

Hon Erica Stanford

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Crown response to the Abuse in Care Inquiry work programme and confirming next steps on redress for survivors of abuse in care

Date of issue: 24 September 2024

These documents have been proactively released:

- Crown Response to the Abuse in Care Royal Commission of Inquiry: work programme Cabinet paper;
- CBC-24-MIN-0050, Cabinet Business Committee Minute, 4 June 2024, Cabinet Office; and
- CAB-24-MIN-0203, Cabinet Minute, 10 June 2024.

Summary of redactions:

- Section 9(2)(ba)(ii) – to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information – (ii) would be likely otherwise to damage the public interest:
 - Sections of Appendices Two and Three – Cabinet Paper – Crown response to the Abuse in Care Royal Commission of Inquiry: work programme.
- Section 9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials:
 - Material from Table One: Proposed Cabinet decisions to be sought, Cabinet Paper – Crown response to the Abuse in Care Royal Commission of Inquiry: work programme
 - Sections of Appendix One – Cabinet Paper – Crown response to the Abuse in Care Royal Commission of Inquiry: work programme.
- Section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty:
 - Paragraph 33 Cabinet Paper – Crown Response to the Abuse in Care Royal Commission of Inquiry: work programme
 - Paragraph 42 Cabinet Paper – Crown Response to the Abuse in Care Royal Commission of Inquiry: work programme

- Paragraph 53 Cabinet Paper – Crown Response to the Abuse in Care Royal Commission of Inquiry: work programme
- Not relevant to the work of the Crown Response to the Abuse in Care Inquiry:
 - Other Cabinet Business Committee minutes from Cabinet Minute CAB-24-MIN-0203.

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

Cabinet Business Committee

Work programme for the Crown's response to the Abuse in Care Royal Commission of Inquiry, including the next stages of work for the design of redress for survivors of abuse in care

Proposal

1. This paper seeks Cabinet agreement to the proposed work programme for the next phase of the Crown's response to the Abuse in Care Royal Commission of Inquiry (the Royal Commission).
2. The work programme includes a number of proposed Cabinet decisions to be sought over coming months, particularly related to redress for survivors of abuse in care and responding to the Royal Commission's final report. The proposed work is significant in its scale and complexity and has the potential to involve significant costs.
3. This paper provides an opportunity for us to confirm the Government's priorities in relation to the response work and make decisions to guide the focus and nature of the next stage of work on redress design.

Executive summary

4. The Royal Commission is due to deliver its final report by 26 June 2024. There likely will be significant survivor, media, and public attention on the Government around the release of the final report and how the Government is progressing in its response to the Royal Commission's interim redress report.
5. Due to the nature, scale, and complexity of upcoming work in relation to responding to the Royal Commission, I am seeking Cabinet agreement to the Crown Response work programme and associated upcoming Cabinet decisions to ensure a timely joined up response. Cabinet previously agreed to establish a Ministerial Group to help me oversee the direction of this work programme [SOU-24-MIN-0019 refers] which includes:
 - a. seeking Cabinet decisions around the level and nature of change required to current redress provision to address the significant issues identified through the Royal Commission;
 - b. responding to the Royal Commission's final report after its release which will include recommendations relating to current care systems for children, young people and vulnerable adults;
 - c. the planning and delivery of a public apology by the Crown for abuse in care; and
 - d. actions to acknowledge that some survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit experienced torture.

6. I am also seeking Cabinet's agreement on the focus and nature of redress decisions. The Royal Commission made significant findings and recommendations in relation to how redress is currently delivered in its 2021 redress report. The redress findings highlighted that existing processes can be retraumatising, inconsistent, difficult to navigate (particularly for survivors of abuse in multiple care settings), lengthy (with some processes taking many years), and often do not result in meaningful payments and apologies.
7. The previous administration agreed to the development of an independent survivor-focused redress system and established a design group, comprised primarily of survivors with significant Māori representation, supported by an advisory group. The Redress Design Group (Design Group) was tasked with developing proposals for the high-level design of the new redress system which expanded on the vision outlined in the Royal Commission's redress report [SWC-22-MIN-0214 refers].
8. I have received these redress proposals. They set out an ambitious and innovative set of recommendations that draw from approaches in overseas jurisdictions and which have the potential to deliver real change for survivors. They also have significant fiscal and delivery risks. I am now seeking decisions from Cabinet on next steps to respond to the Royal Commission's recommendations and the proposals.
9. This paper notes the significant change that is needed to how and what redress is provided to improve survivors' experiences and outcomes. It recommends that the Crown Response Unit develop redress options, drawing on the Royal Commission's findings, the Design Group's proposals, and lessons from domestic and international redress systems. I have identified two options for Cabinet to consider when developing redress options, the first is for the redress options to be tested and refined with former members of the Design Group and other survivors as required. The second option is for draft redress options to be considered by Cabinet before testing and refining with former members of the Design Group and other survivors as required. I consider the ongoing involvement of former Design Group members important to ensuring survivors' perspectives on their needs and priorities continue to inform our decisions. The involvement of the members will also help support trust and confidence in this work among the survivor community.
10. Options would be assessed against a set of proposed objectives and would include cost information. Due to population data gaps and difficulties in forecasting potential demand for redress, there is currently a high level of uncertainty regarding costings. Officials are working with an actuarial firm on the extent to which uncertainty around demand estimates can be reduced.
11. Transparency and clarity will be important to supporting a shared set of expectations between the Crown and survivors throughout this work. A communications plan will be developed setting out the Government's commitment to survivor perspectives being considered when reviewing redress options.

Background

12. The Royal Commission was established in 2018 to investigate children, young people, and vulnerable adults' experiences of abuse and neglect in State and non-State care in New Zealand between the years of 1950-1999. It has also heard

experiences of abuse that have occurred since 2000. Since 2018, it has heard evidence from over 2,900 survivors about their experiences and the impacts of abuse in care.

