the design appointees. The short list of recommended design group appointees would then be submitted to me as responsible Minister for decisions in late January 2023 and would go through the normal Cabinet Appointments and Honours Committee process.
76. I propose that the design group chair is directly appointed by me, in consultation with the Minister for Māori Crown Relations and would also go through the normal Cabinet Appointments and Honours Committee process. My officials would engage with key groups, such as the Iwi Chairs Forum, to identify suitable potential appointees. Such an approach would allow the chair to be appointed promptly, to have input into the design group's operating processes and terms of reference, and help with members' induction.
77. This timing allows the further policy work to be done in parallel on the early design parameters and finalising the design group's terms of reference, following on from decisions

made as part of this paper. The terms of reference would outline the scope of the work and high-level processes to support the relationship between the particular groups.

78. Appointment decisions in January 2023 will allow the design group's initial induction hui organised for mid-February. As part of the induction process, the Crown Response will provide the group with the initial frameworks, reports and other material as outlined in paragraph 57, to assist in the design consideration, in line with the decisions made as part of this paper.
79. Members of the advisory group would be shortlisted by the same independent review panel as for the design group, but on a longer timetable with the proposed appointments submitted in me in early February 2023. This approach would assist in having the design group appointed as the priority, and support longer consideration of a complementary cohort of advisory appointees.
80. Members would be appointed to the design and advisory groups for an initial 6-month period of January to July 2023, with an ability to extend the term as needed. Design group members are likely, for example, to be consulted as part of the detailed implementation design that would follow Cabinet decisions on the high-level design.
81. The alternative to a nomination approach would be direct engagement with representative survivor groups to put forward members. Such an approach would be faster but would not provide the transparency that many survivors are seeking from the design process, and risks having a design group without the necessary capabilities. If the Committee considers speed to be the critical factor, the Crown Response can engage with major survivor groups to secure a list of potential member names for consideration through a shortened appointment process.

#### **Giving effect to the Treaty of Waitangi in the design of the new redress system**

82. There is a strong Treaty interest in the proposals in this paper, as Māori are significantly over-represented among survivors of abuse in care. As noted in the December 2021 Cabinet paper on the initial response to the Royal Commission's redress report, this represents a failure by the Crown to uphold its responsibilities to Māori as citizens in failing to provide safe State care, and as Treaty partners through denying tino rangatiratanga to Māori in state care, through the disconnection created to language, identity and culture compounding the trauma caused by abuse in care. The result of this is a loss of connection for Māori to whānau and whakapapa, which for many survivors has had intergenerational effects.
83. To develop a redress system that is equitable, and which recognises and reflects the Treaty, the design process must reflect partnership between the Crown and Māori. The redress system needs to be grounded in te ao Māori, and accessible for Māori, meeting the needs of Māori survivors and their whānau.
84. The Crown has a responsibility to give effect to the Treaty in the new system's design through particular consideration of the principles of tino rangatiratanga, and must endeavour to make sure the design process supports the expression of tino rangatiratanga of Māori survivors and as whānau, hapū and iwi, and partnership. Treaty responsibilities regarding the active protection of survivors and ōritetanga are also relevant in this work, and need to inform both the high-level and detailed design proposals.
85. As detailed in the options analysis in Appendix B, I have identified three approaches to the overall design process. The three options represent different roles for the Crown and Māori to hold in the development of a new system. Option one is for an independent Māori collective leading the design process in close engagement with a Purapura Ora (survivor) collective, as recommended by the Royal Commission. Option two is for a Crown-led process with officials working closely with survivors and other stakeholders. Option three, my proposed option, is for a process led by a survivor-focused design group with strong Māori

representation and an advisory group drawn from across survivor communities, with Crown support.

86. The Crown’s responsibilities under the Treaty have been considered as a key part of the design process discussed in this paper, in particular the recommendations that Cabinet endorse a set of principles that are grounded in te ao Māori and that the scope of the system, in-principle, include whānau. This recognises the strong ōritetanga considerations that, within and across generations, harm has been disproportionately done to whānau Māori by abuse in care.
87. I am proposing that officials undertake further analysis on the Treaty obligations held by the Crown as part of the detailed design and implementation planning phase that will follow the high-level design described in this paper. Further analysis will be informed by engagement with Māori on the proposed detailed design process and the form and governance arrangements for the new system.
88. Initial discussions with portfolio representatives from the Iwi Chairs Forum about potential involvement in the design process have been positive. The Forum indicated they expect to be engaged with as part of the process and underlined the importance of a transparent and independent design process. This includes the call for nominations and advice to me on the membership of the design group.

**Financial implications**

89. The expected cost of the design process described in this paper is likely to be around \$2 million in the current financial year, including fees for the design and advisory groups, which would be funded through the Crown Response appropriation in Vote Oranga Tamariki.
90. The Royal Commission 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 of 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. The Royal Commission noted the limitations in the estimates and suggested historic abuse rates could be even higher. Compounding the data issues are differing definitions of abuse across time and settings. These figures also do not include whānau which would see the number of potentially affected people increase by 2-8 times the Royal Commission’s ranges.
91. The cost of the new redress system is likely to be high but is difficult to estimate at this stage. Costs will depend on demand for the system, the mix of support services offered, the payments offered, and how supports and payments are scaled for direct survivors and whānau (if the latter are included and offered a sub-set of support types). Data on the number of survivors has low levels of confidence, and therefore demand for services is hard to estimate. In addition, decisions on the scope will also impact on the number of people accessing the system, the scale of system offerings, and the complexity of implementation, and therefore the cost and ability to meet demand. The following table gives a range of example total lifetime system costs to give a sense of the potential orders of magnitude. They are purely indicative, based on illustrative demand levels and component costs which will need to be determined through the high-level and detailed design stages.

**Table 1. Example total costs for the redress system, drawing on illustrative demand and costs levels.**

Scenario description, with examples of different levels of whānau access and recognition payment	Illustrative assumptions				Illustrative total lifetime system cost (\$ million)
	Survivors accessing system	Whānau members	Average survivor recognition	Average individual	

		accessing system	payment level <sup>1</sup> (\$)	support cost <sup>2</sup> (\$)	
Approx. number of survivors who have registered with the Royal Commission	5,000	Nil	20,000	12,000	160
		Nil	90,000	12,000	510
		10,000	20,000	12,000	220
		10,000	90,000	12,000	570
Bottom of Royal Commission's estimated survivor ranges	35,000	Nil	20,000	12,000	1,120
		Nil	90,000	12,000	3,570
		70,000	20,000	12,000	1,540
		70,000	90,000	12,000	3,990
Top of Royal Commission's estimated survivor ranges	256,000	Nil	20,000	12,000	8,192
		Nil	90,000	12,000	26,112
		512,000	20,000	12,000	11,264
		512,000	90,000	12,000	29,184

<sup>1</sup> Two example payment levels are used in different scenarios: one is the average payment made under the current Ministry of Social Development's historic claims process (approx. \$20,000), the other is the New Zealand dollar equivalent of the mid-point of the payment range offered by the Scottish system for survivors of historical child abuse in care, which is used as an international comparator since it is the most recently introduced redress system in a jurisdiction of similar size. For simplicity it is assumed that survivors accessing the system are doing so for the first time, otherwise the recognition payment would be lower, reflecting payments made through other historic claims processes.

<sup>2</sup> A single example of an indicative support package cost is provided (\$12,000, based on a combination of the average cost for a weekly counselling session and a weekly physical therapy session), applied at 100 per cent for a survivor and 50 per cent for a whānau member, reflecting a primary focus on survivors.

92. The Crown Response is developing cost and demand models to support the design process and the proposals that are provided to Cabinet, so that informed decisions can be made. The Crown Response is engaging closely with Treasury on the potential financial implications of the new system, and will test the robustness of the models, and their underpinning assumptions, with Treasury.
93. Subject to the high-level design's proposals on the support services that should be offered as part of the new redress system, and resulting Cabinet decisions, there will need to be analysis undertaken on workforce capability and capacity to deliver the services.
94. The Royal Commission estimated that from 1950 to 2019 the financial costs of abuse and its resulting cumulative trauma total \$231–506 million, and societal costs total \$1.07–2.35 billion. The new redress system's costs will need to be considered against the societal costs, and the opportunity to help address the cumulative intergenerational harm that drives them.
95. Having a single integrated redress system will also support efficiencies across the system. For example, at present the Ministry of Education, Ministry of Health, Ministry of Social Development, Oranga Tamariki all have standing historic claims processes, while school boards of trustees, and Te Whatu Ora (picking up the responsibilities of the former district health boards) have to address claims that are lodged with them.
96. Draft apology and payment frameworks (with the latter including proposed recognition payment structures) will be developed by the Crown Response and approved in-principle by the Ministers it is proposed consider the redress system's scope parameters. The frameworks would be part of the set of materials outlining the initial scope of the new system to be provided to the design group as part of the latter's commissioning. The draft frameworks will help provide a clearer view on the potential costs associated with a major element of the new system.

97. Funding for different workstreams within the redress work programme will be sought as part of Budget 2023, subject to separate report backs on the immediate projects agreed in July 2022. It is expected full funding for the new redress system will be sought as part of Budget 2024, following detailed design and implementation planning, and subject to decisions made by Cabinet in July 2023 on the high-level design proposals.

### **Legislative implications**

98. There are no immediate legislative changes proposed. The overall design process is expected to identify potential legislative changes that will need to be considered as part of the eventual detailed design proposals.

