



## COVERSHEET

<b>Minister</b>	Hon Erica Stanford	<b>Portfolio</b>	Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions
<b>Title of Cabinet paper</b>	Approach to redress process for survivors of abuse in State care in the event of advanced terminal illness or death	<b>Date to be published</b>	18 May 2026

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
7 April 2026	Approach to redress process for survivors of abuse in State care in the event of advanced terminal illness or death	Office of the Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based institutions
7 April 2026	Approach to redress process for survivors of abuse in State care in the event of advanced terminal illness or death CAB-26-MIN-0116	Cabinet Office

### **Withholding grounds**

Documents have been released in full

## **Approach to redress process for survivors of abuse in State care in the event of advanced terminal illness or death**

### **Proposal**

- 1 This paper seeks agreement to amend the Redress System for Abuse in Care Bill (the Redress Bill) to:
  - 1.1 provide for a discretionary exemption from the process to identify serious offenders where a survivor of abuse in State care is terminally ill with a prognosis of less than six months; and
  - 1.2 specify the process where a survivor dies before their claim is resolved.

### **Relation to Government priorities**

- 2 This paper progresses the Government's response to the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission).

### **Executive summary**

- 3 The Redress Bill requires all survivors who lodge a claim for redress for abuse in State care after 9 May 2025 to complete a series of procedural steps to establish whether they are in the scope of the presumption against providing financial redress to a serious offender. This applies where a person has been convicted of a specified serious criminal offence and sentenced to five years or more for that offence. The Bill establishes an independent decision maker (called the 'redress officer') who determines whether the presumption against financial redress can be overturned and financial redress paid.
- 4 As of 1 April 2026, 98.4% of the survivors who have lodged claims since 9 May 2025 and had a criminal history check were not in scope of the presumption. Of the 186 declarations received, 26 people (14%) declared they were or may be subject to the presumption with 3 survivors subsequently confirmed as in scope (1.6%).
- 5 While the Bill is in progress, Cabinet has delegated to me the ability to exempt a survivor from the serious offender process where they are terminally ill and like to die before the Bill is implemented. I have exercised that discretion twice. However, once the Bill is enacted that discretion will no longer exist.
- 6 Consistent with my current discretion, I propose that the Bill provides for either the independent decision maker or the responsible Minister to exempt a terminally ill survivor from the serious offender process in exceptional cases where a person has a prognosis of less than six months. This approach ensures that the overwhelming majority of survivors who are not serious offenders are not unfairly disadvantaged by the process. It will also ensure that terminally ill survivors have the best opportunity to settle their affairs before they die.

- 7 If this was no discretion provided for in the Bill, public trust and confidence in the scheme could be undermined in a situation where a survivor of abuse in State care is near death and there is no ability to exempt them from the serious offender process and progress their claim. This is particularly the case for female survivors of abuse in care who are dying given that the specified sexual and violent offences are overwhelmingly committed by men. To date, all three people identified as being in scope of the presumption are male. None of them are terminally ill.
- 8 The Bill also does not specify what happens if a survivor dies at any point during the process to identify serious offenders, either while the agency is awaiting a declaration form, while a survivor is being checked to see if they are a serious offender in scope of the presumption, or while the small number of survivors who are subject to the presumption are assessed by the independent decision maker.
- 9 In line with Cabinet's previous decisions that a deceased survivor's next-of-kin or estate can continue a redress claim [CAB-25-MIN-0101 refers], I am also seeking confirmation that the next-of-kin or estate can continue claims through the serious offender process if a survivor dies and that the presumption against financial redress would still apply to these claims if the deceased is a serious offender.