13. The evidence provided to the Royal Commission spoke to the harm and trauma experienced by survivors. The often extensive and extreme abuse and neglect has had significant impacts, both for survivors and intergenerationally. Many survivors have shared the impacts of abuse on their physical, spiritual and mental health, identity and connection, family and whānau, their schooling and subsequent socio-economic situation. Survivors also shared their experiences of accessing State and non-State claims processes, and their sometimes re-traumatising nature.
14. The Royal Commission is due to release its final report by 26 June 2024. It has also already released five interim reports. The redress report, *He Purapura Ora, he Māra Tipu, from Redress to Pūretumu Torowhānui*, contains findings about the inadequacy of existing claims services being delivered across multiple agencies and institutions. The recommendations in the redress report propose a fundamental shift to an independent integrated redress system.
15. On 27 March 2024, I briefed the Cabinet Social Outcomes Committee (SOU) on the background to the Royal Commission and the delivery of its final report. Cabinet noted [SOU-24-MIN-0019 refers] that the Royal Commission's report will be significant, and will likely contain details of abuse of children, young people, and vulnerable adults across a wide range of State and non-State care institutions, as well as recommendations for change that will impact a number of State agencies.
16. Cabinet agreed to the establishment of a Ministerial Group to assist in overseeing the Crown's response to the findings and recommendations of the Royal Commission and agreed to the delivery of a public apology [SOU-24-MIN-0019 refers]. It was also noted that as the Minister responsible for coordinating the Crown Response to the Abuse in Care Inquiry (the responsible Minister), I would return to SOU for decisions on proposals for a new redress system for survivors through a series of papers. This paper provides an opportunity to discuss the nature of the decisions I will be seeking in future Cabinet papers and to confirm the Government's priorities in relation to this work.

I am seeking Cabinet agreement to the Crown Response work programme and associated Cabinet decisions

17. As set out in the earlier Cabinet paper, work to respond to the Royal Commission's findings and recommendations is significant and impacts a large number of portfolio areas. For that reason, Cabinet agreed to the establishment of a Ministerial Group [SOU-24-MIN-0019 refers], which had its first meeting on 1 May 2024.
18. The Ministerial Group is supporting me to drive and co-ordinate work that will be reported to Cabinet over the next six months. The main components of this work are:
 - a. decisions around the level and nature of change required to current redress provision to address the significant issues identified through the Royal Commission, with recommendations relating to civil litigation settings and the Accident Compensation Scheme to be led by relevant portfolio Ministers;

- b. responding to the Royal Commission's final report after its release which will include recommendations relating to current care systems for children, young people and vulnerable adults;
 - c. the planning and delivery of a public apology by the Crown for abuse in care which has been confirmed to be delivered 6 November 2024 (although this date is not yet in the public domain); and
 - d. actions to acknowledge that some survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit experienced torture.
19. This work builds on actions that have already been completed or are nearing completion as part of the Crown's response to the Royal Commission, specifically:
- a. Implementation of a rapid payment approach for survivors accessing existing claims processes. Rapid payments have been implemented by the Ministry of Social Development and are beginning to be rolled out to some survivors accessing the Ministry of Education's Sensitive Claims. Oranga Tamariki and the Ministry of Health have the option of adopting the approach but as these agencies do not currently have delays associated with claims backlogs and have different operational contexts, the approach has less relevance at this stage.
 - b. Establishment of an interim service for survivors to share their experiences of abuse, the Survivor Experiences Service. The Service was established following the conclusion of the Royal Commission's survivor accounts process and will operate until decisions are made on the provision of redress. The Service is overseen by a ministerially-appointed Board comprised of survivors.
 - c. Early initiatives to better enable survivors to request, receive and understand their care records, including work to establish a new care records website and shared redaction guidelines.
20. The Crown Response has been funded on a year-on-year basis to ensure it remains responsive to the particular phase of the Royal Commission and the resulting work. For the 2023/24 financial year, the core Crown Response budget is \$11.084m. Core funding of \$10.428 million has been agreed for the 2024/25 financial year.
21. I am seeking Cabinet agreement to progress the next stage of the Crown Response work programme and to the proposed set of decisions I will be seeking in 2024. I am also seeking decisions through this paper to guide the focus and nature of the redress-related elements of that work.
22. By confirming the Crown Response work programme, relevant Ministers will need to consider how agencies can continue to engage and contribute appropriately to this work and its priority within agencies' existing policy work programmes. Collaboration between agencies and delivering timely responses will be fundamental to the success of our response to Royal Commission's final report.
23. Information on the timing of expected Cabinet papers is summarised in Table One and Appendix One.

Table One: Proposed Cabinet decisions to be sought

Workstream	Proposed Cabinet paper	Date considered at SOU	Nature of decisions
Responding to the Royal Commission's final report	Initial response to the final report and process for Crown Response	26 June 2024	Highlighting the nature and scope of the recommendations and seeking agreement to a process for responding to the Royal Commission's recommendations.
	s9(2)(f)(iv)	s9(2)(f)(iv)	s9(2)(f)(iv)
Acknowledgement of torture at the Lake Alice Child and Adolescent Unit	Formal acknowledgement that some survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit experienced torture	1 July 2024 (intended for Cabinet Business Committee)	Seeking agreement to formally acknowledge that torture occurred at the Lake Alice Unit.
Re-designing redress for survivors	s9(2)(f)(iv)	s9(2)(f)(iv)	s9(2)(f)(iv)
	s9(2)(f)(iv)	s9(2)(f)(iv)	s9(2)(f)(iv)
Public apology by the Crown to survivors	s9(2)(f)(iv)	s9(2)(f)(iv)	s9(2)(f)(iv)

I am also seeking Cabinet agreement on the focus and nature of the next stage of work on redress design

The Royal Commission outlined a need for change in what and how redress is provided to survivors of abuse in care