### **Regulatory impact**

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

### **Population implications**

100. As outlined in previous papers to the Committee on responding to the Royal Commission and its recommendations, Māori, Pacific peoples, disabled people, Deaf people, and LGBTQIA+ people have all been significantly affected by abuse in care and are therefore a critical focus in the design of the new redress system. Design structures need to include diverse representation from the affected communities so that all aspects of the system are designed (including pathways into the system) in ways that are responsive to people's specific cultures, context, and needs. The system must be inclusive and accessible to avoid further perpetrating exclusion and the neglect of disabled people.
101. It is recognised that people will have intersecting and overlapping identities and perspectives that need to be considered as part of the design process. For example, wahine Māori are significantly affected by violence and the gendered nature of different forms of abuse will need to be reflected in the redress system's design and supports. There is also a growing number of young people that are of Māori and Pacific heritage whose worldviews span te ao Māori and different Pacific nations' cultures.
102. In light of the overlapping identities and issues faced by diverse populations, the redress design process needs to consider and reflect other work underway across government, including Te Aorerekura, the Child Wellbeing Strategy, the Pacific Wellbeing Strategy, the establishment of Whaikaha and the national rollout of the Enabling Good Lives principles. An inclusive, accessible, trauma-informed redress system has the potential to help address trauma for survivors and their whānau and communities, contributing to positive longer-term outcomes. The redress programme and the new system can also be informed by the new model standards for working with survivors following disaster events, which have useful insights and themes that can be applied to this different context.
103. Drawing on the wider network of work associated with the different strategies will allow the redress design process to learn from a broader array of groups and processes, to have the new redress system reflected in other agencies' work, and to help reduce the risk of redress being developed and existing in silos. The Enabling Good Lives principles and Te Aorerekura frameworks, in particular, provide strong engagement and process models that can be drawn on for the redress design. It will be important that the design and advisory groups are provided with information on the range of key strategies, and the values and outcomes they reflect, to help inform their thinking and the proposals developed.

### **Human rights implications**

104. The Royal Commission recommended that the redress system should be consistent with the commitments Aotearoa New Zealand has under international human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations

Convention on the Rights of Persons with Disabilities and the United Nations Convention on the Rights of the Child. These commitments include that effective redress must be available for human rights violations. The proposed redress system design approach outlined in this paper, being collaborative and survivor-focused, is intended to strengthen human rights and are consistent with New Zealand's international obligations as well as the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### Consultation

105. This paper was developed by the Crown Response. The following agencies were consulted; ACC, Archives New Zealand, Crown Law Office, Department of Corrections, Ministry for Pacific Peoples, Ministry for Women, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of Social Development, New Zealand Police, Oranga Tamariki, Public Service Commission, Te Arawhiti, Te Puni Kōkiri, Treasury, Whaikaha – Ministry of Disabled People, and WorkSafe NZ. The Department of the Prime Minister and Cabinet was informed.

### Communications

106. The work of the Royal Commission and the Crown's response to its findings are of considerable interest to many. I therefore intend to issue a media release accompanying the proactive release of this paper, outlining the arrangements to be used to develop the high-level design of a compassionate, independent survivor-focused redress system. The Crown's role will need to be clearly outlined to help address credibility concerns.

### Proactive release

107. I intend to proactively release this paper as soon as practicable. The paper will be published on the Crown Response website, with other agencies linking to the page as required.

### Recommendations

108. It is recommended that the Committee:

- 1) **note** the approach to designing the new redress system will need to balance competing factors including the complexity of the design work involving diverse survivors, the urgent desire to deliver real change for survivors, and survivors' deep distrust of government;
- 2) **note** that an independent high-level design process involving design and advisory groups with diverse memberships, with key purpose, function, and scope parameters established in principle by Cabinet to help give concrete shape to the design process, offers the best balance of the different factors to provide a credible high-level design;
- 3) **endorse** the following principles, purpose, and functions for the new redress system, as articulated by the Royal Commission of Inquiry into Historical Abuse in State Care and the Care of Faith-based Institutions (the Royal Commission), subject to further work by Crown Response to the Abuse in Care Inquiry (Crown Response) officials to expand the principles and functions to give more explicit visibility to the Treaty of Waitangi and better articulate the role of the redress system in relation to the prevention of harm in current care settings:

Principles to guide the operation of the redress system:

- i. Te mana tāngata: the restoration of and respect for the inherent mana of people affected by tūkinō;
- ii. Manaakitia kia tipu: the nurturing of the oranga or wellbeing of survivors and their whānau so that they can prosper and grow;
- iii. Mahia kia tika: fair, equitable, honest, impartial and transparent;

<ul style="list-style-type: none"> <li>iv. Whakaahuru: processes protect and safeguard people;</li> <li>v. Whanaungatanga: refers to the whakapapa, or kinship, connections that exist between people;</li> <li>vi. Teu le vā / tauhi vā: tending to and nurturing of vā, or interconnected relationships between people and places, to maintain individual and societal oranga; and</li> <li>vii. He mana tō tēnā, tō tēnā – ahakoa ko wai: each and every person has their own mana and associated rights, no matter who they are.</li> </ul>
<p>The redress system has a three-part purpose: to apologise for the tūkino suffered by survivors; to support the healing or restoration of the mana, tapu, and mauri of people; and, to take steps towards preventing abuse.</p>
<p>The functions of the redress system are that it:</p> <ul style="list-style-type: none"> <li>i. provide a safe, supportive environment for survivors to share their care experiences;</li> <li>ii. facilitate acknowledgements and apologies by the relevant institutions;</li> <li>iii. facilitate access to support services, financial payments and other measures that enable te mana tāngata; and</li> <li>iv. make recommendations on identified issues, to help prevent further abuse in care.</li> </ul>

- 4) **endorse** the following in-principle scope parameters to assist in the design process, that the new redress system includes:
  - a) non-State care (faith-based institutions and private schools) survivors, subject to the Crown being able to agree suitable funding mechanisms with those institutions to support the operation of the redress system; and
  - b) current and future survivors, to prevent the need for parallel systems or process to be established in future;
- 5) **invite** me to report back with proposals on the following scale parameters, as part of the broader report back on the high-level design proposals on the new redress system (per recommendation 15):
  - a) potential definitions of the forms of abuse and neglect and care settings to be covered by the new system; and
  - b) the potential inclusion of whānau as indirect survivors to help address the impacts of abuse within and across generations, on the expectation the services and supports offered by the system to indirect survivors would differ to those provided for direct survivors;
- 6) **note** that the proposed scope above is significantly wider than current historic abuse claims processes and, that while such an expanded scope is consistent with the integrated support-based redress need noted by Cabinet, it creates more complex, technical design issues that officials will begin working through in parallel with the independent high-level design process and before the new system reaches the detailed design and implementation planning stage;
- 7) **note** the work to design the redress system will touch on numerous Ministerial portfolios and involve a number of Ministerial engagement points, including design commissioning conversations, progress reports, briefings on key options for the system, and the formal receipt of the high-level design proposals;

- 8) **note** the Royal Commission recommended the primary design group role be undertaken by a Māori Collective of survivors, iwi, and service providers, and the supporting advisory role undertaken by a Purapura Ora Collective of a diverse cross-section of survivors;
- 9) **note** that engagement with members of a variety of survivor communities has highlighted that while the design group should have strong Māori representation, reflecting the Treaty partnership and over-representation of Māori in care, the group would benefit from having additional perspectives directly at the design table to speak to supports and services reflecting disabled people and Pacific needs in particular;
- 10) **note** the Royal Commission did not provide a recommendation on the size of the design and advisory arrangements, but given the diversity of abuse survivors, the types of skill sets required, and the balancing of group size with consensus building it is proposed the design group consists of up to 10 members along with an impartial chair, and the advisory group consists of up to 20 members;
- 11) **agree** the design group to lead development of the high-level redress system design is composed of up to 10 members and a chair, representing survivors and subject matter experts such as support service providers, with strong Māori representation and the overall membership having a gender balance;
- 12) **agree** the advisory group to support the design group is composed of up to 20 members with a gender balance and a diverse membership including Māori, Pacific people, disabled people, Deaf people, LGBTQ+ people, Rangatahi, State care, and faith-based care survivors, with the ability for the advisory group to caucus or work in smaller groups as needed;
- 13) **agree** the design group will be tasked to produce high-level design proposals by June 2023 that cover:
- feedback on the system's intended principles, purpose, functions, and scope – with the option to outline a strong case for alteration to any of the specific aspects, particularly when considering the principles from a Treaty perspective;
  - how the system should safely connect with and support survivors and whānau to navigate their redress journey – how redress needs to “look and feel” to give survivors confidence in the redress system and to provide them with a safe, accessible, trauma informed, and culturally responsive experience;
  - the types and mix of services and supports that should ideally be provided as part of each of the redress system's functions;
  - feedback on the apology and payment frameworks, draft redress models, and example proposals, provided by the Crown Response, with a focus on what is needed to support meaningful recognition of the harms people have experienced; and
  - an outline of the critical issues that will need to be considered as part of the detailed design and implementation planning, needed to give effect to the overall design.
- 14) **note** that a set of materials will be prepared by the Crown Response, with appropriate agency consultation and Ministerial approval, to form the basis of the proposed design group's induction and work programme;
- 15) **note** the intent is for Cabinet to consider the high-level proposals in July 2023 to then make decisions to inform the subsequent detailed redress design and implementation

planning, with the aim of the full system design and costs to be considered as part of Budget 2024;

- 16) **agree** that the design group's terms of reference will be drafted by the Crown Response in consultation with key agencies and groups, based on the decisions on principles, purpose, functions, scope, and structure made in this paper, and then be considered at the Cabinet Social Wellbeing Committee at its first meeting in 2023;
- 17) **agree** a formal process is used to select the membership of the design and advisory groups, involving a nationwide nomination call, a small independent candidate review panel, and appointment of the members by me (going through the normal Cabinet Appointments and Honours Committee process);
- 18) **agree** I will directly appoint the design group's chair in consultation with the Minister for Māori Crown Relations (going through the normal Cabinet Appointments and Honours Committee process);
- 19) **note** for the candidate review panel I will have a focus on a small group of individuals that have sufficient independence to provide a visible distance between Crown agencies and the eventual design group appointees; and
- 20) **note** the significant potential scale of an independent, trauma-informed redress system for abuse survivors, which will require demand and cost modelling to help inform both the system options presented to, and decisions made by, Cabinet at the appropriate stages.

