

# Aide-Mémoire

## Ministerial Group Meeting for the Crown Response to Abuse in Care - 10 February 2025

**Date due to MO:** 7 February 2025      **Date of Meeting:** 10 February 2025

**Security level:** BUDGET SENSITIVE      **Reference:** H2025060580

**To:** Hon Simeon Brown, Minister of Health  
Hon Matt Dooccy, Minister for Mental Health

**Consulted:** Health New Zealand:

**Proactive release:** This **title** is proposed by the Ministry of Health for proactive release:

### Contact for telephone discussion

Name	Position	Telephone
<b>Maree Roberts</b>	Deputy Director-General, System, Strategy and Policy	s 9(2)(a)
<b>Geoff Short</b>	Deputy Director-General, Clinical Community and Mental Health	

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### About the Meeting

**Purpose of Meeting**

This meeting is for the Ministerial Group for the Crown Response to the final report of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions. The agenda items are:

- Response Plan
- Cabinet Strategy Committee meeting discussion on redress

**Details of Meeting**

**Date:** 10 February 2025  
**Time:** 6.00pm to 7.00pm  
**Venue:** 8.5EW

**Comment:**

Ministry officials Geoff Short, Deputy Director-General, Clinical Community and Mental Health, and Phil Knipe, Chief Legal Advisor, will attend this meeting to support you.

**Response Plan (All Ministers)**

- This item will focus on decisions sought in the Response Plan briefing *Abuse in Care Inquiry Response Plan Framework* which you received on 29 January. You (Minister Brown) have received and signed this briefing. Your decisions were as follows:
  - Agreed to the proposed approach to the structure, reporting and updating of the Response Plan
  - Confirmed the proposed high-level phasing of the Response Plan
  - Agreed that the Crown Response Office should continue to progress advice on the proposed approach to monitoring and reporting of progress against the Response Plan.
- The Ministry considers that the proposed approach will produce a plan that will drive action and decisions in key areas, responding to the needs of those who have been harmed in the past, while also improving the experiences and safety of those in the care of the state today.
- Another key decision sought in the briefing involves what the best approach is to respond to the Royal Commission's recommendations for partnering and co-design with stakeholders and affected communities as part of the response.
- In their briefing the Crown Response Office references two approaches:
  - prioritise delivering on these partnering and co-design recommendations across the full response plan wherever possible, or
  - portfolio Ministers and agencies to decide what is an appropriate level of partnering and co-design to take as part of the scoping work underway at a work package level, using existing reference and advisory groups and drawing on known insights where appropriate – you (Minister Brown) chose this option in the briefing.
- Determining the extent to which work on the recommendations should be influenced by engagement and partnering involves balancing trade-offs between the need to providing for sufficient engagement/partnership in the development of advice and implementation of decisions, while also seeking timely change.

- Prioritising partnership and co-design on all recommendations across the response (the first option) could involve having a single process/point of engagement for all work and involving stakeholders at many/all stages of the process. While this approach would support significant involvement from affected/interested groups, it would also significantly increase the time it takes to develop advice, seek decisions, and implement change, and could attract criticism that change is not happening fast enough.
- Alternatively, making decisions on the extent and nature of engagement and partnership for each piece of work within the response (the second approach) could allow work to proceed more quickly, including allowing for more engagement in areas where this is considered to be more critical. However, this approach may be criticised as limiting the opportunity for affected/interested communities to be involved. These communities might also be concerned that it is difficult for them to navigate the process and know when and how they can input into different parts of this work, if different approaches to engagement are being applied across different pieces of work.
- On balance, we consider that the best approach would involve the second option, but with the addition of some centralised stakeholder engagement/relationship management with representatives of key communities to help them understand and navigate the process, and enable them to input into the process where this is appropriate.

