



19 July 2023

Tēnā koe

On 30 March 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- 1. A structure breakdown of the roles and units within the Ministry of Social Development's Historic Claims Team*
- 2. How many FTE staff are in the team resolving claims through the Rapid Payment Framework process (including any positions being recruited for) – include seniority of roles*
- 3. How many FTE staff are in the team resolving claims through the Individualised Claim Assessment process (including any positions being recruited for) – include seniority of roles*
- 4. How many FTE staff were in the team resolving claims through the Individualised Claim Assessment process (including any positions being recruited for) prior to the introduction of the Rapid Payment Framework process and team – include seniority of roles*
- 5. Under the Individualised Claim Assessment process, for claimants where the Ministry has received a letter of offer from _____ what is the current average time between receipt of that letter of offer and a substantive reply from Ministry of Social Development.*
- 6. Under the Individualised Claim Assessment process, for claimants where the Ministry has received a counter-offer from _____ what is the current average time between receipt of that counter-offer and a substantive reply from Ministry of Social Development.*
- 7. Clarify the circumstances in which MSD is currently undertaking Individualised Claim Assessments, when they have not been directly instructed to do so by a claimant or their representative. For instance, is this only happening where an Individualised Claim Assessment was already underway prior to the implementation of the Rapid Payment Framework process?*
- 8. Any projections created or that can be created for how long MSD expects to have completed RPF assessments of all outstanding claims.*

9. *Any projections created or that can be created for how long MSD expects to have completed Individualised Claim Assessments of all outstanding claims.*
10. *Any projections created or that can be created for how long MSD expects to have responded to all outstanding counteroffers.*
11. *Copies of any papers given to Cabinet, or created by Cabinet, covering the design of the Rapid Payment Framework process.*
12. *Copies of any documentation whatsoever in which consideration is given to the Rapid Payment Framework offers being made "in full and final settlement".*

On 2 May 2023, the Ministry emailed you to advise that more time was required to respond to your request. An extension was required for two reasons. First, your request is for a large quantity of information, and it required additional time to collate and assess the material. Second, the consultations necessary to make a decision on the request are such that a proper response could not reasonably be made in the original time limit.

I will now respond to your questions in turn.

1. *A structure breakdown of the roles and units within the Ministry of Social Development's Historic Claims Team*

Please see **Tables One and Two** in the below **Appendix**, which contain a breakdown of the permanent and temporary structure of the Ministry's Historic Claims Unit as at 31 May 2023.

The temporary structure contains fixed term staff to support with the backlog of personal information requests.

2. *How many FTE staff are in the team resolving claims through the Rapid Payment Framework process (including any positions being recruited for) – include seniority of roles*
3. *How many FTE staff are in the team resolving claims through the Individualised Claim Assessment process (including any positions being recruited for) – include seniority of roles*

Please see **Table Three** in the below **Appendix**, which contains a breakdown for the number of filled and vacant positions currently resolving claims through the Individualised Claim Assessment (ICA) and Rapid Payment Framework (RPF) processes, as at 31 May 2023. These numbers are at a point in time as some of our staff work across both ICA and RPF assessments. This excludes information coordination teams, who process personal information requests only.

4. *How many FTE staff were in the team resolving claims through the Individualised Claim Assessment process (including any positions being recruited for) prior to the introduction of the Rapid Payment Framework process and team – include seniority of roles*

Prior to the introduction of the RPF, there were a total of 16 FTE staff completing assessments. The position titles of these staff members were Senior Claims Assessors and Claims Assessors (now known as Specialist Claims Assessors).

As part of discussions for the new Historic Claims organisational structure implemented in February 2023, it was identified that all staff resolving claims through the individualised claim assessment process, regardless of seniority, were doing very complex work. To acknowledge this, the position title was changed to Specialist Claims Assessor to reflect the complexity of the work more accurately.

Generally, the same group of staff were involved in the quality assurance and sign out processes to date.

5. *Under the Individualised Claim Assessment process, for claimants where the Ministry has received a letter of offer from Cooper Legal, what is the current average time between receipt of that letter of offer and a substantive reply from Ministry of Social Development.*

In the period 27 November 2019 to 31 May 2023, the average time between receipt of a letter of offer and a substantive reply from the Ministry is 4.2 years or 1,528 days (rounded up to a whole day). We acknowledge that this timeframe is long, which we are working hard to improve to address the backlog of claims.

I have also provided a brief explanation below of the different limitations attached to this data.

The Ministry has provided data for claimants represented by _____ at the time that a letter of offer was sent to the Ministry. When calculating the average time taken, the Ministry used the date of the letter of offer that is recorded in the claimant's file and the date of the Ministry's response letter that is recorded in the Historic Claims Application database (HCA).