Hon Chris Hipkins  
Minister for the Public Service

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## Appendix A: Summary of the Royal Commission's recommendations on the establishment of a new redress system

### Establishment of a new redress system that:

- a. is founded on a series of principles, values and concepts founded in te ao Māori
- b. is designed and run in a way that gives effect to the Treaty of Waitangi
- c. covers the full range of physical, sexual, emotional, psychological, racial, and cultural abuse, along with neglect
- d. provides for financial payments that give a meaningful recognition of the harm and trauma suffered
- e. facilitates oranga services tailored to individual survivors' needs (and, where appropriate, those of their whānau), including help with health, education, employment, secure housing, building and maintaining healthy relationships, counselling, and social and cultural connections
- f. supports an expansion of oranga and support services for survivors and their whānau
- g. facilitates meaningful apologies
- h. provides a safe, supportive environment for survivors to interact with the system, talk about their abuse and make a claim, and that is open to all survivors
- i. allows family members to continue a claim on behalf of a survivor who dies
- j. develops and makes public information about the types of support available, eligibility and assessment criteria, and timeframes for making decisions on a claim
- k. makes belief of a survivor's account the starting point for assessing a claim
- l. allows survivors to choose between making a claim that takes into account abuse and its impact or simply the abuse only, which will have lower standards of proof than applies in the courts
- m. involves survivors in deciding on the form and content of apologies and acknowledgments and choosing the nature and extent of the oranga services they may need
- n. includes training for those working with survivors
- o. involves the development of more effective processes for referring allegations of abuse or neglect to enforcement or other agencies
- p. provides better monitoring of, and reporting on, abuse and systemic issues
- q. has its design led by an independent, government-funded inclusive Māori Collective, working together with a government-funded group representing survivors described as the Purapura Ora Collective and with others
- r. requires the wind down of current State claims processes and for all government agencies to join and encourages faith-based institutions to join within a reasonable time, although the latter will, if necessary, be required to join.

**Appendix B: Analysis of design and advisory group options**

Option assessment criteria
<ul style="list-style-type: none"> <li>• How the option gives effect to the Treaty relationship</li> <li>• The degree to which the option provides a breadth of survivor voice and representation</li> <li>• The option's feasibility, in terms of the ability to deliver effective proposals within the intended timeframe</li> <li>• The option's complexity and potential overall cost</li> </ul>

Option one	
<p>The Royal Commission recommended the design process be led by an independent Māori collective made up of Māori with relevant expertise, personal experience, and representing a mix of survivors, iwi, and service providers. The Royal Commission also recommended that the Māori Collective work with a Purapura Ora Collective, drawn from a broad cross-section of survivor groups, on the design of the new system.</p>	
Benefits	Risks
<ul style="list-style-type: none"> <li>• Given Māori over-representation in care, and therefore the disproportionate level of abuse suffered, Māori survivors should play a leading role in the design group. Iwi, urban Māori authorities, and key Māori service organisations should also be represented both as key supporters of survivors and as part of the Treaty relationship.</li> <li>• The advisory group would reflect a broad range of survivor groups.</li> <li>• Reflects the Royal Commission's recommendation on the design and advisory arrangements.</li> <li>• Fully survivor led and independent from the Crown.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not include broad representation of survivor communities in the design group.</li> <li>• If the group is fully independent, then they will have control over the process which could have implications for the time and cost of the process (for example, would likely push the timeframe for the high-level design to post June 23).</li> <li>• Does not clearly highlight the role of the Crown in the process which could mean the high-level design does not meet the Crown's criteria for approval or endorsement (for example, is too costly or not feasible to implement).</li> </ul>

Option two	
A Crown-led process, with a cross-agency group of officials working with survivor representatives and a cross-section of other key stakeholders, to produce proposals for Ministerial consideration.	
Benefits	Risks
<ul style="list-style-type: none"> <li>• Would be less costly as would require less engagements and hui with survivor communities, but would require significant input from across agencies.</li> <li>• Would be timelier as the process would be led and delivered by the Crown with input from stakeholders.</li> <li>• Would be more feasible to orchestrate given CRU are responsible for the coordination of agencies already and could run the process.</li> <li>• Could have high degree of Ministerial oversight.</li> </ul>	<ul style="list-style-type: none"> <li>• A Crown led process is contrary to the Royal Commission recommendations and the general feedback from survivors about the design process.</li> <li>• Potential for lower buy in and lesser quality design if it is Crown led without sufficient survivor engagement. This could lead to greater rework in the detailed design and implementation phases.</li> <li>• Does not represent those who the system is most for and would not have diversity of survivors represented as key design members.</li> <li>• Less transparent for survivors and stakeholders more broadly.</li> <li>• Does not adequately reflect our Treaty obligations.</li> </ul>

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Option three	
<p>An independent high-level design process, with some key function and scope parameters identified in principle by Cabinet and for discussion with the design group, design and advisory groups with diverse memberships undertaking the design process with Crown support and materials, and close Ministerial involvement throughout the design process.</p>	
Benefits	Risks
<ul style="list-style-type: none"> <li>• Strong Māori membership reflects the importance of having a strong Māori voice in the design work.</li> <li>• Reflects a genuine partnership between the Crown and tangata whenua.</li> <li>• It includes representatives from many survivors' groups in the design and advisory arrangements.</li> <li>• Timely and feasible because the process will be supported by the CRU secretariat who can provide meaningful advice and input into the process.</li> <li>• Closer engagement between Ministers and Design Group throughout the process and therefore more likely Ministers and Design Group can make timely decisions.</li> <li>• Wider range of expertise can be included in design which will increase the quality of the outputs.</li> </ul>	<ul style="list-style-type: none"> <li>• Higher costs than a Crown-led model from engagement with survivor groups and communities.</li> <li>• Still has a high level of Crown involvement which may be seen unfavourably by survivors who are distrustful of government.</li> <li>• Could be complex depending on exact advisory arrangements, and the interplay between the design and advisory groups.</li> <li>• Still requires work to be done in a short and intense time frame, with the potential for the design group to be unable to reach consensus on either the overall design or key elements within it.</li> <li>• Without appropriate engagement could result in proposals that are difficult to implement or require significant reconsideration during detailed design.</li> </ul>

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**Appendix C: Initial analysis of redress system scope questions**

<b>A. Scope questions and recommendation by the Royal Commission</b>			
<p>Should the new redress system cover current and future abuse and neglect as well as past harm? Should there be any time-limits on when survivors must seek redress from the new system by?</p> <p><i>The Royal Commission recommended the puretumu system should cover historical, contemporary and future abuse. It recommended the system should be accessible, transparent, timely, fair.</i></p>			
<b>What survivors have said</b>	<b>Key considerations</b>	<b>Comparisons with other jurisdictions<sup>4</sup></b>	<b>What are our key choices?</b>
<p>Survivors have talked about the complexity of the current state-based redress system, with different government agencies and other entities providing redress that cover different periods of time. They have also shared experiences of, and their concern about, ongoing harm within care settings.</p> <p>Survivors are ready to tell their story at different stages in their life and there is potential for harm if survivors and their whānau were required to engage with the system under time constraints.</p>	<p>While the cost of the main redress system would increase if these survivors were included in scope, these costs would be re-couped from savings from claims processes that agencies would need to operate if these survivors were not included in the scope of the new redress system.</p> <p>There is a risk, however, that access to redress for survivors of historical abuse may be delayed as the system works to meet the needs of a larger group of survivors.</p> <p>Downstream savings may be more significant with a widened scope if by providing timely redress to current and future survivors we help to ameliorate the inter-generational effects of harm in care.</p> <p>There will be complexities to work through by expanding the scope to</p>	<p><i>Australia</i></p> <ul style="list-style-type: none"> <li>• Australian National Redress Scheme included contemporary cases of children who experienced institutional child sexual abuse (abuse needed to occur before 1 July 2018). The scheme is timebound to operate for ten years.</li> <li>• Territories Stolen Generations Redress Scheme provides support for survivors who were removed from their families or communities either before 1978 or before 1989 depending on the territory.</li> </ul> <p><i>Republic of Ireland</i></p> <ul style="list-style-type: none"> <li>• Residential Institutions Redress Board (the Board) established in 2002, applicants could apply for redress from 2003 – 2005. Two weeks prior to applications closing, the Board received an increase in applications and chose to extend beyond the period outlined. The Board finalised all their applications in 2011.</li> </ul>	<p>We could decide in-principle to include current and future abuse and set no time-limits of when redress can be sought. This could entail the redress system being established on an enduring basis, with long-term funding needs. However, with the ongoing work to improve the monitoring and operation of the care system, and as the system starts to make a difference for survivors, the demand for the redress system is expected to decline over time. If we do set up a system that does not have any time limits at the outset, we could set a regular 5- or 10-year review to test the ongoing need for and scale of the redress system.</p> <p>Alternatively, we could agree in principle to include current and future survivors but take a phased approach of making the redress system accessible to survivors who were</p>

<sup>4</sup> The schemes analysed must be considered within each country's unique context and the nature and scope of abuse and harm relative to each inquiry that led to the establishment of that scheme. While it is important to compile lessons learned from other jurisdictions, consideration about the scope of the Royal Commission and Aotearoa New Zealand's proposed redress system must reflect this country's context and the proposed emphasis on healing and wellbeing.