24. The Royal Commission's terms of reference required it to investigate claims processes operated by different agencies, including the Ministry of Education, school Boards of Trustees, then District Health Boards, the Ministry of Health, the Ministry of Social Development, Oranga Tamariki, and faith-based institutions and other non-State care providers.
25. Through the Royal Commission, survivors shared their experiences of seeking redress. The evidence highlighted the unique experiences, needs and aspirations of individual survivors. Survivors commonly highlighted the following redress needs:
 - a. to be heard and believed, with the opportunity to share their experiences in a respectful and sensitive manner;
 - b. genuine acknowledgment of their experiences and the harm that was caused to their lives;
 - c. to access a range of supports that assist in healing, resolution, and empowerment;
 - d. to be treated as a person rather than part of a process, in a way that meets their needs; and
 - e. the opportunity for accountability and justice, and assurances that what they experienced will not be suffered by future generations.
26. Redress (particularly financial redress) available to survivors has been a long-standing concern and the subject of litigation domestically and the subject of individual communications at the United Nations Committee Against Torture (CAT).
27. The Royal Commission made some significant findings and recommendations in relation to these individual claims processes and the operation of the system as a whole in its 2021 redress report. The redress findings include:
 - a. participating in claims application and assessment processes can be re-traumatising, and require survivors to recount their experiences, sometimes repeatedly, in a way that can cause anxiety or distress;
 - b. claims processes are inconsistent and can be difficult to navigate, particularly for the survivors of abuse in multiple care settings;
 - c. claims processes can be complex, administratively costly and lengthy (with some processes taking many years) and often do not result in meaningful payments and apologies;
 - d. claims processes are generally focused on financial redress rather than promoting healing and restoration of wellbeing through rehabilitation and support that meets the diverse needs of survivors;
 - e. claims processes are operated by the organisations responsible for survivors' care at the time of their abuse and therefore lack independence and trust with survivors; and

- f. claims processes fail to acknowledge the widespread and sometimes intergenerational effects abuse can have on family/whānau and wider communities.
28. The Royal Commission recommended a fundamental shift from multiple and highly variable individual claims processes focused on reaching a financial settlement, to an integrated system that provides choice in the supports available to help restore wellbeing.
29. Agencies and some non-State institutions have been working for a number of years, and across multiple administrations, to try and improve claims processes to address some of the same issues identified by claimants, advocates, and the Royal Commission. Key changes agencies report are:
- a. reducing some of the legal burdens associated with the process by removing the need for claims to be filed with the courts in parallel with commencing alternative dispute resolution processes;
 - b. improving the regularity of their communications with claimants on the progression of claims; and
 - c. offering a limited level of support services to some claimants, such as up to six counselling sessions and supporting access to existing community-based supports.
30. Claims agencies report that these changes have helped improve some survivors' experiences of these processes. These processes still operate, however, within an overall redress framework that remains based on financial settlement and within largely siloed operating, organisational and funding models, and a legislative framework that make it difficult to address the range and depth of issues identified by the Royal Commission.

Work was started in response to the Royal Commission's findings and significant decisions are needed on next steps

31. In response to the Royal Commission's findings, the previous Government agreed to:
- a. the development of an independent survivor-focused redress system, with a clear vision, purpose and characteristics that ensure the system is compassionate, equitable and meets survivors' needs [SWC-21-MIN-0204 refers]; and
 - b. the establishment of a design group, supported by an advisory group, to develop proposals for the high-level design of the new redress system [SWC-22-MIN-0214 refers].
32. The 11-member Design Group, comprised primarily of survivors with strong Māori representation, and supported by an 18-member Advisory Group, commenced work in June 2023. In December 2023 it provided its design proposals to the Minister for the Public Service (the previous responsible Minister for coordinating this work). The proposals have since been provided to me as the responsible Minister and to the members of the Ministerial Group.

33. The proposals set out an innovative and ambitious vision for redress. A summary of the proposals is provided in Appendix Two. They draw on international models of integrated and independent redress systems in Australia, Canada, Northern Ireland, Ireland and Scotland, as well as their payment and apologies frameworks. s9(2)(g)(i)

s9(2)(g)(i)

34. Expectations are high among survivors and survivor advocates for the Government to deliver a meaningful response to the Royal Commission's findings and the Design Group's proposals. At the same time, however, the uncertain information we have around the numbers of survivors, the broad and untested nature of some of the Design's Group's proposals, and the level of support services and payments envisaged and their associated workforce implications, mean that the proposals raise some significant risks around their financial sustainability and how quickly they could be delivered.
35. We need to make some initial decisions on the nature of the work required to respond to the proposals and the wider recommendations from the Royal Commission. On the basis of what survivors have shared with the Royal Commission, the Design Group proposals, and advice from officials, improving the experiences and outcomes for survivors requires:
- a. improved integration across care settings to enable survivors to navigate systems and services more easily;
 - b. increased independence, as survivors consistently highlight the need for redress to be delivered independent from individuals and/or institutions responsible for their abuse;
 - c. more meaningful, higher value and streamlined payments and apologies;
 - d. a focus on healing and improved wellbeing, including through service design features and a greater range of services and supports; and
 - e. enabling survivors to have choice and control over their redress journey, within parameters established by the Crown.
36. If Cabinet agrees to progress advice on significant change in redress provision, I propose the Crown Response develops options for our consideration, taking account of the Royal Commission's findings and recommendations, the high-level design proposals outlined by the Design Group, and what has been learnt from existing domestic and international approaches. The options would then form the basis of the proposed Cabinet decisions set out in Table One above.
37. Under the oversight of the Ministerial Group, I propose that the Crown Response Unit, working with relevant Crown agencies, be responsible for the initial development of draft options. The options would cover key aspects of redress including redress functions and how those functions could be organised across an entity or entities, high-level entity types, redress eligibility and scope, frameworks for personal apologies, payments and support services, funding models, and the detailed design approach that would follow Cabinet decisions on key parameters. A proposed framework for options analysis is outlined below (in paragraphs 47.47.–51.).