#### **Redress (Redress Ministers)**

- This item will focus on a draft Cabinet Strategy Committee briefing that Minister Stanford proposes to discuss at the committee on 18 February.
- The paper is seeking direction from Cabinet on the overall pace, scale and priorities for the redress response. This will provide parameters within which redress options and advice will be provided to Cabinet Social Outcomes Committee in March for decisions to confirm the Budget 25 redress package.
- There are a significant number of decisions to be made when it comes to designing a redress package, but we understand that the focus for decisions in March will be on decisions that are directly

connected to confirming the Budget package, with more detailed decisions to be sought from Cabinet later in the year.

- s 9(2)(g)(i)

**Background and context to the Crown Response to the Abuse in Care Inquiry**

- **Appendix 1** provides you with an overview of the work so far on the response to the Royal Commission's final report *Whanaketia – through pain and trauma, from darkness to light*.
- It is provided as general background information, noting that the Minister of Health and Minister of Mental health are members of the joint Ministers group leading the Government's response to recommendations by the Royal Commission.



Maree Roberts

Deputy Director-General

**System, Strategy and Policy**

PROACTIVELY RELEASED

## Appendix 1: Background and context to the Crown Response to Abuse in Care Inquiry

1. On 24 July 2024, the Royal Commission's final report (*Whanaketia – through pain and trauma, from darkness to light*) (the final report) was tabled in Parliament.
2. Royal Commission of Inquiry made 138 recommendations in their final report aimed at the Government and faith-based care organizations. There are also a further 95 recommendations from the interim Redress report, *He Purapura ora, he Māra Tipu*, delivered in December 2021.
3. The recommendations are broad-ranging and have a particular emphasis on machinery of government matters, care safety standards, workforce, complaints processes, enforcement, and the justice sector.
4. Most of the recommendations are designed to apply across all care settings (state and non-state) rather than being specific to a particular context such as youth justice or disability-related care. Therefore, many of the recommendations cover a range of Ministerial portfolios and collaboration and commitment across the Crown is needed.
5. There are 79 recommendations that have been identified as requiring Health's input to varying degrees. The Ministry can provide you with a list outlining these recommendations and their potential implications for Health if required.
6. On 25 September 2024, Cabinet agreed to broadly accept the Royal Commission's overall findings in its final report, while noting that these findings have not been tested at an individual level and that further work is required to respond to the findings [SOU-24-MIN-0118 refers].
7. On 12 November, the Crown apologised on the survivors of abuse in care. The Prime Minister delivered the national apology in the House of Representatives.
8. The Minister Responsible for the Crown Response to the Abuse in Care Inquiry, Hon Erica Stanford, established a Ministerial Group to help drive and coordinate the Crown's response to the Royal Commission. The Minister of Health and Minister for Mental Health are part of this group.
9. On 2 September, Cabinet Social Outcomes Committee agreed to establish a Crown Response Office [CAB-24-MIN-0331 refers]. The Crown Response Office is within Public Service Commission and drives the implementation of the work programme arising from the Royal Commission, with support from care agencies including the Ministry of Health and Health New Zealand.

### *Implications for Health*

10. Mental health facilities are a key care setting and are a strong focus within *Whanaketia*. Across the Inquiry period (1950 to 1999), Ministry also had a role in monitoring and regulating disability support services. These services now lie with Whaikaha and Ministry for Social Development, however, as the Ministry was the lead agency for disability

support services at the time it has a role in the response to the recommendations and findings about the care of disabled people.

11. The Ministry of Health is part of a group of the Government agencies working on the response to the final report. While there are recommendations that have been identified as requiring Health's input or that have significant implications for the Health system, many of these recommendations are for system wide changes and will require cross-agency collaboration. Therefore, Health will likely be part of a wider agency response.
12. The Health system has changed significantly since the Inquiry period, with increased emphasis on rights-based approaches to providing care and further focus on improving the quality and safety of services, for instance the Nga Paerewa Health and Disability Services Standard and the Mental Health Bill.
13. The Nga Paerewa Health and Disability Services Standard sets out the steps service providers need to take to ensure they are providing safe, quality services, and outlines what people can expect from the services they receive.
14. The Mental Health Bill intends to shift mental health legislation towards a more rights-based and recovery approach to compulsory mental health care. There are parts of the bill that will address some of the recommendations of the final report that relate to care and treatment in mental health facilities
15. There are recommendations that call for further changes to the health system and the care system more generally including system-wide vetting and registration of staff working with vulnerable adults, young people and children and connected complaints processes.
16. While the focus of the recommendations has mainly been on past treatment in mental health and disability and faith-based care settings, the nature of the recommendations focused on preventing abuse and neglect could also apply to broader health and disability care settings such as aged care and compulsory substance addiction facilities.
17. The response to the final report is part of Health's 90-day plan and, therefore, a priority for the Ministry.