	<p>include current and future harm in care and the interfaces with current claims processes and monitoring and oversight processes.</p> <p>Significant analysis will need to be conducted to identify workforce requirements, as the number of kaimahi with the relevant skills will be required.</p>	<p><i>Northern Ireland</i></p> <ul style="list-style-type: none"> <li>Historical Institutional Abuse Redress Board's scope was for abuse that took place during the period of 1922 – 1995 and/or if an individual was sent to Australia under the Child Migrant Programme. Applications are open for five years.</li> </ul> <p><i>Scotland</i></p> <ul style="list-style-type: none"> <li>Abuse must have taken place prior to 2004, the scheme is open for five years, however in legislation this time frame can be extended if appropriate.</li> </ul> <p>Other schemes have been timebound, and there have been instances where schemes have had to extend beyond the initial timeframe agreed for the scheme.</p>	<p>abused from 1950-1999 in the first instance, with the system then moving into a second phase to include abuse post 1999 and into the future.</p> <p>The alternative would be to establish a time limit on coverage, whether a point up to which abuse can have occurred, or that survivors need to come forward by a fixed time. This would provide a definite end point for the system but would risk the Crown appearing to ignore the different types of harm that continue to be experienced across a range of settings.</p>
<p><b>Consistency with Crown Response principles</b></p>	<p>A system which covers past and future harm is consistent with the Crown Response principles as it demonstrates:</p> <ul style="list-style-type: none"> <li>manaakitanga – fairness to all those who were harmed in care;</li> <li>openness and learning – further develops trust and confidence with survivors through the Crown's commitment to redress and understanding abuse; and</li> <li>meets obligations under the Treaty, exercises tino rangatiratanga over kāinga as it recognises inter-generational harm, is survivor-centred, promotes active protection to redress past and present-day harm, is equitable and provides a range of options to survivors and whānau.</li> </ul>		
<p><b>Consistency with Royal Commission principles</b></p>	<p>A system which covers past and future harm is consistent with the Royal Commission principles as it demonstrates:</p> <ul style="list-style-type: none"> <li>te mana tangata – an approach to healing for those affected by past and future tūkino;</li> <li>manaakitia kia tipu – through an enduring commitment to healing, reconciliation and responds to the needs of all survivors past and future;</li> <li>mahia kia ika – equitable and fair approach to redress; and</li> <li>whanaungatanga – understands the impact of tūkino can be inter-generational and the new redress system needs to facilitate oranga and mana to all those impacted.</li> </ul>		

B. Scope questions and recommendation by the Royal Commission			
Should the new system include faith-based institutions and private schools as well as other new non-State care providers?			
<p><i>The Royal Commission recommendations, taken together, are that the new redress system should phase out current state and faith-based processes and provide an independent all-of-system approach to abuse in state, non-State and faith-based care.</i></p>			
What survivors have said	Key considerations	Comparisons with other jurisdictions	What are our key choices?
<p>Many faith-based care survivors have shared with the Royal Commission their strong distrust of faith-based claims processes and a desire for the State to support them in their efforts to hold faith-based institutions to account and to gain redress.</p> <p>Survivors shared some faith-based institutions did not have formal redress processes, and if they did, they either ran on an ad-hoc basis or were inconsistent in their approach to redress and payments.</p> <p>Having separate redress systems across faith and state-based care settings has added significant complexity and confusion for those survivors who were abused across both settings.</p>	<p>The inclusion of non-State care would add to the complexity of the system's arrangements. We would need to work closely with major faith-based care providers on the principles and scope of the new system, common payments, claims and apologies frameworks and how the system would be funded. We would need to work through issues relating to access to records, and referrals to disciplinary and investigative bodies to look into alleged abusers.</p> <p>A significant proportion of survivors experienced care in both settings. Excluding non-state-based harm would require these survivors to engage in both state and faith-based redress systems.</p> <p>If the redress system is established on an enduring basis and it includes faith-based institutions, the arrangements would need to be adaptable to the inclusion of new non-State institutions as care system changes – for example, as other faiths open schools, and iwi care providers take on a larger role in the Oranga Tamariki systems. This will add to the complexity of the</p>	<p><i>Australia</i></p> <ul style="list-style-type: none"> <li>Abuse was included from a range of settings and included State and non-State institutions (organisations such as a school, a church, parish, mission, a club, an orphanage or Children's Home, or government department).</li> </ul> <p><i>Republic of Ireland</i></p> <ul style="list-style-type: none"> <li>Residential Institutions Redress Board (the Board) were eligible to those who were a resident under the age of 18 in an industrial school, reformatory school, children's home, special hospital, or similar institution.</li> </ul> <p><i>Northern Ireland</i></p> <ul style="list-style-type: none"> <li>Historical Institutional Abuse Redress Board's scope for eligibility was an institution in Northern Ireland in which a body, society, or organisation with responsibility for the care, health and welfare of children provided residential accommodation for children, took decisions about them and made provision for their day-to-day care.</li> </ul> <p><i>Scotland</i></p> <ul style="list-style-type: none"> <li>Redress Scotland eligibility includes a residential institution in which the day-to-day care of children was provided by or on behalf of a person other than a parent or guardian of</li> </ul>	<p>We could decide in-principle to include all survivors of harm in non-state care from the outset, potentially using phasing to manage costs and design complexities</p> <p>Alternatively, we could limit coverage to only state-based survivors and those survivors who were harmed in the care of institutions who agree to be part of the system, again with the option of using phasing to manage costs and complexities.</p> <p>The alternative would be to exclude non-State care altogether and focus exclusively on harm in state care.</p>

	<p>arrangements but will help make the system responsive to shifting care arrangements.</p>	<p>the children resident there; or a place, other than a residential institution, in which a child resided while being boarded-out or fostered. This does not include private arrangements (i.e., those which were not instigated primarily as a result of arrangements made in exercise of public functions) or situations where a child was boarded-out or fostered with a relative or guardian.</p>	
<p><b>Consistency with Crown Response principles</b></p>	<p>By including faith-based and other non-State institutions it demonstrates:</p> <ul style="list-style-type: none"> <li>• manaakitanga – fairness to all those involved and who were harmed in care;</li> <li>• openness and learning – the Crown has listened to survivors and has an ongoing commitment to support all survivor needs and values survivor voices to continue to build out the record about the level of harm in non-State care; and</li> <li>• meets obligations under the Treaty – active protection as Māori are overrepresented in care, exercises tino rangatiratanga over kāinga as it is a survivor-centred approach, is equitable, and provides options to survivors and whānau.</li> </ul>		
<p><b>Consistency with Royal Commission principles</b></p>	<p>By including faith-based and other non-State institutions it upholds:</p> <ul style="list-style-type: none"> <li>• manaakita kia tipu – treats survivors and their whānau with atawhai, humanity, compassion, fairness, respect, and generosity in a manner that upholds their mana and nurtures all dimensions of oranga;</li> <li>• maha kia tika – reflective of the scope of the Royal Commission and is fair, equitable, honest, impartial and transparent;</li> <li>• He mana tō tēnā – ahakoa ko wai – recognises each and every person has their mana and associated rights, no matter who they are, striving for equity and equality, we understand the ad-hoc processes non-state institutions run are not reflective of the needs of Deaf people and disabled people and further marginalises these communities; and</li> <li>• Teu le vā – understand the interconnected relationships with peoples and places including in faith-based contexts and takes steps to re-build the vā.</li> </ul>		

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**C. Scope questions and recommendation by the Royal Commission**

Should the system be designed to provide redress to whānau indirectly affected by abuse and neglect as well as direct survivors?

Should other collectives be able to access the system?