As you have requested a 'current' average, I have provided an average from 27 November 2019, as this is the implementation date of the HCA. The Ministry migrated recent relevant operational data that was needed to support ongoing work. The data from some more historical claims was not fully migrated into the database.

6. *Under the Individualised Claim Assessment process, for claimants where the Ministry has received a counter-offer from Cooper Legal, what is the current average time between receipt of that counter-offer and a substantive reply from Ministry of Social Development.*

Please refer to the Ministry's letter to your colleague Caitlin Rabel, sent on 4 July 2023.

7. *Clarify the circumstances in which MSD is currently undertaking Individualised Claim Assessments, when they have not been directly instructed to do so by a claimant or their representative. For instance, is this only happening where an Individualised Claim Assessment was already underway prior to the implementation of the Rapid Payment Framework process?*

The Ministry does not currently carry out any Individualised Claims Assessments where this has not been requested by a claimant or their representative.

As noted in your question, there was a small number of claims for which we had already begun to assess an individualised claim before the rapid payment process was implemented. We continued to complete these assessments given they were part way through. Once the partially assessed claims were completed, the practice was for unrepresented claimants to be contacted to discuss the individualised claims assessment offer and any likely rapid payment offer to allow them to choose the most appropriate option for them.

Please note that some claimants may have been contacted prior to their individualised claim assessment being completed to discuss the assessment options, including a rapid payment but they would have been provided an indication of the likely offer amounts.

8. *Any projections created or that can be created for how long MSD expects to have completed RPF assessments of all outstanding claims.*
9. *Any projections created or that can be created for how long MSD expects to have completed Individualised Claim Assessments of all outstanding claims.*
10. *Any projections created or that can be created for how long MSD expects to have responded to all outstanding counteroffers.*

As you may be aware, the Act does not require the Ministry to create information to respond to a request. As such, I will provide you with existing information.

It is forecasted that Historic Claims could complete approximately 1,000 claims for the period 1 July 2023 to 30 June 2024. This includes Individualised Claims Assessments (including counteroffers) and Rapid Payment Framework assessments.

These projections have been based on the following assumptions:

- That Historic Claims is fully staffed throughout the 12-month period.
- Individualised Claims Assessments, Rapid Payment Framework assessments, and counteroffers have been counted as separate assessments.
- That approximately 70% of claimants will choose a rapid payment and 30% will choose an individualised assessment.

Historic Claims continues to receive approximately 500 claims per year, so it is not possible to provide reasonable projections past this 12-month period.

11. Copies of any papers given to Cabinet, or created by Cabinet, covering the design of the Rapid Payment Framework process.

Please find a copy of the following report attached to this response:

- REP/22/9/876 – Report – *Approval for MSD Historic Claims Rapid Payment Approach*, dated 22 September 2022.

I have also identified the following Cabinet papers in scope of your request, which have been made publicly available by the Crown Response to the Abuse in Care Inquiry:

- Cabinet paper – *Responding to the Royal Commission into Historical Abuse in Care's redress findings – Immediate projects to improve survivors' experience of seeking redress*, dated 9 August 2022: www.abuseinquiryresponse.govt.nz/assets/Uploads/Cabinet-paper-Immediate-projects-to-improve-survivors-experience-of-seeking-redress.pdf
- Cabinet paper – *Responding to the Royal Commission into Historical Abuse in Care's redress findings – report back on immediate projects to improve survivors' experience of seeking redress*, dated 31 May 2023: www.abuseinquiryresponse.govt.nz/assets/Uploads/Cabinet-papers/2023-05-31-Cabinet-paper-Immediate-projects-report-back.pdf.

The following briefing, that is provided for completeness, will be made available online within eight weeks of today, and is therefore refused under section 18(d) of the Act on the basis that the information requested will soon be publicly available:

- REP/22/8/807 – Briefing – *Proposed rapid payment approach for use by agencies operating claims processes for abuse in State care*, dated 2 September 2022.

This report will be published by the Crown Response to the Abuse in Care Inquiry. It is a further decision-making paper in which joint Ministers approve the high-level framework for how agencies are to approach rapid payments in their existing processes. When released, this paper will provide further context to the Ministry's specific rapid payment approach that has been released to you as part of this response.

12. Copies of any documentation whatsoever in which consideration is given to the Rapid Payment Framework offers being made "in full and final settlement".

The parameters for the design and implementation of the new Rapid Payment process are in line with Principle 2 of the Crown Response Strategy (2019) which states that: I

*"where merited settlement would be full and final"*¹

The Cabinet and Ministerial papers, since the release of the Crown Response Strategy, that are either already public, sent to you as part of this response or which will soon be made available provide additional context.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter and attachments on the Ministry's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding the Historic Claims team, you have the right to seek an investigation and review by the Ombudsman.