38. There are two possible approaches to draft options. The first is that with the approval of the Ministerial Group, options are tested with former members of the Design Group before they are brought to Cabinet for consideration. The Crown Response Unit would also identify where input from other survivor groups and non-State care organisations may be required. I expect this option would include gaining the perspective of the Survivor Experiences Service Board (described in paragraph 19b).
39. The second option is that draft options are first considered by Cabinet prior to being tested with former members of the Design Group. While this would give Cabinet more control of the process, it would also significantly lengthen the time it will require to develop redress options and for Cabinet to finalise decisions.
40. Former members of the Design Group, through the Group's former Co-Chairs, have indicated they wish to be involved in providing feedback on the options. The former Chairs have emphasised that in order for this approach to work, it will be important that the options recognise the important role that survivor leadership can have in ensuring redress is responsive to survivors' needs and in creating trust and confidence in redress services.
41. The other options I have considered are a process led solely by former members of the Design Group and a process led solely by the Crown Response Unit, with input from survivors on specific matters as and when required. My preferred approach is one of involving former members of the Design Group more closely as it supports a shared role in finding workable solutions and will help maintain survivor trust and confidence in this work, which is key to its success. It also helps ensure survivor perspectives remain front and centre in design considerations as well as allowing for timely and robust advice on options that take account of the wider context for the Crown.

42.

s9(2)(g)(i)

It will be important to manage expectations for redress from the outset to help ensure survivors have a clear sense of timing and scale and are not retraumatised by the process

43. As noted above, expectations are high among many survivors and survivor advocates for the Government to deliver a meaningful response on redress. Uncertainty and the speculation it can generate can be retraumatising for many survivors. Expectations therefore need to be carefully managed to give survivors a clear and realistic understanding of the complexity and timeframes involved with redress design, the degree to which survivor perspectives are considered, and what change may be able to be delivered.
44. Clarity and transparency around the parameters for the proposed redress work will be key to its success. It will be important to provide clear communications to

survivors at major decision points about what is happening and the basis for decisions. This will include the release of the proposed Cabinet papers at the appropriate points accompanied by appropriate media statements, and direct communication to survivors through established Crown Response Unit channels.

45. The proposed approach for testing draft redress options with the former members of the Design Group reflects another aspect of managing expectations – having robust survivor input while being open about the limitations and trade-offs that need to be considered. The review and approval of working drafts of options by the Ministerial Group early in the development process will help ensure feasible, effective options are tested and broad advice comes forward to Cabinet.
46. Early information about further opportunities for survivor involvement through any subsequent detailed design and implementation processes (once Cabinet decisions on the high-level parameters for redress are completed) will also be important.

A clear framework will support analysis and decision making as work on redress progresses

47. In order to provide a framework for this next phase of work, I propose options be tested against the following core objectives for redress that:
 - a. delivers accountability for survivors, including apologies and financial payments that serve to acknowledge the harm survivors experienced and furthers obligations to prevent future abuse in care;
 - b. supports improved outcomes for survivors – which could, depending on a survivor's circumstances and preference, encompass personal healing, improved quality of life, and the ability to more fully participate in all aspects of community, social, cultural, and economic life;
 - c. manages affordability, risks, and liability, including avoiding significant unintended consequences and helping to ensure the sustainability of redress for as long as it is needed; and
 - d. contributes to reducing the negative social, cultural and economic costs arising from the poor outcomes experienced by survivors and subsequent generations as a result of the injury and trauma caused by abuse.
48. The four objectives above reflect:
 - a. the rights affirmed in the New Zealand Bill of Rights Act 1990 and international human rights instruments (including the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment);
 - b. moral culpability on care providers arising from their historic failures to adequately fulfil their duty of care towards children, young people, and vulnerable adults;
 - c. the impacts on individuals, groups, and society as a whole arising from abuse in care and the ways in which those impacts can be addressed, as identified through significant research and articulated for the New Zealand context by the Royal Commission; and
 - d. discharging sound public service, financial, and legal stewardship.

49. The objectives are, at times, in tension with each other and can be prioritised or weighted in different ways to reflect specific considerations for Cabinet when reviewing redress within wider Government priorities. Analysis and advice to Cabinet can highlight the degree to which options for different aspects of redress fulfil the objectives and support change. This will allow Ministers to make decisions on the most appropriate balance of the four objectives across redress as a whole.

The cost of redress change will depend on decisions made by Cabinet as part of the design process on the functions, scope, and funding model but could be significant

50. The choices made by Cabinet regarding redress will have potentially significant financial implications. Financial analysis will be included as part of the advice to Ministers on options for each of the decisions noted above in the proposed redress Cabinet papers. In the proposed approach for Cabinet decision making on redress, there will be a number of key decisions that have significant financial implications:
- a. functions – which will be a guide for overall scale of system;
 - b. scope parameters – determining eligibility for the system and therefore the number of people that can access it;
 - c. payment framework – determining the structure, level, and evidentiary standards of payments;
 - d. support service framework – determining the types, levels, and prioritisation of support services;
 - e. structuring of entities and services for supporting survivor navigation – which will guide service and workforce design, and consequential operating costs; and
 - f. funding model – determining the overall approach and non-State contributions.
51. To support the financial analysis that will form part of the broader objectives assessment, the Crown Response Unit has engaged an actuarial firm to provide assistance in estimating the potential costs of a redress system. There is a high level of uncertainty regarding costings due to population data gaps and difficulties in forecasting potential demand for redress. The work aims to provide a cost and funding model that will estimate costs based on different scenarios around scope, demand, and phasing, learning from the experiences in other jurisdictions. Advice will also be delivered on the extent to which uncertainty around demand estimates can be reduced, such as by identifying additional sources of data.
52. Subject to the decisions made on the nature and scale of change, it will be important that transition plans are developed as part of any detailed design process and that potential transition costs and risks are included in relevant analysis.

53.

s9(2)(g)(i)

s9(2)(g)(i) Costs do not reflect scale efficiencies, where support may already be provided through other systems, or payments being adjusted to reflect previous settlements.