*The Royal Commission recommendations, taken together, are that the redress system should:*

- *enable, where the survivor wishes, whānau to make a claim on a survivor’s behalf (including posthumously).*
- *have processes in place so that survivors and their whānau receive manaakitia kia tipu (orange, wellbeing and respect)*
- *enable survivors and their whānau to access a range of services, including counselling and psychological support; reconnection to whakapapa and culture; restoration of family relationships and education opportunities etc.*

What survivors have said	Key considerations	Comparisons with other jurisdictions	What are our key choices?
<p><i>Survivors and their whānau</i></p> <p>The Royal Commission has heard from survivors and their whānau of the indirect inter-generational harm that the whānau of survivors have suffered, including parents, their siblings, their children and grandchildren. It has also heard how efforts to address collective harm and effects across generations is key to producing lasting improvements in wellbeing. Whānau have shared with the Commission their efforts to seek redress on behalf of survivors, where those survivors had either deceased already or were unable to seek redress themselves.</p>	<p>Enabling whānau to seek redress on behalf of survivors and having some of redress-related services and supports available to survivor whānau would increase the cost of the redress system, though the mix and level of supports to be provided to survivors as opposed to whānau could reflect differences between survivors (who are the primary focus) and others who have been impacted. Providing different, potentially more limited, supports to whānau would lower the associated cost.</p> <p><i>Other impacted collectives</i></p> <p>Loss of connection with whānau and whakapapa for many survivors has had wider effects beyond survivors and whānau, most significantly for hapū and iwi. The recognition of the intergenerational impacts of abuse on whānau, hapū and iwi intersects with the Crown Response’s work on public apologies and related recognition and public education activities. The apologies work may be the most appropriate pathway for considering redress in a collective context.</p>	<p><i>Australia</i></p> <ul style="list-style-type: none"> <li>- National Redress Scheme: Family members are unable to access the service or apply for redress on behalf of someone who has died.</li> <li>- Territories Stolen Generations Redress Scheme: family members can apply for monetary redress on behalf of a deceased family member.</li> </ul> <p><i>Republic of Ireland</i></p> <ul style="list-style-type: none"> <li>• Residential Institutions Redress Board (the Board): children or spouses were eligible to apply for monetary redress on behalf of a deceased person.</li> </ul> <p><i>Northern Ireland</i></p> <ul style="list-style-type: none"> <li>• Historical Institutional Abuse Redress Board’s: Residential Institutions Redress Board (the Board): children or spouses were eligible to apply for monetary redress on behalf of a deceased person.</li> </ul>	<p>This parameter needs to be considered in conjunction with the breadth of abuse and neglect being covered by the system. There could, for example, be sliding scales or different combinations of supports that are offered to different types of survivors and their whānau, reflecting the nature of the harm experienced. This would help to address different effects of abuse, potentially supporting improved social outcomes, while allowing the system to focus the most resources on those with the most intense needs.</p>

		<p><i>Scotland</i></p> <ul style="list-style-type: none"> <li>• Redress Scotland: next of kin can apply for monetary redress.</li> </ul>	
<p><b>Consistency with Crown Response principles</b></p>	<p>Enabling whānau access to the redress system demonstrates:</p> <ul style="list-style-type: none"> <li>• manaakitanga – fairness to all those involved and harmed in care either directly or indirectly;</li> <li>• openness – reconsiders how the State views redress in an individual context compared to collective context;</li> <li>• learning – the Crown has listened to survivors and has an ongoing commitment to support survivor and whānau needs; and</li> <li>• meets obligations under the Treaty – tino rangatiratanga over kōinga as it enables survivors and their whānau to make decisions about how they reclaim their lives, is survivor-centred as it reflects te ao Māori, supports active protection as it provides a collective lens to prevent further inter-generational harm, is equitable, and provides a range of options to survivors and their whānau.</li> </ul>		
<p><b>Consistency with Royal Commission principles</b></p>	<p>Enabling whānau access to the redress system demonstrates:</p> <ul style="list-style-type: none"> <li>• te mana tāngata – respects the inherent mana of people affected by tukino either directly or indirectly;</li> <li>• manaakita kia tipu – treats survivors and their whānau with atawhai, humanity, compassion, fairness, respect, generosity in a manner that upholds their mana and nurtures all dimensions of oranga;</li> <li>• maha kia tika – is fair, equitable, honest, impartial and transparent, as we understand whānau are often support people for survivors and are impacted by the abuse and harm;</li> <li>• whanaungatanga – values the whakapapa or kinship that exist between people and acknowledge the impact of harm can be inter-generational and go beyond the individual;</li> <li>• He mana tō tēnā – ahakoa kō wai – recognises each and every person has their mana and associated rights, no matter who they are, striving for equity and equality; and</li> <li>• Teu le vā –places relationships at the centre and takes steps to heal or re-build the vā to re-establish connection.</li> </ul>		

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**D. Scope questions and recommendation by the Royal Commission**

What forms of abuse and neglect should be covered? What care settings should be covered? Should the system cover abuse and neglect by people other than caregivers and employees, such as visitors and other people being cared for in the care setting?

*The Royal Commission recommended the new redress system should have as an operating basis, a definition of abuse and neglect that includes:*

- i. *physical, sexual, emotional, psychological, racial, and cultural abuse; and*
- ii. *physical, emotional, psychological, medical, spiritual, and educational neglect.*

*It recommended the puretumu system should cover abuse in any State agency that directly or indirectly held care responsibility when the abuse occurred.*

*The Royal Commission did not make any direct recommendations about coverage relative to who perpetrated abuse but did recommend an all-of-system approach to redress. This would apply to:*

- i. *where there has been an assumption of direct or indirect responsibility for the care, protection, or wellbeing of a child, young person, or vulnerable adult; and*
- ii. *the situations where such responsibility was and is discharged are: child and young person welfare and youth justice residences, facilities, placements, and programmes; health and disability hospitals, facilities, and programmes; educational facilities, schools, and units; and non-governmental homes, facilities, and care and educational programmes (including those run by faith-based institutions).*

What survivors have said	Key considerations	Comparisons with other jurisdictions	What are our key choices?
<p>Survivors have shared experiences of abuse and neglect that were at odds with policy and practice requirements at the time they were in the direct and indirect care, some of which was also criminal, and which align with more narrow definitions of physical, sexual and emotional abuse and neglect. They have also shared stories of disconnection from whānau, whakapapa and culture while in the direct</p>	<p>These three questions need to be considered together to provide a full picture of the abuse to be covered by the system – the type, the overarching responsibility for care and where that responsibility is discharged, and the potential perpetrators of abuse in those settings. Taken together, to reflect the breadth of harms children, young people and vulnerable adults suffered and the situations where those harms occurred, when they were (or are) under the care or protection of others.</p> <p>Direct responsibility is having a duty of care equivalent to a parent or guardian – for example, Oranga Tamariki having a custody order over a child, or a school for a boarding pupil. Indirect responsibility is having responsibility for the health and wellbeing of a person for a defined or limited period; for example, a caregiver running a day programme for a disabled adult, a priest providing a pastoral programme for young people or a school during the school day.</p> <p>The Royal Commission’s recommended definition for the abuse and neglect to be covered by the new system is very broad. The Commission’s initial</p>	<p>Note, many overseas redress systems provide graduated payments, as do existing historic claims processes in New Zealand. The scale of the graduations and overall payments vary across jurisdictions, reflecting assessments of harm, historic payments, payments offered under alternative systems, and considerations of duty of care versus personal liability.</p>	<p>We could encompass the forms of abuse, neglect, improper treatment and associated harm articulated in the initial terms of reference for the Royal Commission but be extended to also include harm that occurred through loss of connection to whānau, whakapapa and culture for people in the direct care of the state.</p> <p>More work needs to be completed into extending the definition to include</p>

<p>care of the state and the enduring impact of that on their sense of place, connection and belonging. The Royal Commission has also traversed questions of cultural abuse for people in the indirect care of the state, such as, for example, lack of access to te reo Māori teaching for school students.</p>	<p>terms of reference define abuse as meaning physical, sexual, emotional, and psychological abuse, and including inadequate or improper treatment or care that resulted in serious harm to the individual (whether mental or physical). Definitions or descriptions of cultural abuse and spiritual neglect offered by the Royal Commission are very broad and could see potentially see whole populations eligible to access the new system. Such broad definitions increase the number of people who could access the system and could risk the system becoming so broad that those of greatest need (who experienced the most egregious types of abuse) are no longer the core focus.</p> <p>To address breadth concerns, more specific abuse and neglect definitions could be used for the high-level design, such as that from the Royal Commission's terms of reference, or in line with current legislation, guidance and protocols (for example, the joint Oranga Tamariki-17 Police Child Protection Protocol, the Human Rights Act). Alternatively, the redress system's payments and supports could be offered on a sliding scale or different combinations based on the type and setting of abuse. Such an approach could be considered through the design process.</p>		<p>cultural and spiritual abuse within the schooling system because of the risk that such a broad definition would compromise the effective operation of a redress system and potentially fail to provide redress to those survivors who suffered severe abuse and neglect.</p>
<p><b>Consistency with Crown Response principles</b></p>	<p>Encompassing the scope of the Royal Commission's terms of reference demonstrates:</p> <ul style="list-style-type: none"> <li>• manaakitanga – treating people with compassion and understanding the harm that occurred multiple forms and contexts.</li> <li>• learning – the Crown has heard from disabled survivors and how neglect was used in psychopaedic institutions as punishment.</li> <li>• meets obligations under the Treaty – supports active protection as it includes inter-generational harm, is equitable, and provides a range of options to survivors and their whānau.</li> </ul>		
<p><b>Consistency with Royal Commission principles</b></p>	<p>Encompassing the scope of the Royal Commission's terms of reference demonstrates:</p> <ul style="list-style-type: none"> <li>• manaakita kia tipu – treats survivors and their whānau with atawhai, humanity, compassion, fairness, respect, generosity in a manner that upholds their mana and nurtures all dimensions of oranga;</li> <li>• whanaungatanga – values the whakapapa or kinship that exist between people and acknowledge the impact of harm can be inter-generational and go beyond the individual; and</li> <li>• He mana tō tēnā – arakoa ko wai – recognises each and every person has their mana and associated rights, no matter who they are, striving for equity and equality.</li> </ul>		