### **The Crown Response Office is drafting a Response Plan**

18. On 25 September 2024, Cabinet Social Outcomes Committee directed officials led by the Crown Response Office to develop and deliver a full Response Plan to the Royal Commission's final report, Whanaketia, and its interim redress report, He Purapura ora, he Māra Tipu for consideration by joint Ministers.
19. The Crown Response Office has led the development of the Response Plan working with agencies, including the Ministry of Health. The Response Plan intends to set out how the government will work through and consider the recommendations of the Royal Commission's final report.
20. The Response Plan will be drafted from January to March 2025. It is currently proposed to report the Plan to Cabinet in April 2025.

21. You received the briefing Abuse in Care Inquiry Response Plan Framework on 29 January which outlined the current approach for the development and reporting of the Abuse in Care Response Plan.
22. As you will have noted, there are three high level objectives that will guide the structure of the plan:
  - a. Addressing the wrongs of the past
  - b. Making the current care system safe
  - c. Empowering families, whanau and communities
23. Under these high-level objectives the Response Plan will group related recommendations into a series of roughly 30 "work packages" (e.g. workforce, safeguarding, monitoring and reporting, etc). For each work package there will be high level information about scope, deliverables, timing, and the nature of the work underway. The current thinking is that each work package will have a lead agency/agencies and Minister(s).
24. It is planned that individual agencies, including the Ministry of Health, will be leading individual work packages. Given that many elements of the recommendations extend beyond individual agencies key responsibilities, lead agencies will need to consult or collaborate with other relevant agencies.
25. The Crown Response Office will monitor agencies progress on their actions and provide coordination across the work programme.
26. To support this, a group of responsible Chief Executives from the care agencies has been established to oversee the work programme.

### Crown Response to Abuse in Care Budget '25 Package

27. The Minister of Finance invited the Lead Coordination Minister for the Crown Response to the Royal Commission's Report into Historical Abuse in State Care and in the Care of Faith-based Institutions to coordinate the development of a package of Royal Commission initiatives for Budget 2025 investment.
28. This budget package is a primary mechanism to enable the delivery of the Crown Response to the final report and future redress system settings.
29. The Crown Response Budget 25 package has three primary components:
  - **Address the wrongs of the past.** This part of the package is focused on options for redress, including options for monetary payments for survivors; enhanced supports and services for survivors, the operational costs of handling claims, and engaging with survivors
  - **Ensure the safety of children, young people, and vulnerable adults in the current system.** This part of the package focused on care agency and system level initiatives needed to ensure the safety of people within the care system, future-proof the care system, and support families and communities to be empowered to look after their own
  - **Crown Response Office time limited funding.** This part of the package will be focused on funding for the Crown Response Office, which currently ends on 30 June

2025. This will include consideration for survivor engagement, advisory, monitoring and oversight.

*Health's contribution*

30. The Ministry of Health, along with other care agencies, contributed initiatives to the part of the package that focusses on investment to empower families, whānau and communities and make the current care system safer.

31. s 9(2)(f)(iv)

32. These initiatives are:

- *\$0.734m operating across two years and \$50m capital across four years - Review and improve mental health inpatient units to ensure care settings are safe and responsive to people's needs*

• s 9(2)(f)(iv)

- *\$9.360m across four years - Bolster safeguards and oversight of compulsory mental health and addiction care by expanding independent statutory roles and enhancing capability through improved models of care*

• s 9(2)(f)(iv)

33. The Ministry also contributed to two cross-agency initiatives for contingency funding to support a cross-system response to Whanaketia in two areas where significant policy work needs to be done but agencies are confident there will be a need for investment, subject to decisions by Ministers:

- *\$25 million across four years: Preventing entry into care*
- *\$71.5 million across four years: Lift the quality and safety of the care system workforce focussing on core training and ongoing development and screening.*

34. s 9(2)(f)(iv)

35. The final budget package was submitted on 23rd January following final approval from Joint Ministers.

36. Treasury has begun their assessments of the Budget package. The Ministry will work with the Crown Response Office to provide any additional information about the initiatives to Treasury.