54. The scenarios in Appendix Three also do not reflect phasing in the roll-out of a system. It would be expected that implementation of a new system would be phased to help manage capacity as operating processes, systems, and staff are embedded in. Such phasing would be expected to involve lower costs in the first two to four years of operation, before the redress system reached full capability. Then, in time, demand on the system would be expected to drop as the number of survivors coming forward declines.
55. Overseas redress systems provide lessons for how to deliver positive redress for survivors. The examples provided below explore the nature of payments and redress packages, however it is important to contextualise that the scope of overseas redress schemes vary widely, and that New Zealand's context may differ.
56. The Australian National Redress Scheme for institutional sexual abuse (both in faith and State-based care settings) has been operating since 2018 and in the five years to 1 July 2023 had received just under 25,000 claims. Australia's scheme provides monetary payments of AU\$10,000–\$150,000 and support services equivalent to up to \$5,000 based on the severity of abuse. In the 2022/2023 financial year, roughly the mid-point of the scheme's intended lifespan, it was funded at AU\$321 million (approximately NZ\$353 million). The Scottish redress scheme for abuse in residential care was established in 2021 and provides monetary payments of £10,000–£100,000 and limited support services. In the first full year of its operation (2022/23 financial year) the Scottish scheme paid out 493 claims and cost £26 million (approximately NZ\$55 million).
57. At present the Ministry of Education, Ministry of Health, Ministry of Social Development, Oranga Tamariki all have standing claims processes, while approximately 2,500 school Boards of Trustees, and Te Whatu Ora (picking up the responsibilities of the former district health boards) address claims lodged with them. These claims processes respond to historic and contemporary cases of abuse within their respective settings. However, significant changes to redress would need to consider how to support efficiencies across the system and remove potential financial, legal, and operational pressure on school Boards of Trustees.
58. The cost of a redress system needs to be considered against the potential to offset the personal and collective cost of abuse in care. The Royal Commission estimated that from 1950 to 2019 the cumulative costs of abuse and its impacts total \$96–217 billion. Financial costs to the economy make up between \$20.8–46.7 billion in financial costs to the economy. Non-financial costs to survivors are estimated to be between \$77–172 billion.
59. The financial costs arise from multiple factors including health system costs (associated with treating injuries directly and the long-term costs of mental and physical illnesses experienced by those abused), care, protection and justice system costs (including crime associated with survivors' traumatised behaviours and poor mental health), and productivity losses (due to poorer employment and earnings outcomes resulting from lower educational attainment by those who experienced abuse).
60. The non-financial costs are the costs faced by survivors due to the pain and suffering experienced as a result of abuse and its resulting trauma. The figures

produced for non-financial costs were derived through a standard actuarial approach.

Decisions will be needed at an appropriate point on the Royal Commission's wider redress-related recommendations about Accident Compensation scheme and civil litigation settings

61. In addition to its recommendations on the establishment of a new redress system, the Royal Commission also recommended significant changes to civil litigation settings to enable survivors to be able to more easily pursue compensation through the courts. The Royal Commission further recommended the Crown create an exception to the ACC bar for abuse in care cases in legislation 'so survivors can seek compensation through the courts' and if not, either expand the Accident Compensation Scheme to cover the same abuse as a redress system (providing survivors with complementary access to "fair compensation and other appropriate remedies") or empower a redress system to award "compensation".
62. It is proposed that the first Cabinet paper on redress options includes the wider redress context and the high-level considerations associated with Royal Commission recommendations. However, it is proposed the paper excludes consideration of recommendations relating to civil litigation and the Accident Compensation Scheme settings, which I recommend deferring until the Royal Commission's full recommendations are considered and decisions on redress are further advanced. This approach allows the recommendations on civil litigation and the Accident Compensation Scheme to be considered against a more definite view of the redress being developed and in light of the Royal Commission's full findings and the wider context they are expected to provide.

Cost-of-living implications

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

Financial implications

64. There are no funding decisions being sought in this paper. However, changes to redress are expected to have significant financial implications, subject to decisions made by Cabinet in subsequent papers. Examples of illustrative costs for redress are outlined in paragraphs 49 – 59 and Appendix Three. The options analysis proposed in future papers on redress will include further information on the potential costs of redress. Key aspects of redress decisions that will have significant cost implications are functions, scope parameters (that is, who will be able to access redress), payment structure and levels, and support service types and levels.

Legislative implications

65. There are no immediate legislative changes proposed. Legislation may be required as part of the development of redress, however this is subject to future Cabinet decisions.

Impact analysis

66. Impact analysis is not required, since there is no proposal to amend, repeal or introduce new legislation at this time.

Population implications

67. Māori, Pacific, Deaf, and disabled peoples have been over-represented in care, and therefore over-represented as survivors of abuse in care. As a result of impacts of abuse in care, many survivors experience lifelong lower socio-economic status and poor health. These in turn have significant impacts on survivors as they become elderly. It is important that the Crown response considers the specific culture, context and needs of the over-represented groups in its decisions on redress and overall response. Appropriate engagement with Māori, Pacific, Deaf and disabled survivors and Māori, Pacific, Deaf and disabled groups and organisations will need to be considered when progressing the Crown Response work programme.

Human rights

68. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and Human Rights Act 1993.
69. Human rights issues have been raised through the Royal Commission's case studies and interim reports, which note possible breaches of human rights in the provision of care in State and faith-based settings. It is possible there will be findings and recommendations in the final report relating to possible breaches of human rights.
70. The Royal Commission has also noted 2019 and 2022 decisions where the United Nations Committee Against Torture considered the abuse suffered by survivors at the Lake Alice Hospital Child and Adolescent Unit met the threshold of torture for the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Use of external resources

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

Consultation

72. This paper was developed by the Crown Response to the Abuse in Care Inquiry. 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, and Whaikaha – Ministry of Disabled People were consulted. The Department of the Prime Minister and Cabinet and the Treasury were informed.