**Appendix D: Ministerial portfolio considerations in the development of the new redress system**

Portfolio groupings	Potential impacts
<ul style="list-style-type: none"> <li>• Public Service</li> </ul>	<ul style="list-style-type: none"> <li>• Overall responsibility for system development, including establishment of a new entity and workforce development</li> </ul>
<ul style="list-style-type: none"> <li>• Finance</li> </ul>	<ul style="list-style-type: none"> <li>• Crown baselines and total expenditure – considerations of system investment (including broader workforce capability) and cost versus economic impacts of abuse</li> </ul>
<ul style="list-style-type: none"> <li>• Māori Crown Relations</li> <li>• Māori Development</li> <li>• Whānau Ora</li> </ul>	<ul style="list-style-type: none"> <li>• Reflecting Treaty relationship in system design and operation</li> <li>• Impacts of long-term and intergenerational trauma on Māori wellbeing (across all dimensions)</li> <li>• Supporting whānau wellbeing and development through a focus on whānau as a whole</li> </ul>
<ul style="list-style-type: none"> <li>• Children</li> <li>• Disability Issues</li> </ul>	<ul style="list-style-type: none"> <li>• Intersections with major change processes and strategic initiatives underway in systems touching on key vulnerable populations</li> <li>• Need to consider access to and interfaces between redress and care systems</li> </ul>
<ul style="list-style-type: none"> <li>• Corrections</li> <li>• Women</li> <li>• Diversity, Inclusion and Ethnic Communities</li> <li>• Youth</li> <li>• Pacific Peoples</li> </ul>	<ul style="list-style-type: none"> <li>• Supporting access to system and supporting services by and for key population groups</li> <li>• Interfaces with and contributions to key strategies and action plans for wellbeing, safety, and full social participation</li> </ul>
<ul style="list-style-type: none"> <li>• Education</li> <li>• Social Development and Employment</li> <li>• ACC</li> <li>• Health</li> <li>• Whānau Ora</li> <li>• Internal Affairs</li> <li>• Prevention of Family and Sexual Violence</li> </ul>	<ul style="list-style-type: none"> <li>• Provision of or access to supporting services for survivors, including additional demand, workforce capacity and capability considerations, records control, information provision, investment trade-offs and potential economies of scale</li> <li>• Interfaces and flow on effects between the redress system and other support systems, in particular ACC, including potential increased costs and resulting trade-off decisions</li> <li>• Interfaces with strategies to improve broader wellbeing and safety, including avoiding duplication and identifying opportunities for shared resources and development</li> </ul>
<ul style="list-style-type: none"> <li>• Attorney-General</li> <li>• Justice</li> </ul>	<ul style="list-style-type: none"> <li>• Longer term policy work programme will need to consider potential human rights and access to justice issues as they relate to abuse survivors, and how these can be improved without creating unintended legal consequences for other groups</li> <li>• Ensuring the redress system observes principles of natural justice and procedural fairness</li> </ul>

**Appendix E: Summary of feedback from initial survivor engagement on the arrangements for designing the new redress system**

Community	Key design messages
<p>Māori survivors and advocates</p>	<p><i>Design group composition</i></p> <ul style="list-style-type: none"> <li>• At a high level, the design group’s membership needs to be Māori and include survivors, kuia and kaumatua, those already working to support survivors, those with experience developing and operating community-level services, and subject matter experts. The design needs to be led by survivors.</li> <li>• Te Aorerekura provides a useful model of what has worked well and can be used in this space.</li> <li>• From across its individual members, the design group as a whole should have the following total range of representation, experience, and expertise (noting that an individual will not have all these dimensions):             <ul style="list-style-type: none"> <li>○ survivors from a range of backgrounds and contexts, including but not limited to Deaf and disabled, rangatahi, LGBTQ+, residential care, faith-based care, gang whānau, survivors who have been or are in prisons, those currently or recently in care, survivors who live in rural areas</li> <li>○ kuia and kaumatua</li> <li>○ experience working in trauma-informed ways</li> <li>○ experience developing and operating responsive, intergenerational services, in community and government contexts</li> <li>○ experience supporting and advocating for survivors and delivering support-focused services</li> <li>○ experience applying Te Tiriti o Waitangi in services, systems, and organisations, including identifying and challenging institutional racism</li> <li>○ demonstrate active listening skills and mana-enhancing behaviour.</li> </ul> </li> <li>• It is important that the membership is drawn from those able to safely contribute to the kaupapa (that is, manage their own trauma triggers with appropriate supports for rangatahi survivors), who are respected by survivors, have lived experience as survivors or through ongoing advocacy for and support of survivors, and have a deep understanding of Te Tiriti – acknowledging, as per above, that survivors will have demonstrate dimensions from this list.</li> <li>• The design group should have co-chairs.</li> </ul> <p><i>Advisory group composition</i></p> <ul style="list-style-type: none"> <li>• There should be five or six independent advisory groups, reflecting key survivor groups and with strong regional voices and networks.</li> <li>• The advisory groups’ membership should be broadly reflective of the design group’s expertise and experience (as outlined above).</li> </ul> <p><i>Groups’ processes and operation</i></p> <ul style="list-style-type: none"> <li>• The design and advisory groups’ membership needs to be determined through a formal nomination and appointment process. This is critical for transparency and confidence in the work of the groups.</li> <li>• The nomination process needs to involve wide advertising and outreach through regional and community groups. People should not be able to nominate themselves. Nominations would need to include letters of support from survivor or community groups.</li> <li>• The design group should be given a strong induction and set of starting materials, including, but not limited to, copies of Kia Tika Kia Pono,</li> </ul>

Community	Key design messages
	<p>Puao-te-ata-tu, Waitangi Tribunal reports and recommendations, and the Royal Commission's reports.</p> <ul style="list-style-type: none"> <li>• The groups need to have a living terms of reference that guide the mahi, and reflect whanaungatanga, whakapapa, whānau, tupuna, and wahi tapu.</li> <li>• The design and advisory groups need to be able to request, collect, and access all data and information needed to do their work effectively.</li> <li>• As part of its mahi, the design group needs to look at a by Māori for Māori, with Māori system.</li> <li>• The groups should be free to use established community networks to help understand needs and services and inform the system design.</li> <li>• The groups will require appropriate secretariat support. The Crown and churches need to be involved in an appropriate way as the funders of the system, and as the groups that need to apologise for the abuse and harm survivors have experienced.</li> <li>• It is important that there is consistency in terms of people, processes, networks, and supports.</li> </ul>
Pacific survivors	<p><i>Overarching reflections</i></p> <ul style="list-style-type: none"> <li>• It is important to recognise the term 'Pacific' covers many different peoples, and the design process therefore needs to consider representation from across communities and from survivors who experienced different care settings</li> </ul> <p><i>Design group composition</i></p> <ul style="list-style-type: none"> <li>• Design group should have 10–12 members. The majority of the membership should be Māori, along with Pacific, disabled, youth, and LGBTQI+ representatives. Such a composition would reflect the Treaty partnership.</li> <li>• Members should ideally have a history of advocacy for survivors. They should also have worked through their trauma to a point where they are able to work in a group setting appropriately.</li> <li>• Survivors with historic convictions for non-sexual offences should not be excluded from being considered for the group. However, people with current offences or charges would not be suitable.</li> </ul> <p><i>Advisory group composition</i></p> <ul style="list-style-type: none"> <li>• There should be sufficient advisory groups to provide the design group with specific advice and input from Pacific, disabled, youth, LGBTQI+, and faith-based survivors.</li> </ul> <p><i>Groups' processes and operation</i></p> <ul style="list-style-type: none"> <li>• Public nominations for the design and advisory groups should be sought, casting a wide net to publicise the nomination process – drawing on a wide range of community and survivor groups, churches, websites, and national and local media.</li> <li>• The appointment process should involve a shortlisting process to help make sure people have the personal capability to participate. This process could include informal meetings with the nominees, posing key questions to gauge the ability to process information, articulate themselves, and manage personal trauma.</li> <li>• There should be commissioning and hand over discussions with Ministers, and check ins during key points in the design process. There need to be clear lines of communication between the two sides so there</li> </ul>

Community	Key design messages
	<p>is an unfiltered understanding of how to make the system as effective and supportive as possible.</p> <ul style="list-style-type: none"> <li>• The different groups should come together regularly to work through the kaupapa, then be able to go away to focus on specific tasks or items, and then report back to each other as appropriate.</li> <li>• The operating and decision-making processes in the overall design process need to be transparent, so all the groups involved have the full information needed to work effectively.</li> <li>• The groups need to be able to draw on a wide range of experts, whose expertise includes design, health, Pacific, disability, service provider, social worker, and legal advice.</li> <li>• The Crown needs to be involved in the design process in an appropriate way, since it has a key role as funder and supporter of the new system.</li> <li>• All communication across the work programme needs to be clear and direct – it must avoid bureaucratic language.</li> </ul>
<p>Disabled survivors</p>	<p><i>Overarching reflections</i></p> <ul style="list-style-type: none"> <li>• The overlaying relationships for Māori and Pacific disabled people must be recognised, and to have those perspectives present across the design process. Iwi and non-disabled Māori often do not understand disabled issues.</li> <li>• The new redress system should embody restorative justice from within te ao Māori.</li> <li>• Survivors are looking for something permanent to come from the design work's groups.</li> </ul> <p><i>Design group composition</i></p> <ul style="list-style-type: none"> <li>• The membership needs to be skills based, with a range of experience and expertise, including public policy, to deliver a meaningful system. Diverse survivor voices should be represented, with participation strategies to allow people with a range of impairments to meaningfully contribute to the mahi.</li> <li>• Disability voices are regularly missing from many design processes and need to be at the redress design table to have an equal say.</li> </ul> <p><i>Advisory group composition</i></p> <ul style="list-style-type: none"> <li>• If a single large group is established, it should have sub-committees so people can be heard –disability voices can be drowned out in large groups.</li> <li>• There could be separate groups for survivors, and allies and providers.</li> </ul> <p><i>Groups' processes and operation</i></p> <ul style="list-style-type: none"> <li>• Appointment process could involve different approaches for different groups of members. For example, hapū and iwi could select Māori representatives. Disabled survivors could vote or agree via another mechanism on who represents them.</li> <li>• It will be important to avoid having regular highly visible consultants, who may have lost the respect of their communities by being seen as too close to government.</li> <li>• Members will need the experience and tools to recognise and calm their own trauma in working situations, being mindful people will be triggered.</li> <li>• The groups should be established in a way that brings everyone together, building a clear understanding what each group wants to achieve and contribute to. There should then be spaces for groups to meet individually and jointly as needed.</li> </ul>

