

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

Decisions relating to the establishment of payments for Lake Alice Psychiatric
Hospital Child and Adolescent Unit survivors who have a terminal illness

Date of issue: 14 October 2024

These documents have been proactively released:

- Payments for survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit who have a terminal illness, Cabinet Paper;
- CAB-24-MIN-0300, Cabinet Minute, 12 August 2024.

Summary of redactions:

- 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:
 - Paragraph 29e – Cabinet Paper – Payments for survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit who have a terminal illness, Cabinet Paper
 - Paragraph 5 – CAB-24-MIN-0300, Cabinet Minute, 12 August 2024.

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

Office of the Minister for Mental Health

Cabinet

Payments for survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit who have a terminal illness

Proposal

- 1 This paper seeks agreement for Cabinet to establish a payment to contribute towards end-of life care and/or funeral costs for a small number of survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit (the Lake Alice Unit) who have a terminal illness and six-months or less to live.
- 2 The payment described in this paper is intended to be provided promptly while work progresses on redress for survivors of the Lake Alice Unit who experienced torture.
- 3 This proposal has been endorsed by the Ministerial Group for the Crown Response to the Abuse in Care Inquiry that met on 31 July.

Background

- 4 At the tabling of the final report of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Royal Commission), this Government made a clear commitment to prioritising decisions on improving redress for survivors of abuse in care.
- 5 Both the Royal Commission's final report and its previous report, *Beautiful Children: Inquiry into the Lake Alice Child and Adolescent Unit*, published in December 2022, set out the significant abuse children and young people experienced at the Lake Alice Unit, which operated from 1972 until 1978. The Government has also acknowledged publicly that some survivors of the Lake Alice Unit experienced abuse which meets the definition of torture [SOU-24-MIN-0072 refers].
- 6 The Royal Commission identified 362 children and young people who spent time at the Lake Alice Unit. This total includes children and young people who only spent short periods in the Lake Alice Unit, as well as others who spent much longer periods there (in some cases, years). As the Lake Alice Unit operated during the 1970s, survivors who spent time there will be in their late 50s through to their late 60s. A number of survivors have already passed away and many of those who are alive have major health challenges due to their age and their experiences, compounded by the subsequent impacts the torture has had on their lives. We have been advised that several have died this year, with one

dying as recently as the week that the Government acknowledged that torture had occurred at the Lake Alice Unit.

- 7 Since 2001, the Crown has settled claims with 203 Lake Alice Unit survivors and four are currently being considered by the Ministry of Health's historic claims process. Across the settled claims the average financial payment is approximately \$68,000-\$70,000, although the 95 survivors who settled with the Crown in the first round of settlement had legal fees of approximately 40 per cent deducted from their individual payments by their lawyers. Settlements made under the previous and ongoing Lake Alice Unit claims process are tax-free and should not affect government benefits or other entitlements.
- 8 While Cabinet is expected to make decisions on a new redress package for survivors who experienced torture at the Lake Alice Unit in the coming months, we know there are significant health challenges facing this group and a small number of terminally ill survivors who may die before this new redress can be offered.
- 9 We also know that many of the survivors of Lake Alice have spent their lives in financial hardship or poverty as a result of the ongoing impact of the torture and abuse they experienced. We have been advised that for some who are in their final weeks or months of life concerns like not having sufficient funds to pay for their own funeral is causing significant distress.
- 10 The Ministerial Group for the Crown Response to the Abuse in Care Inquiry has endorsed that there is a pressing need for the Crown to make additional financial support available to Lake Alice torture survivors who are nearing the end of their lives as soon as possible.

Establishing a payment for Lake Alice Unit survivors who have a terminal illness

- 11 We propose to establish a payment of \$20,000 to be offered to Lake Alice Unit survivors who suffer from a terminal illness that is likely to end the person's life in six months or less. The use of the payment would be at the survivor's full discretion but is intended to contribute towards end-of-life care and/or funeral costs. It is not to be treated as income, so will therefore be tax-free and will not affect the recipient's tax status or other entitlements.
- 12 If a survivor were to die after making an application but before a payment is provided, we propose the payment is made to the Executor or Administrator of the survivor's estate, as is the case with existing claims processes.
- 13 As the Ministry of Health already operates a historic claims process for Lake Alice Unit survivors, we propose the new payment is delivered through the existing service. Many Lake Alice Unit survivors are familiar with the Ministry's process and so this avoids the need to establish a new process and should ensure a smoother experience for survivors.
- 14 To apply for the payment, survivors would need to present themselves to the Ministry of Health's service, which can be done by phone, email, or standard mail. The Ministry holds the names of all 203 closed (and four open) claimants

so can quickly verify their attendance at the Lake Alice Unit. It is unlikely that a significant number of unknown claimants would come forward for this payment, but, if so, the Ministry would assess it as it would any new Lake Alice Unit claim. The only supporting material needed to apply for the \$20,000 payment would be evidence from a doctor or appropriate medical professional confirming a terminal diagnosis and prognosis of six-months or less. Payments will be made within seven working days following confirmation of eligibility.