Communications

73. Previous Cabinet decisions have been publicly communicated about the intent to develop an independent redress system. This Government has not made public statements confirming decisions relating to redress, however, we have agreed to the delivery of the public apology as soon as practicable after the release of the Royal Commission's final report and to establish a Ministerial Group to oversee the work.
74. I have asked officials for a communications plan that identifies opportunities to promote greater transparency and survivor understanding of Cabinet decisions to demonstrate the Government's commitment in this area of work. This will provide valuable context for when the Cabinet papers are proactively released.

Proactive release

75. I will work with my Ministerial colleagues to make decisions around the timing for the release of this paper following Cabinet decisions. When the paper is released, it will be published on the Crown Response Unit's website.

Recommendations

76. It is recommended that the Committee:
- a. **note** the Royal Commission commenced in 2018 and is concluding with the delivery of its final report to the Governor-General by 26 June 2024;
 - b. **note** that Cabinet agreed to the delivery of a public apology as soon as is practicable after the release of the final report, and to the establishment of a Ministerial group to assist in overseeing the Crown's response to the Royal Commission [SOU-24-MIN-0019 refers];
 - c. **note** that a date for the public apology has been confirmed for November 2024, but it is yet to be announced publicly;
 - d. **note** the Ministerial group has been established and at its first meeting considered a more detailed view of the work programme ahead and agreed to a forward agenda to support Cabinet to make decisions on the work;
 - e. **endorse** the programme of work (as summarised in Appendix One of this paper) to enable a focussed, fast-paced, and joined-up approach across portfolio areas;
 - f. **note** the Royal Commission released its report *He Purapura Ora, He Mara Tipu: From Redress to Puretumu Torowhānui* in 2021, which recommended significant changes to how the Crown and non-State institutions provide redress to survivors of abuse in care;
 - g. **note** that following extensive evidence, the Royal Commission found that existing claims processes are:
 - i. inconsistent and difficult to navigate, particularly for survivors of abuse in multiple care settings;

- ii. operated by the organisations responsible for survivors' care at the time of their abuse and therefore lack independence and trust with survivors;
 - iii. complex, administratively costly and lengthy (with some processes taking many years), and often do not result in meaningful payments and apologies; and
 - iv. generally focused on financial redress rather than promoting healing and restoration of wellbeing through rehabilitation and support that meets the diverse needs of survivors;
- h. **note** that based on the Royal Commission's findings, Cabinet previously agreed to the:
 - i. development of an independent survivor-focused redress system, with a clear vision, purpose and characteristics that ensure the system is compassionate, equitable and meets survivors' needs [SWC-21-MIN-0204 refers]; and
 - ii. establishment of a Redress Design Group, supported by an Advisory Group, to develop proposals for the high-level design of the new redress system [SWC-22-MIN-0214 refers];
- i. **note** I have received a set of innovative and ambitious proposals from the Redress Design Group, comprised primarily of survivors, for the high-level design of a new redress system which respond to the Royal Commission's redress report recommendations;
- j. **note** that significant change to redress has been recommended by the Royal Commission and Design Group, and is sought by survivors, to improve survivor experiences and outcomes, including:
 - i. improved integration across care settings to enable survivors to navigate systems and services more easily;
 - ii. increased independence, as survivors consistently highlight the need for redress to be delivered independent from individuals and/or institutions responsible for their abuse;
 - iii. more meaningful, higher value and streamlined payments and apologies;
 - iv. a focus on healing and improved wellbeing, including through service design features and a greater range of services and supports; and
 - v. enabling survivors to have choice and control over their redress pathways, within parameters established by the Crown.
- k. **note** expectations are high for a meaningful response to the Royal Commission's recommendations and the Design Group's proposals by Government and while they present a genuine opportunity to deliver real change for survivors, further work is required to understand associated fiscal and delivery risks;
- l. **agree** the Crown Response Unit, under the oversight of the Ministerial Group and working with relevant agencies, develop redress options that are informed

by the Royal Commission's recommendations, the high-level design proposals, and lessons from national and international redress schemes and:

EITHER:

- i. test and refine these options with former members of the Design Group, and other survivors as required, before providing recommendations to Cabinet as part of the outlined work programme;

OR

- ii. Cabinet considers draft options prior to testing and refining them with former members of the Design Group, and other survivors as required (noting this would require further Cabinet report backs than are currently signalled in the Crown Response work programme);
- m. **agree** that clarity and transparency for survivors will be important to avoiding creating unrealistic expectations through this work and that the Crown Response Unit will work with the Ministerial Group early in the development of the draft options to establish key parameters;
- n. **agree** that options for redress are developed and assessed against the following core objectives:
 - i. delivers accountability for survivors, including apologies and financial payments that serve to acknowledge the harm survivors experienced and furthers obligations to prevent future abuse in care;
 - ii. supports improved outcomes for survivors – which could, depending on a survivor's circumstances and preference, encompass personal healing, improved quality of life, and the ability to more fully participate in all aspects of community, social, cultural, and economic life;
 - iii. manages affordability, risks, and liability, including avoiding significant unintended consequences and helping to ensure the sustainability of redress for as long as it is needed; and
 - iv. contributes to reducing the negative social, cultural and economic costs arising from the poor outcomes experienced by survivors and subsequent generations as a result of the injury and trauma caused by abuse.
- o. **note** that there are potentially significant cost implications with some aspects of redress design, subject to decisions by Cabinet on the nature and detail of changes to be made, and options will include ways in which to help moderate or stage potential fiscal impacts;
- p. **note** that decisions with significant financial implications will be accompanied by advice on the potential costs of the different options being considered, and that this advice will be informed by work underway on data and modelling as well as information and lessons from overseas redress systems;
- q. **note** that the costs of redress need to be considered against the potential to offset the personal and collective cost of abuse in care and that the Royal Commission estimated that from 1950 to 2019 the cumulative costs of abuse

and its impacts total \$96–217 billion, \$20.8–46.7 billion in financial costs to the economy, and \$77–172 billion in non-financial costs to survivors; and

- r. **note** a communications plan will be developed to support transparency and survivor understanding around Government's commitment to this programme of work.