Community	Key design messages
	<ul style="list-style-type: none"> <li>• The groups should run independently, with fees paid on the same basis as different tribunals, with a wide range of supports and services – including accessibility for different levels of ability. There should be regular check ins about supports since members may have evolving needs.</li> <li>• The Crown should be present to provide the necessary supports and inputs, as requested by the groups.</li> <li>• There should be direct engagement and conversations with Ministers, including an initial commissioning conversation that lays out the vision and expectations for the process and groups.</li> <li>• Survivors should have the final right of review and reply as part of any individual process.</li> </ul>
Rangatahi survivors	<p><i>Overarching reflections</i></p> <ul style="list-style-type: none"> <li>• Rangatahi perspectives are important for the redress system to be responsive to future needs – there needs to be genuine rangatahi participation, not tokenism.</li> <li>• Giving survivors choice is vital to both the redress system’s design and its operation.</li> </ul> <p><i>Design group composition</i></p> <ul style="list-style-type: none"> <li>• The membership should draw on survivors, active support people, kaiwhakamana who have connected with young people, psychologists, and regional and iwi representation.</li> <li>• Among the diverse survivors represented, there should be those from refugee and migrant communities, and those who have experienced youth justice settings and residential care settings.</li> </ul> <p><i>Advisory group composition</i></p> <ul style="list-style-type: none"> <li>• There should be individual advisory groups of 6-8 people, reflecting key survivor groups, with a representative from each advisory group part of the design group. The representative role could rotate as needed around the advisory group.</li> </ul> <p><i>Groups’ processes and operation</i></p> <ul style="list-style-type: none"> <li>• It is important that members are able to manage their own trauma (with appropriate supports), to be able to safely participate in the design process.</li> <li>• It will be important to create a safe and supportive space where all members can contribute. Strong, supportive facilitation will be needed, along with ways of working that are mindful of different expression styles and needs.</li> <li>• The process and its outcomes are both important. The design work cannot just be “knowledge extraction” from survivors.</li> <li>• There should be strong links between the design group and the advisory group or groups.</li> <li>• People involved will need time to process ideas and concepts, and make sure that they understand what is being proposed and discussed. The processes need to accommodate this, and make sure all material avoids jargon and technical language.</li> <li>• There should be engagement between the groups and key Ministers about design decisions and announcements – it is important that all groups are kept informed as the work and decision-making progresses.</li> <li>• The groups will need independent secretariat support.</li> </ul>

Community	Key design messages
<p>Faith-based survivors and advocates</p>	<p><i>Overarching reflections</i></p> <ul style="list-style-type: none"> <li>• Māori faith-based survivors are often overlooked in the design and delivery of redress processes.</li> <li>• The design process and the new redress system must avoid putting survivors in silos and help to overcome existing divisions between different survivor groups.</li> <li>• The new redress system must be inclusive and reflect contemporary circumstances as much as historic ones, to help keep the system relevant and responsive to diverse survivor needs.</li> </ul> <p><i>Design and advisory group composition</i></p> <ul style="list-style-type: none"> <li>• There should be a single design group that reflects all survivor communities.</li> <li>• Members of the groups need to be people who can represent communities and sectors, with appropriate networks, rather than simply representing their own experiences.</li> <li>• Appointees will need to be highly competent, with strong influence and community mana, and the ability to design system-level solutions.</li> <li>• It is vital to have diverse faith-based survivors included in the membership of each group, reflecting the diversity of faith-based institutions and settings.</li> <li>• However, the membership of each group needs to avoid becoming so large that they lose the ability to work together effectively. The advisory group would ideally be no more than 20 people.</li> </ul> <p><i>Groups' processes and operation</i></p> <ul style="list-style-type: none"> <li>• The groups need draft material and proposals to react to, rather than starting from a blank slate. It will be important the advisory group is provided with draft proposals or discussion topics by the design group with plenty of notice to allow advisory members to consider what is being proposed or asked, and undertake wider consultation as needed.</li> <li>• There need to be clear processes in place setting how the groups' roles and tasks, how the groups work together, and how different views are worked through when consensus cannot be reached.</li> <li>• The work programme needs to be agreed early so that members can book in key milestones and meetings early, to help manage their extensive commitments. Payments and supports need to be in place to also assist with managing the impact of the design work on professional and personal lives.</li> <li>• Specific work items can be allocated across both the design and advisory groups to help the work proceed at pace – the approach must be practical and task focused.</li> <li>• It will be important to have appropriate supporting staff to handle the interface with agencies and churches, who will need to be providing material into the process. It will also be important to have service providers as part of the design process, both for the supports that they offer and their wider understanding of system capacity and need.</li> <li>• The design process needs to take a whole-of-system approach and be transparent to help build trust in the new system.</li> <li>• An alternative to an advisory group could be to have the design group undertake formal public consultation at a small number of key stages. Otherwise, the advisory group could be tasked to undertake such consultation rather than provide direct advice itself.</li> </ul>

Community	Key design messages
<p>General survivors and advocates</p>	<p><i>Design group composition</i></p> <ul style="list-style-type: none"> <li>• The design group should be kept small to be effective – a tight team that is able to form a good working relationship.</li> <li>• Representatives will need to have a lot of mana and humility to inspire confidence among the broader survivor communities, along with the ability to manage personal trauma.</li> <li>• The membership should include people who work at the grassroots in communities – with the ability to work and talk alongside people, rather than “at” them.</li> <li>• The membership needs to be motivated and diversly skilled people, who have proven track records of being active doers.</li> </ul> <p><i>Advisory group composition</i></p> <ul style="list-style-type: none"> <li>• There should be a single advisory group for cohesion that allows for smaller sub-committees/caucuses to meet and discuss issues as they relate to specific groups.</li> </ul> <p><i>Groups’ processes and operation</i></p> <ul style="list-style-type: none"> <li>• It will be importance the design group is not asked to operate from a blank slate. It should be provided with starting material and draft models that the design group can build off or modify.</li> <li>• Material assistance and wellbeing support will need to be in place, along with a well thought out training or induction programme for representatives, to help support their effective participation.</li> <li>• The groups should meet and work in neutral spaces (for example, marae, fale, community halls, and commercial facilities), rather than government offices which can be triggering.</li> <li>• There should be clear, strong operating parameters or a “ways of working” document, to help manage tensions and keep the work focused.</li> </ul>

PROACTIVELY PREFERRED GOVERNMENT  
 COMMITMENT TO OPEN GOVERNMENT

## **Appendix F: Proposed key criteria for the membership of the redress candidate review panel and the design and advisory groups**

### **Draft criteria for the candidate review panel**

Members selected for the review panel will be:

- a leader with recognised mana in the kaupapa of redress and healing;
- a leader with recognised mana in advocating for or representing survivors; and/or
- recognised as a leader with mana in te ao Māori and mātauranga Māori.

Collectively the members of the review panel will also have:

- an understanding of the impacts of trauma and abuse for survivors from a range of backgrounds and contexts;
- an understanding, and experience of, design and advisory groups and processes;
- experience in running nomination or recruitment processes; and
- experience working with Ministers.

### **Draft criteria for members of the design and advisory groups**

Appointees to the design and advisory groups should demonstrate:

- experience in representing or advocating for survivor communities;
- understanding and commitment to the Treaty of Waitangi; and
- the ability to work collaboratively to deliver collectively agreed outcomes, including the ability to manage personal trauma.

Collectively, the groups' membership should have:

- survivors from a range of backgrounds and contexts, including Deaf, disabled, rangatahi, Pacific, Māori, LGBTQI+, residential care, faith-based care, State care, survivors who have been in prisons, survivors who have been in gangs, and survivors who live in rural areas;
- a wide range of subject matter expertise, including mātauranga, public policy, wellbeing and oranga services, healing and restoration, and service design, development, and implementation;
- experience in grassroots community support and service organisations;
- experience applying the Treaty in systems, organisations and services; and
- experience working in trauma-informed ways.