## **Background**

- 10 In April 2025, Cabinet agreed its overall approach to improving the State redress system following the Royal Commission [CAB-25-MIN-0101 refers]. In May, it decided to introduce in legislation a presumption against financial redress for survivors with certain serious violent or sexual convictions who have received a sentence of five years or more for that offence [CAB-25-MIN-0145 refers]. The presumption applies to all new State redress claims made since 9 May 2025.
- 11 The presumption was introduced because Cabinet viewed that the payment of financial redress to survivors with convictions for serious violent or sexual offences who had been sentenced to five years imprisonment or more could bring the redress system into disrepute. However, to allow for case-by-case consideration of claims by survivors in scope of the presumption, an independent decision maker will be established to consider whether providing financial redress to an individual serious offender would not bring the redress system into disrepute. The independent decision maker will have the power to overturn the presumption and determine that the survivor is eligible for financial redress.
- 12 In October 2025, Cabinet approved the Redress System for Abuse in Care Bill (the Bill) for introduction [CAB-25-MIN-0354 refers]. The Social Services and Community Select Committee reported back on the Bill on 13 March 2026 and is currently awaiting second reading in late April.

### **The process to identify serious offenders applies to all new State redress claims lodged since 9 May 2025**

- 13 Since 9 May 2025 new procedural steps have been introduced to the State redress process to identify people subject to the presumption. The first step is the criminal history check. This stage affects all survivors making a new claim.
- 14 As of 1 April 2026, 186 consent and declaration forms have been received, with 160 survivors declaring no relevant conviction, 12 declaring a relevant conviction, and 14 declaring they were unsure. Of these, 45 have progressed to a Ministry of Justice criminal history check (including 19 who declared no relevant conviction as part of the "spot check" quality assurance process), 8 have required further information to be

requested from a court, and 3 have been identified as being in scope of the presumption.

- 15 Determining whether someone is in scope of the presumption is a multi-stage process as a person has to both convicted of a specified offence **and** sentenced to five or more years imprisonment. While a criminal history check provides information about convictions, unless the person has been sentenced to life imprisonment, it does not provide sentencing information. In order to access sentencing information an application has to be made to the relevant court. To date, it has taken between a week and 43 days for sentencing information to be received from the relevant court.

### **Claims from terminally ill survivors with a prognosis of less than six months**

- 16 For many terminally ill survivors and their families it is very important for survivors to be able to settle their redress claims before they die. In some instances a person may only lodge a claim when they are already terminally ill. For others, due to the significant backlog in some agencies, they may receive a prognosis of less than six months after they have been waiting years for their claim to be progressed.
- 17 The process to identify serious offenders adds complexity and can delay what can already be a difficult process, including for the overwhelming majority of survivors who are not serious offenders.
- 18 Prior to the establishment of the independent decision maker, I, as Lead Coordination Minister, am authorised to exempt claimants from the serious offender process where they have a terminal illness that is likely to end their life before the legislation is implemented [CAB-25-MIN-0228 refers]. As of 1 April 2026, two exemptions have been approved.
- 19 While operating this interim process, officials have identified that the additional steps and information required for the serious offender process will limit the ability of redress agencies and the independent decision maker to respond quickly once the legislation is implemented in a situation where the survivor has a prognosis of less than six months. Two issues have arisen during the interim process that suggests a provision for discretion is necessary.
- 20 Firstly, the process to identify serious offenders impacts all new claims from 9 May 2025, not just claims from survivors who are also serious offenders. A terminally ill survivor who is close to the end of their life, and is likely receiving palliative care, may find it very difficult to complete the declaration, provide written consent, and meet the identity verification requirements prescribed by the Ministry of Justice for a criminal history check. For some it may be physically impossible in the late stages of life when they may be heavily medicated and/or have limited capacity to engage with an administrative process or consent to a criminal history check. By contrast, the rest of the claims process can more easily adapt and respond to a survivor's abilities (such as taking information verbally only).
- 21 Secondly, it has taken longer than anticipated to progress some criminal history checks where court information about sentencing is required to confirm whether a survivor is in scope of the presumption. This length of delay (ranging so far from one week to 43 days) could be unreasonable where a survivor is terminally ill with a short period of time to live.