Authorised for lodgement

Hon Erica Stanford

Minister responsible for coordinating the Crown Response to the Abuse in Care Inquiry

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nder commitment to open Government

Appendix One: Proposed timelines for reporting to Cabinet on aspects of the Crown Response work programme, 2024

LAKE ALICE UNIT TORTURE FINDING				
Cabinet paper: Seeking formal acknowledgement torture occurred at the Lake Alice Child and Adolescent Unit				
Date	12 – 21 June	27 June	1 July	8 July
Step	Ministerial consultation	Paper lodged	Cabinet Business Committee considers	Cabinet notes

REDRESS DESIGN								
s9(2)(f)(iv)								

RESPONSE TO THE ROYAL COMMISSION'S FINAL REPORT								
Cabinet paper: Initial response to the final report					s9(2)(f)(iv)			
Date	6 – 16 June	20 June	26 June	1 July	s9(2)(f)(iv)			
Step	Ministerial consultation	Paper lodged	Social Outcomes Committee considers	Cabinet notes	s9(2)(f)(iv)			

PUBLIC APOLOGY				
Cabinet paper: Confirming public apology text and associated decisions				
s9(2)(f)(iv)				

Appendix Two: 9(2)(ba)(ii)

- [illegible]

9(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

2. Taken as a whole, the Design Group's proposals present an ambitious and innovative vision for a comprehensive, independent redress system. As can be seen from the summary above, they contain a mix of more novel aspects alongside those that reflect more standard aspects of domestic and international redress systems.
3. Among the aspects that are more standard aspects with more straightforward design and parameter choices are the listening, apology and payment functions, performance monitoring, minimising bureaucracy, and phased implementation.
4. It is important to note, however, that the payment function is an important driver of the overall cost of any redress system, alongside any system's scope, and the range and nature of services and supports a system were to provide.
5. 9(2)(ba)(ii) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Appendix Three: 9(2)(ba)(ii)

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

[illegible]

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

9(2)(ba)(ii) [REDACTED]

[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[illegible]



Cabinet Business Committee

Minute of Decision

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

Crown Response to the Abuse in Care Royal Commission of Inquiry: Work Programme

Portfolio **Education**

On 4 June 2024, the Cabinet Business Committee:

- 1 **noted** that the Royal Commission of Inquiry into Historical Abuse in Care and in the Care of Faith-based Institutions (the Royal Commission) commenced in 2018 and is concluding with the delivery of its final report to the Governor-General by 26 June 2024;
- 2 **noted** that in March 2024, Cabinet agreed to the delivery of a public apology as soon as is practicable after the release of the final report, and endorsed the establishment of a ministerial group to assist in overseeing the Crown's response to the Royal Commission (the Ministerial Group) [SOU-24-MIN-0019];
- 3 **noted** that a date for the public apology has been confirmed for November 2024, but it is yet to be announced publicly;
- 4 **noted** that the Ministerial Group has been established and at its first meeting considered a more detailed view of the work programme ahead and agreed to a forward agenda to support Cabinet to make decisions on the work;
- 5 **endorsed** the programme of work summarised in Appendix One of the paper under CBC-24-SUB-0050 to enable a focussed, fast-paced, and joined-up approach across portfolio areas;
- 6 **noted** that in 2021, the Royal Commission released its report *He Purapura Ora, He Mara Tipu, From Redress to Pūretumu Torowhānui*, which recommended significant changes to how the Crown and non-State institutions provide redress to survivors of abuse in care;
- 7 **noted** that following extensive evidence, the Royal Commission found that existing claims processes are:
 - 7.1 inconsistent and difficult to navigate, particularly for survivors of abuse in multiple care settings;
 - 7.2 operated by the organisations responsible for survivors' care at the time of their abuse and therefore lack independence and trust with survivors;
 - 7.3 complex, administratively costly, and lengthy (with some processes taking many years), and often do not result in meaningful payments and apologies; and

- 7.4 generally focused on financial redress rather than promoting healing and restoration of wellbeing through rehabilitation and support that meets the diverse needs of survivors;
- 8 **noted** that based on the Royal Commission's findings, the previous government agreed to the:
- 8.1 development of an independent survivor-focused redress system, with a clear vision, purpose and characteristics that ensure the system is compassionate, equitable, and meets survivors' needs [SWC-21-MIN-0204];
 - 8.2 establishment of a Redress Design Group, supported by an Advisory Group, to develop proposals for the high-level design of the new redress system [SWC-22-MIN-0214];
- 9 **noted** that the Minister of Education, as Minister responsible for the Crown Response to the Royal Commission, has received a set of innovative and ambitious proposals from the Redress Design Group (comprised primarily of survivors) for the high-level design of a new redress system which respond to the Royal Commission's redress report recommendations;
- 10 **noted** that significant change to redress has been recommended by the Royal Commission and Redress Design Group, and is sought by survivors, to improve survivor experiences and outcomes, including:
- 10.1 improved integration across care settings to enable survivors to navigate systems and services more easily;
 - 10.2 increased independence, as survivors consistently highlight the need for redress to be delivered independent from individuals and/or institutions responsible for their abuse;
 - 10.3 more meaningful, higher value, and streamlined payments and apologies;
 - 10.4 a focus on healing and improved wellbeing, including through service design features, and a greater range of services and supports;
 - 10.5 enabling survivors to have choice and control over their redress pathways, within parameters established by the Crown;
- 11 **noted** that expectations are high for a meaningful response to the Royal Commission's recommendations and the Redress Design Group's proposals by Government, and that while they present a genuine opportunity to deliver real change for survivors, further work is required to understand associated fiscal and delivery risks;
- 12 **agreed** that the Crown Response Unit, under the oversight of the Ministerial Group and working with relevant agencies, develop redress options that are informed by the Royal Commission's recommendations, the high-level design proposals, and lessons from national and international redress schemes, and that draft options be considered by Cabinet prior to testing and refining them with former members of the Redress Design Group, and other survivors as required;
- 13 **agreed** that clarity and transparency for survivors will be important to avoid creating unrealistic expectations through this work and that the Crown Response Unit work with the Ministerial Group early in the development of the draft options to establish key parameters;