# Cabinet Social Wellbeing 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.*

### Responding to the Royal Commission into Historical Abuse in Care's Redress Findings: Arrangements and Parameters for High-Level Design of New Redress System

Portfolio                      Public Service

On 16 November 2022, the Cabinet Social Wellbeing Committee (SWC):

- 1        **noted** that:
  - 1.1      in December 2021, SWC agreed the intent to develop an independent, survivor-focused redress system informed by the recommendations of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission) [SWC-21-MIN-0204];
  - 1.2      in July 2022, the Cabinet Business Committee agreed to progress three projects highlighted by the Royal Commission for immediate work and invited the Minister to report back with detailed advice on the Royal Commission's report and on options for the collaborative arrangements for designing an independent trauma-informed redress system [CBC-22-MIN-0035];
- 2        **noted** that the approach to designing the new redress system will need to balance competing factors including the complexity of the design work involving diverse survivors, the urgent desire to deliver real change for survivors, and survivors' deep distrust of government;
- 3        **noted** that an independent high-level design process involving design and advisory groups with diverse memberships, with key purpose, function, and scope parameters established in principle by Cabinet to help give concrete shape to the design process, offers the best balance of the different factors to provide a credible high-level design;

- 4 **endorsed** the following principles, purpose, and functions for the new redress system, as articulated by the Royal Commission of Inquiry into Historical Abuse in State Care and the Care of Faith-based Institutions (the Royal Commission), subject to further work by Crown Response to the Abuse in Care Inquiry (Crown Response) officials to expand the principles and functions to give more explicit visibility to the Treaty of Waitangi and better articulate the role of the redress system in relation to the prevention of harm in current care settings:

<p>Principles to guide the operation of the redress system:</p> <ul style="list-style-type: none"> <li>i. Te mana tāngata: the restoration of and respect for the inherent mana of people affected by tūkinō;</li> <li>i. Manaakitia kia tipu: the nurturing of the oranga or wellbeing of survivors and their whānau so that they can prosper and grow;</li> <li>ii. Mahia kia tika: fair, equitable, honest, impartial and transparent;</li> <li>iii. Whakaahuru: processes protect and safeguard people;</li> <li>iv. Whanaungatanga: refers to the whakapapa, or kinship, connections that exist between people;</li> <li>v. Teu le vā / tauhi vā: tending to and nurturing of vā, or interconnected;</li> <li>vi. relationships between people and places, to maintain individual and societal oranga; and</li> <li>vii. He mana tō tēnā, tō tēnā – ahakoa ko wai: each and every person has their own mana and associated rights, no matter who they are.</li> </ul>
<p>The redress system has a three-part purpose: to apologise for the tūkinō suffered by survivors; to support the healing or restoration of the mana, tapu, and mauri of people; and, to take steps towards preventing abuse.</p>
<p>The functions of the redress system are that it:</p> <ul style="list-style-type: none"> <li>i. provide a safe, supportive environment for survivors to share their care experiences;</li> <li>ii. facilitate acknowledgements and apologies by the relevant institutions;</li> <li>iii. facilitate access to support services, financial payments and other measures that enable te mana tāngata; and make recommendations on identified issues, to help prevent further abuse in care.</li> </ul>

- 5 **endorsed** the following in-principle scope parameters to assist in the design process, that the new redress system includes:
- 5.1 non-State care (faith-based institutions and private schools) survivors, subject to the Crown being able to agree suitable funding mechanisms with those institutions to support the operation of the redress system; and
  - 5.2 current and future survivors, to prevent the need for parallel systems or process to be established in future;

- 6 **invited** the Minister for the Public Service (the Minister) to report back to SWC with proposals on the following scale parameters, as part of the broader report back in paragraph 16 on the high-level design proposals on the new redress system:
- 6.1 potential definitions of the forms of abuse and neglect and care settings to be covered by the new system;
  - 6.2 the potential inclusion of whānau as indirect survivors to help address the impacts of abuse within and across generations, on the expectation the services and supports offered by the system to indirect survivors would differ to those provided for direct survivors;
- 7 **noted** that the above proposed scope is significantly wider than current historic abuse claims processes and that, while such an expanded scope is consistent with the integrated support-based redress need previously noted by Cabinet, it creates more complex, technical design issues that officials will begin working through in parallel with the independent high-level design process and before the new system reaches the detailed design and implementation planning stage;
- 8 **noted** that the work to design the redress system will touch on numerous ministerial portfolios and involve a number of ministerial engagement points, including design commissioning conversations, progress reports, briefings on key options for the system, and the formal receipt of the high-level design proposals;
- 9 **noted** that the Royal Commission recommended the primary design group role be undertaken by a Māori Collective of survivors, iwi, and service providers, and the supporting advisory role undertaken by a Huiapapa Ora Collective of a diverse cross-section of survivors;
- 10 **noted** that engagement with members of a variety of survivor communities has highlighted that while the design group should have strong Māori representation, reflecting the Treaty partnership and over-representation of Māori in care, the group would benefit from having additional perspectives directly at the design table to speak to supports and services reflecting disabled people and Pacific needs in particular;
- 11 **noted** that the Royal Commission did not provide a recommendation on the size of the design and advisory arrangements, but given the diversity of abuse survivors, the types of skill sets required, and the balancing of group size with consensus building, it is proposed the design group consists of up to 10 members along with an impartial chair, and the advisory group consists of up to 20 members;
- 12 **agreed** that the design group to lead development of the high-level redress system design is composed of up to 10 members and a chair, representing survivors and subject matter experts such as support service providers, with strong Māori representation and the overall membership having a gender balance;
- 13 **agreed** that the advisory group to support the design group is composed of up to 20 members with a gender balance and a diverse membership including Māori, Pacific people, disabled people, Deaf people, LGBTQI+ people, rangatahi, State care, and faith-based care survivors, with the ability for the advisory group to caucus or work in smaller groups as needed;

- 14 **agreed** that the design group will be tasked to produce high-level design proposals by June 2023 that cover:
- 14.1 feedback on the system’s intended principles, purpose, functions, and scope – with the option to outline a strong case for alteration to any of the specific aspects, particularly when considering the principles from a Treaty perspective;
  - 14.2 how the system should safely connect with and support survivors and whānau to navigate their redress journey –how redress needs to “look and feel” to give survivors confidence in the redress system and to provide them with a safe, accessible, trauma informed, and culturally responsive experience;
  - 14.3 the types and mix of services and supports that should ideally be provided as part of each of the redress system’s functions;
  - 14.4 feedback on the apology and payment frameworks, draft redress models, and example proposals, provided by the Crown Response, with a focus on what is needed to support meaningful recognition of the harms people have experienced;
  - 14.5 an outline of the critical issues that will need to be considered as part of the detailed design and implementation planning, needed to give effect to the overall design;
- 15 **noted** that a set of materials will be prepared by the Crown Response, with appropriate agency consultation and Ministerial approval, to form the basis of the proposed design group’s induction and work programme;
- 16 **noted** that the Minister intends to report back to SWC in July 2023 with high-level proposals and seeking decisions to inform the subsequent detailed redress design and implementation planning, with the aim of the full system design and costs to be considered as part of Budget 2024;
- 17 **agreed** that the design group’s terms of reference be drafted by the Crown Response in consultation with key agencies and groups, based on the above decisions on principles, purpose, functions, scope and structure, and any subsequent directions from Ministers;
- 18 **invited** the Minister to report back to SWC in February 2023 to seek endorsement of the design group’s terms of reference;
- 19 **agreed** that a formal process be used to select the membership of the design and advisory groups, involving a nationwide nomination call, a small independent candidate review panel, and appointment of the members by the Minister, following the normal Cabinet Appointments and Honours Committee process;
- 20 **agreed** that the Minister will directly appoint the design group’s chair, in consultation with the Minister for Māori Crown Relations Te Arawhiti, following the normal Cabinet Appointments and Honours Committee processes;
- 21 **noted** that for the candidate review panel, the Minister will have a focus on a small group of individuals that have sufficient independence to provide a visible distance between Crown agencies and the eventual design group appointees;

- 22 **noted** the significant potential scale of an independent, trauma-informed redress system for abuse survivors, which will require demand and cost modelling to help inform both the system options presented to, and decisions made by, Cabinet at the appropriate stages.

Rachel Clarke  
Committee Secretary

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**Present:**

Hon Grant Robertson  
Hon Kelvin Davis  
Hon Dr Megan Woods  
Hon Chris Hipkins  
Hon Carmel Sepuloni (Chair)  
Hon Andrew Little  
Hon Jan Tinetti  
Hon Kiri Allan  
Hon Priyance Radhakrishnan  
Hon Aupito William Sio  
Hon Meka Whaitiri

**Officials present from:**

Office of the Prime Minister  
Office of the Chair  
Officials Committee for SWC

PROACTIVELY RELEASED UNDER THE  
COMMITMENT TO OPEN GOVERNMENT



# Cabinet

## Minute of Decision

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*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.*

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### **Report of the Cabinet Social Wellbeing Committee: Period Ended 18 November 2022**

On 21 November 2022, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 18 November 2022:

Withheld as not part of the Crown's response to the Royal Commission of Inquiry into Historical Abuse in Care

Withheld as not part of the Crown's response to the Royal Commission of Inquiry into Historical Abuse in Care

SWC-22-MIN-0214

**Responding to the Royal Commission into  
Historical Abuse in Care's Redress Findings:  
Arrangements and Parameters for High-Level  
Design of New Redress System**  
Portfolio: Public Service

CONFIRMED

Withheld as not part of the Crown's response to the Royal Commission of Inquiry into Historical Abuse in Care

Rachel Hayward  
Secretary of the Cabinet

PROACTIVELY RELEASED UNDER THE  
COMMITMENT TO OPEN GOVERNMENT