## **Providing discretion to grant exemptions to the process to identify serious offenders for terminally ill survivors with a prognosis of less than six months**

- 22 I propose, similar to the interim discretion I currently hold, the inclusion of an exemption power in the Bill which would be available to survivors who are suffering from a terminal illness that is likely to end their life within six months.<sup>1</sup> This exemption could reside with either the independent decision maker or a Minister. The Bill already provides for a Minister that will be responsible for the administration of the Act including appointment of the independent decision maker. Deciding applications for exemptions could be included in this Minister's responsibilities.
- 23 To apply for an exemption, survivors would need to provide evidence from an appropriate medical professional confirming a terminal diagnosis and prognosis of less than six months to live.
- 24 Because the criminal history check stage applies to all survivors seeking redress, providing discretion for exemptions would ensure survivors who are not serious offenders are not unduly prevented from progressing a redress claim prior to their death due to the criminal history check requirements.
- 25 For any exemption where the person had been identified as a serious offender either the independent decision maker or the Minister would need to satisfy themselves that an exemption was appropriate because the independent decision maker was unlikely to be able to make a determination on the person's case before they died and that, based on the information available, awarding an exemption was unlikely to bring the scheme into disrepute. For example, where the independent decision maker had sought additional information from the court/s and/or Parole Board and it had been indicated that the time that it would take for this to be provided was likely to be longer than the expected prognosis.
- 26 This would apply to the very small number of survivors who are both serious offenders and terminally ill. During policy development, the number of survivors in scope of the presumption was estimated to be 5% of claimants annually, or around 100 survivors per year. Based on data from the interim process, currently 1.6% of claimants are in scope of the presumption, and the number in scope who are also terminally ill with a prognosis of less than six months will be much smaller still. It is expected that a scenario like this would only arise once every few years.
- 27 However, conversely, public trust and confidence in the scheme could be undermined in a situation where a survivor of abuse in State care is near death and there is no discretion available to exempt them from the process and progress their claim. There has already been a situation in November 2025 where a terminally ill female survivor died after the relevant agency attempted to progress them through a criminal check rather than applying for an exemption. This resulted in negative media coverage over several days<sup>2</sup>.

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<sup>1</sup> This language mirrors that used in Section 5(1)(c) of the End of Life Choice Act 2019 and so draws on an existing legislative framework. The interim exemption process did not set a time period for a terminal prognosis but this reflected that there is not a fixed time period for the enacting of legislation to be completed.

<sup>2</sup> <https://www.rnz.co.nz/news/political/578099/health-ministry-accused-of-sitting-on-dying-state-abuse-survivor-s-redress-claim-for-weeks>

## **Claims from survivors who die before the process to identify serious offenders is complete**

- 28 Cabinet has agreed that regular redress claims can progress where a survivor dies after making the claim, with any financial redress provided to the next-of-kin or estate of the deceased [CAB-25-MIN-0101 refers]. I am seeking Cabinet confirmation that claims can be continued by their next-of-kin or estate if the survivor dies.
- 29 This includes survivors who are still at the criminal history check stage (the vast majority of whom will not be within the scope of the presumption) and those who have been identified as serious offenders in scope of the presumption. I am seeking to clarify Cabinet's intent to avoid any unintended consequences when the legislation comes into force.
- 30 If Cabinet agrees that a survivor's claim can be progressed through the process by their next-of-kin or estate, I am seeking confirmation that the presumption would continue to apply to those claims that are within scope.
- 31 This means that the next-of-kin or estate would need to apply to the independent decision maker for a determination (or continue an application the serious offender had already made before their death). The next-of-kin or estate would provide consent for information gathering and make submissions to the independent decision maker on behalf of the serious offender.
- 32 This option would be available to a deceased survivor's next-of-kin or estate at any point of the process before a determination by the independent decision maker, unless the survivor had withdrawn their application for financial redress.
- 33 If the independent decision maker declined to overturn the presumption, no financial redress would be provided to the next-of-kin or estate. The next-of-kin or estate would be able to receive an apology for the abuse suffered by the deceased survivor in care.
- 34 The Bill provides that a serious offender can reapply to the independent decision maker after three years if the presumption is not overturned on the first attempt. I propose that the next-of-kin or estate would not be able to reapply to the independent decision maker as there would be no possibility for a change in circumstances (such as rehabilitation) that might change the outcome of the independent decision maker's determination.