### Work is underway to address the Royal Commission's recommendations for state redress

37. The Royal Commission made around 20 recommendations for redress in the final report (and 95 recommendations in the redress interim report) including the establishment of a single redress system covering abuse and neglect in State and faith-based (non-State) care.
38. The Crown's current abuse claims processes primarily sit across four agencies, the Ministries of Education, Health, Social Development and Oranga Tamariki. Depending on when the abuse occurred, some state claims also sit with Crown entities (e.g. Health New Zealand and Te Puni Kokiri).
39. The Ministry of Health currently operates two redress processes for people who were based in care prior to 1993, the Historic Abuse Resolution Service and Lake Alice redress. These are operating under existing Cabinet and Ministerial decisions, pending decisions on any new redress scheme developed as part of the government response to the Royal Commission into Abuse in Care.
- The *Historic Abuse Resolution Service* is for allegations of abuse in state-run psychiatric facilities or psychopaedic hospitals prior to 1 July 1993. The Ministry will provide an apology where there is evidence of a legitimate basis for a claim and may provide a wellbeing payment (of up to \$9,000) on an ex-gratia basis.
  - The *Lake Alice* redress service is for people who were abused in care at the Lake Alice Child and Adolescent Unit. The service is for people who were a resident between 1972 and 1977 and were aged under 17 years old at that time. Previous and current redress for Lake Alice survivors consists of a written apology and a financial payment based on individual harm (average settlement for round 2 is \$68,000)
40. Given that it will take time to design and implement an improved redress system, Cabinet agreed in November 2024 to increase the capacity of the four current State claims processes until June 2026 to improve survivor's experiences in the short term and support the increased volume of new claims [CAB-24-MIN-0434 refers].

#### *Funding for state redress*

41. As noted above, the Crown Response Budget 25 package included redress. The redress component of the package proposes options for a funding envelope that could be used to provide longer term funding for State redress and make any system changes Cabinet may agree to.
42. Funding for the current State redress system ends in June 2026; therefore, the redress component of the Budget package has both Cost Pressure and New Spending proposal objectives.

43. Policy decisions for redress will need to be made by Cabinet in mid-March in order to inform final Cabinet decisions for Budget 2025. It is proposed that the focus between now and March will be on policy decisions that have significant fiscal implications and/or are foundational to confirm the intent and function of the system. This will include decisions such as the types and levels of different support and services to be offered by the redress system.

#### *Lake Alice Redress*

44. The Crown has formally accepted that some survivors of the Lake Alice Child and Adolescent Unit experienced torture as per the criteria set out in the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT).
45. This acknowledgment was announced to the public by the Prime Minister and Minister Stanford on the day the final report was tabled in the House, 24 July 2024.
46. Decisions were made to provide redress to the survivors of the Lake Alice Unit who were tortured (as defined in the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment) outside of the general state redress system.
47. Redress for survivors of torture at the Lake Alice Unit redress consists of three components: a payment which recognises an individual's experience of torture, a new apology which explicitly acknowledges torture, and steps relating to access to support and rehabilitative services. This redress will be delivered through the Crown Response Office.
48. Cabinet agreed to address a parity issue for some Lake Alice settlements to address recommendation 18 of the final report. Claimants in the first round of settlements had their legal fees deducted from their settlement amount (estimated 40 percent from the total settlement), meaning that they received significantly less by way of their net payment than those in the second round of settlements where the Crown met legal costs.
49. The Ministry is also supporting payments 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 who have a terminal illness and six months or less to live. As of 4 February, there have been three payments made.