- 15 As the number of survivors who may apply for the new payment is expected to be very low (up to five), no additional money is proposed to be appropriated at this time. The Ministry's claims process is, however, operated with very limited resourcing and staff and there will be ongoing assessment to ensure it is able to manage demand and avoid any further harm to Lake Alice Unit survivors through delays. The legal services appropriation that the Lake Alice claims process is managed through is also subject to other unforeseen costs, such as legal action against the Crown.
- 16 Survivors will also be able to be reimbursed for the cost of obtaining evidence of their terminal illness from a medical professional.
- 17 This payment is intended as a temporary measure while decisions on redress for torture are finalised in the coming months. We propose it is made available until redress for torture is made available, at which point the \$20,000 payment will be reviewed. In the event that a survivor who has claimed this payment is able to also claim the future financial redress, the \$20,000 would be deducted from the future redress amount.

Cost-of-living implications

- 18 The proposed payment will provide immediate financial relief to help with the costs of end-of-life care and/or a funeral for Lake Alice survivors who are in their final weeks or months of life.

Financial implications

- 19 The proposed payment has limited financial implications, based on the known size of the Lake Alice Unit cohort, the small number of survivors likely to have a terminal illness and the short period of time it is anticipated the payment is likely to be required.
- 20 In the coming months Cabinet will consider further decisions about financial redress for survivors of Lake Alice who experienced torture. These broader decisions will require the appropriation of additional funding from the between Budget contingency.

Legislative implications

- 21 The proposals in this paper have no legislative implications.

Impact analysis

- 22 Impact analysis is not required as this paper contains no proposal to amend, repeal or introduce legislation.

Population implications

- 23 The Lake Alice Unit survivors represent a specific cohort, reflecting the limited time the Unit was operating. They are men and women aged in their late 50s to late 60s, and include both Māori and Pacific peoples, and disabled people. As a specific cohort there are no broader population implications associated with the recommendations set out in this paper.

Human rights

- 24 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and Human Rights Act 1993.

Use of external resources

- 25 No external resources have been used in the preparation of the advice in this paper.

Consultation

- 26 This paper was developed by the Crown Response Unit. The Crown Law Office, Ministry of Education, Ministry of Health, and Ministry of Social Development were consulted. The Treasury was informed.

Communications

- 27 Following the Cabinet decision, a press release will be issued notifying the decision. Proactive communications will be made by the Crown Response Unit to Lake Alice Unit survivors and their advocates informing them about the new payment. The Ministry of Health's historic claims service website will be updated to provide details about the new payment.

Proactive release

- 28 This paper will be published on the Crown Response Unit's website as soon as practicable.

Recommendations

- 29 It is recommended that the Committee:
- a) **agree** to, given the extremely fragile health of some Lake Alice Unit survivors, urgently establish a \$20,000 payment for Lake Alice Unit survivors who have a prognosis of six months or less to live to contribute towards end-of-life care and/or funeral costs;

- b) **agree** that the \$20,000 payments are not intended to be income, are tax-free and will not affect government benefits and entitlements;
- c) **agree** that in the situation where a survivor dies after initiating a claim for the \$20,000 payment, the payment is made to the deceased survivor's estate;
- d) **agree** that the event that a survivor who has claimed this payment is able to also claim the future financial redress, the \$20,000 would be deducted from the future redress amount;
- e) s9(2)(f)(iv) [REDACTED]
- f) **note** that the Ministry of Health's claims process is operated with very limited resourcing and staff and there will be ongoing assessment to ensure it is able to manage demand and avoid any further harm to Lake Alice Unit survivors through delays; and
- g) **agree** that the funding for payment recommended in this paper will be reviewed as part of decisions on specific redress for torture.

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

Hon Matt Doocey

Minister for Mental Health



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.

Payments for Survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit Who Have a Terminal Illness

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

On 12 August 2024, Cabinet:

- 1 **agreed**, given the extremely fragile health of some Lake Alice Psychiatric Hospital Child and Adolescent Unit (the Lake Alice Unit) survivors, to urgently establish a \$20,000 payment for Lake Alice Unit survivors who have a prognosis of six months or less to live, to be spent as they see fit;
- 2 **agreed** that the \$20,000 payments are not intended to be income, are tax-free, and will not affect government benefits and entitlements;
- 3 **agreed** that, in the situation where a survivor dies after initiating a claim for the \$20,000 payment, the payment will be made to the deceased survivor's estate;
- 4 **agreed** that, in the event a survivor who has claimed this payment is able to also claim the future financial redress, the \$20,000 would be deducted from the future redress amount;
- 5 **s9(2)(f)(iv)** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 6 **noted** that the Ministry of Health's claims process is operated with very limited resourcing and staff, and that there will be ongoing assessment to ensure the Ministry is able to manage demand and avoid any further harm to Lake Alice Unit survivors through delays;
- 7 **agreed** that the funding for the payment outlined above will be reviewed as part of Cabinet's decisions on specific redress for torture.

Rachel Hayward
Secretary of the Cabinet