## **Financial Implications**

- 35 The proposed changes to the Bill will not impact the costs of establishing the serious offender process.

## **Legislative Implications**

- 36 The proposals in this paper require an amendment to the Redress System for Abuse in Care Bill through an Amendment Paper to be considered at the Committee of the Whole House stage.

## **Impact Analysis**

### **Regulatory Impact Statement**

- 37 The Ministry for Regulation determined that the proposal to introduce a presumption against financial redress for survivors who are also serious violent and/or sexual offenders was exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the economic, social or environmental impacts are limited and easy to assess.

### **Climate Implications of Policy Assessment**

- 38 The Climate Implications of Policy Assessment (CIPA) team was consulted on the original proposal and confirmed that the CIPA requirements do not apply as the threshold for significance is not met.

### **Population Implications**

- 39 Māori, Pacific peoples, Deaf and Turi Māori, disabled people and tāngata whaikaha Māori, particularly people with intellectual (learning) and neuro-development disability such as fetal alcohol spectrum disorder are over-represented in care and as survivors of abuse in care. They are also over-represented among serious offenders, noting the clearly documented links between abuse in care and subsequent offending. It was considered that the Bill, as introduced, would likely disproportionately affect these populations.

### **Human Rights**

- 40 The Ministry of Justice vetted the Bill for consistency with the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA). The Ministry concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the NZBORA. In reaching that conclusion, the Ministry considered the right to a remedy, section 14 (freedom of expression), and section 25(c) (right to be presumed innocent until proven guilty).

### **Use of external resources**

- 41 No external resources have been used in preparing the advice in this paper.

### **Consultation**

- 42 This paper was developed by the Crown Response Office. ACC, Archives New Zealand, Crown Law, Department of Corrections, the Ministry of Health, Inland Revenue, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Justice, Ministry for Pacific Peoples, Ministry of Social Development, Ministry for Women, Oranga Tamariki, Public Service Commission, Te Puni Kōkiri, the Treasury and Ministry of Disabled People—Whaikaha were consulted.

- 43 The Department of the Prime Minister and Cabinet was informed.

### **Communications and proactive release**

- 44 This paper will be proactively published on the Crown Response Office's website with appropriate withholdings under the Official Information Act 1982 after the release of the Amendment Paper.

## Recommendations

I recommend that the Committee:

- 1 **note** that in May 2025, Cabinet agreed to introduce in legislation a presumption against financial redress for survivors with certain serious violent or sexual convictions and that received a sentence of five years or more for that offence [CAB-25-MIN-0145 refers];
- 2 **note** that the Social Services and Community Committee reported back on the Redress System for Abuse in Care Bill on 13 March 2026;

### *Approach in the case of terminal illness with a prognosis of less than six months*

- 3 **note** that the Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care currently has delegated authority from Cabinet to exempt a person from the serious offenders process where the survivor has a terminal illness likely to end their life before the Redress System for Abuse in Care Bill is implemented;
- 4 **note** that the Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care has exercised this discretion twice;
- 5 **note** that there is currently no similar discretionary exemption process provided for in the Redress System for Abuse in Care Bill;
- 6 **note** that as of 1 April 2026, 183 of the 186 survivors who have lodged claims since 9 May 2025 and had a criminal history check were not in scope of the presumption (98.4%) with 3 survivors (1.6%) confirmed as in scope;
- 7 **agree** to an amendment to the Redress System for Abuse in Care Bill to allow for a discretionary exemption at any stage of the claim process from the serious offenders process where a survivor suffers from a terminal illness that is likely to end their life within six months;
- 8 **agree** that the discretionary decision maker be either:
  - 8.1 the independent decision maker (redress officer); or
  - 8.2 the Minister responsible for administration of the Redress System for Abuse in Care Act.
- 9 **agree** that decisions in this paper be implemented through the Redress System for Abuse in Care Bill via an Amendment Paper;
- 10 **invite** the Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions to issue drafting instructions to the Parliamentary Counsel Office for an Amendment Paper giving effect to the proposals in this paper; and
- 11 **authorise** the Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of

Faith-based Institutions to approve any additional minor and technical matters that may arise during the drafting of the Amendment Paper.