- 14 **agreed** that options for redress be developed and assessed against the following core objectives:
- 14.1 delivers accountability for survivors, including apologies and financial payments, where applicable, that serve to acknowledge the harm survivors experienced and further obligations to prevent future abuse in care;
 - 14.2 supports improved outcomes for survivors – which could, depending on a survivor’s circumstances and preference, encompass improved quality of life, and the ability to more fully participate in all aspects of community, social, cultural, and economic life;
 - 14.3 manages affordability, risks, and liability, including avoiding significant unintended consequences, and helping to ensure the sustainability of redress for as long as it is needed;
 - 14.4 contributes to reducing the negative social, cultural, and economic costs arising from the poor outcomes experienced by survivors as a result of the injury and trauma caused by abuse;
- 15 **noted** that there are potentially significant cost implications with some aspects of redress design, subject to decisions by Cabinet on the nature and detail of changes to be made, and that options will include ways in which to help moderate or stage potential fiscal impacts;
- 16 **noted** that decisions with significant financial implications will be accompanied by advice on the potential costs of the different options being considered, and that this advice will be informed by work underway on data and modelling as well as information and lessons from overseas redress systems;
- 17 **noted** that further consideration will be given to any implications for the ACC system;
- 18 **noted** that the costs of redress need to be considered against the potential to offset the personal and collective cost of abuse in care, and that the Royal Commission estimated that from 1950 to 2019 the cumulative costs of abuse and its impacts total \$96–217 billion; \$20.8–46.7 billion in financial costs to the economy, and \$77–172 billion in non-financial costs to survivors;
- 19 **noted** that a communications plan will be developed to support transparency and survivor understanding around Government’s commitment to this programme of work.

Jenny Vickers
Committee Secretary

Attendance: (see over)

Present:

Rt Hon Winston Peters (Chair)
Hon David Seymour
Hon Brooke van Velden
Hon Shane Jones
Hon Chris Bishop
Hon Dr Shane Reti
Hon Simeon Brown
Hon Erica Stanford
Hon Paul Goldsmith
Hon Judith Collins KC
Hon Matt Doocey
Hon Casey Costello
Hon Karen Chhour

Officials present from:

Department of the Prime Minister and Cabinet

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Cabinet

Minute of Decision

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Report of the Cabinet Business Committee: Period Ended 7 June 2024

On 10 June 2024, Cabinet made the following decisions on the work of the Cabinet Business Committee for the period ended 7 June 2024

Withheld as not part of the Crown Response to the Royal Commission of Inquiry into Abuse in Care

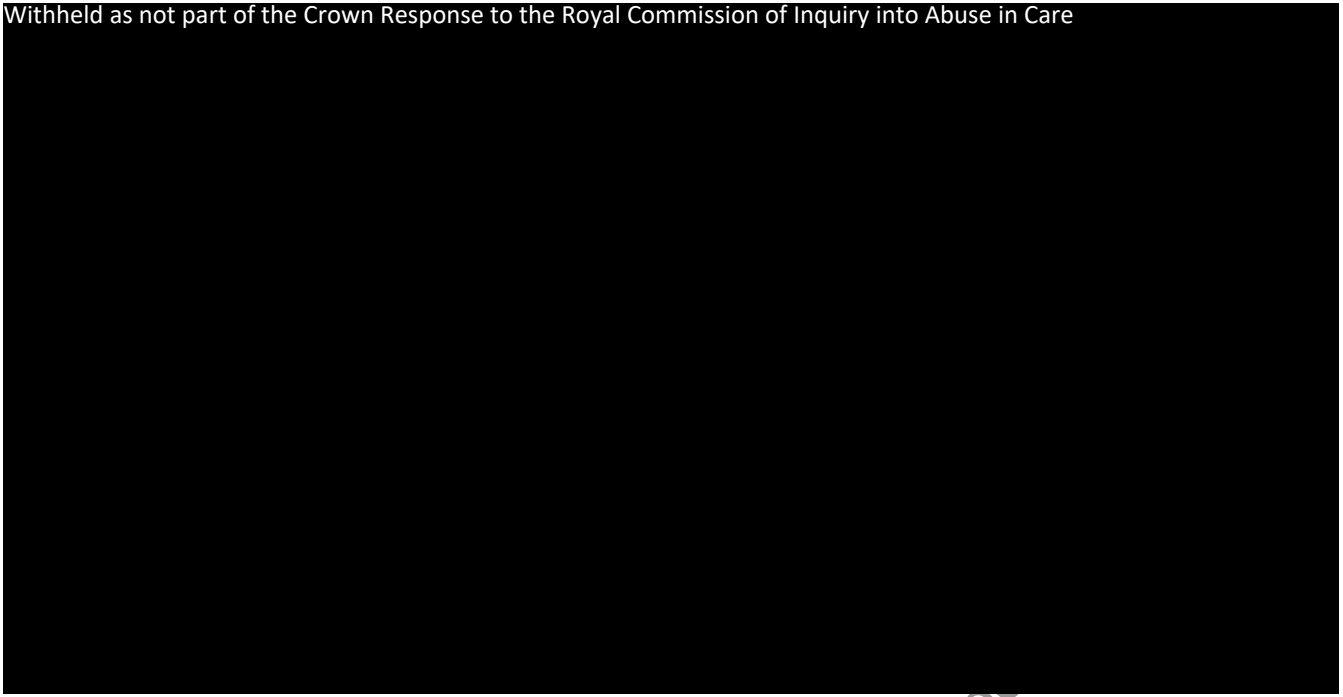
CBC-24-MIN-0050

**Crown Response to the Abuse in Care Royal
Commission of Inquiry: Work Programme**
Portfolio: Education

CONFIRMED

Withheld as not part of the Crown Response to the Royal Commission of Inquiry into Abuse in Care

Withheld as not part of the Crown Response to the Royal Commission of Inquiry into Abuse in Care



Rachel Hayward
Secretary of the Cabinet