*Approach to serious offender process in the case of a survivor's death*

- 12 **note** that the Redress System for Abuse in Care Bill does not set out what happens to a claim where a survivor affected by the process to identify serious offenders dies during the process;
- 13 **note** that in April 2025 Cabinet agreed [CAB-25-MIN-0101 refers] that if a survivor dies after a registering a claim it can continue to be assessed with any financial redress provided to the deceased survivor's next-of-kin or estate;
- 14 **confirm** that claims from survivors who die before the serious offender process is complete can be progressed by their next-of-kin or estate;
- 15 **confirm** that if a survivor dies before the serious offender process is complete, that the presumption against financial redress for serious offenders will apply to claims being progressed by the survivor's next-of-kin or estate; and
- 16 **agree** that a deceased survivor's next-of-kin or estate cannot reapply to the independent redress officer if the officer decides not to overturn the presumption

Authorised for lodgement

Hon Erica Stanford

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



# Cabinet

## 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.*

### Approach to Redress Process for Survivors in the Event of Advanced Terminal Illness or Death

**Portfolio** Government's Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions

On 7 April 2026, following reference from the Cabinet Social Outcomes Committee, Cabinet:

#### Background

- 1 **noted** that in May 2025, Cabinet agreed to introduce in legislation a presumption against financial redress for survivors with certain serious violent or sexual convictions and that have received a sentence of five years or more for that offence [CAB-25-MIN-0145];
- 2 **noted** that the Social Services and Community Committee reported back on the Redress System for Abuse in Care Bill (the Bill) on 13 March 2026;

#### Approach in the case of terminal illness with a prognosis of less than six months

- 3 **noted** that the Lead Coordination Minister for the Government's Response to the Royal Commission's Report into Historical Abuse in State Care (the Lead Minister) currently has delegated authority from Cabinet to exempt a person from the serious offenders process where the survivor has a terminal illness likely to end their life before the Bill is implemented;
- 4 **noted** that the Lead Minister has exercised this discretion twice;
- 5 **noted** that there is currently no similar discretionary exemption process provided for in the Bill;
- 6 **noted** that as of 1 April 2026, 183 of the 186 survivors who have lodged claims since 9 May 2025 and had a criminal history check were not in scope of the presumption (98.4 percent), with 3 survivors (1.6 percent) confirmed as in scope;
- 7 **agreed** to an amendment to the Bill to allow for a discretionary exemption at any stage of the claim process from the serious offenders process where a survivor suffers from a terminal illness that is likely to end their life within six months;
- 8 **agreed** that the discretionary decision maker be the independent decision maker (redress officer);
- 9 **agreed** that the decisions under CAB-26-MIN-0116 be implemented through the Bill via an Amendment Paper;

- 10 **invited** the Lead Minister to issue drafting instructions to the Parliamentary Counsel Office for an Amendment Paper giving effect to the decisions under CAB-26-MIN-0116;
- 11 **authorised** the Lead Minister to approve any additional minor and technical matters that may arise during the drafting of the Amendment Paper;

### **Approach to serious offender process in the case of a survivor's death**

- 12 **noted** that the Bill does not set out what happens to a claim where a survivor affected by the process to identify serious offenders dies during the process;
- 13 **noted** that in April 2025, Cabinet agreed that if a survivor dies after a registering a claim it can continue to be assessed with any financial redress provided to the deceased survivor's next-of-kin or estate [CAB-25-MIN-0101];
- 14 **confirmed** that claims from survivors who die before the serious offender process is complete can be progressed by their next-of-kin or estate;
- 15 **confirmed** that if a survivor dies before the serious offender process is complete, that the presumption against financial redress for serious offenders will apply to claims being progressed by the survivor's next-of-kin or estate;
- 16 **agreed** that a deceased survivor's next-of-kin or estate cannot reapply to the independent redress officer if the officer decides not to overturn the presumption.

Rachel Hayward  
Secretary of the Cabinet