¹[17-December-2019-Cabinet-release-Review-of-Strategy-for-the-Resolut...pdf \(abuseinquiryresponse.govt.nz\)](#)

Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

A handwritten signature in blue ink, appearing to read 'Delwyn Clement', with a stylized flourish extending from the end.

Delwyn Clement
Acting General Manager
Historic Claims

Appendix

Table One: A breakdown of roles in the Historic Claims Unit in the permanent structure, broken down by position type and vacancy as at 31 May 2023.

Position Titles	Filled	Vacant	Total
General Manager Historic Claims	1	0	1
Executive Assistant	1	0	1
Director Strategy	1	0	1
Manager Historic Claims	3	0	3
Team Leader Claims Management	5	0	5
Team Leader Information Coordination*	3	0	3
Lead Claims Advisor	1	0	1
Senior Claims Advisor	1	1	2
Senior Advisor Strategy	2	0	2
Lead Strategic Advisor	1	0	1
Lead Partnerships Advisor	1	0	1
Senior Claims Specialist	6	4	10
Senior Claimant Support Specialist	12	8	20
Specialist Claims Assessor ²	11	5	16
Claims Administrator	5	0	5
Claimant Support Specialists	7	1	8
Senior Information Coordinator*	7	0	7
Information Coordinator*	16	5	21

Table Two: A breakdown of roles in the Historic Claims Unit in the temporary structure, broken down by position type and vacancy as at 31 May 2023.

Position Titles	Filled
Team Leader Information Coordination*	2
Senior Information Coordinator*	4
Information Coordinator*	16
Capability Builder*	1

² This includes one Specialist Claim Assessor who is on parental leave

Notes for Tables One and Two:

- Roles that are marked with an asterisk do not resolve claims through either process. These roles are focused on processing personal information requests.

Table Three: The number of filled and vacant positions resolving claims as at 31 May 2023, broken down by process type

Current staff resolving claims					
Individualised Claim Assessment	12	Rapid Payment Framework	18	QA/Signout	12
Vacant roles yet to be filled					
Individualised Claim Assessment	6	Rapid Payment Framework	12	QA/Signout	1

Notes for Table Three:

- The roles included in the Individualised Claims Assessments are:
 - Specialist Claims Assessors
 - Senior Claims Advisors
 - Lead Claims Advisor
- The roles included in the Rapid Payment Framework assessments are:
 - Seniors Claims Specialists
 - Senior Claimant Support Specialists
- Please note that one staff member on parental leave is included in the vacant roles.
- We have also included the number of staff involved in the quality assurance and sign out processes. This group of staff are involved in the quality assurance and sign out processes for both individualised claim assessments and rapid payment assessments. Please note that they also carry out a range of other duties in their day-to-day roles.



Report

Date: 22 September 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and
Employment

Approval for MSD Historic Claims Rapid Payment Approach

Purpose of the report

- 1 Ministers have recently signed off on the high-level framework for how agencies are to approach rapid payments in their existing historic abuse claims processes. This report seeks your approval of the Ministry of Social Development's (MSD) proposed rapid payment approach under its Historic Claims process and updates you on next steps.

Executive summary

- 2 As discussed with you in April 2022, there is a significant backlog of historic claims on hand (approximately 3,000 claims) and MSD continues to receive new claims (average of 40 new claims per month). There is also the possibility of further claims as the process becomes quicker and easier.
- 3 We expect to have an estimated 2,000 unresolved and unfunded claims when funding expires on 1 July 2023. Wait-times for claimants remain too long (currently 4.9 years).
- 4 Joint Ministers have agreed to a high-level Crown framework for rapid payments to assist with providing more timely resolution and to respond to recommendations from the Royal Commission of Inquiry into Historical Abuse in State Care.
- 5 We propose to implement a rapid payment option into our historic claims process. This will help reduce wait-times for claimants and alleviate associated trauma from lengthy wait-times.
- 6 The Historic Claims team will implement the rapid payment option, beginning with a small group of staff and claimants to allow initial testing of communications material and resources before the option is rolled out to a wider group of claimants.
- 7 The primary criteria used for the calculation of a rapid payment will be the length of time a claimant has been involved with Child, Youth and Family (CYF) or its predecessor agencies, along with additional payments to reflect particular programmes where more serious abuse occurred and for situations where a person's legal rights may have been breached.

- 8 The focus will be on those claimants that are either ill, elderly or have been waiting the longest to have their claim resolved. It is anticipated that it will take up to three months to fully implement the rapid payment option.

Recommended actions

It is recommended that you:

- 1 **note** that MSD proposes to introduce a rapid payment option, alongside the current Historic Claims process
- 2 **note** that claimants will have the choice as to whether they elect a rapid payment or an individualised assessment. Those who elect a rapid payment will continue to be able to access all other parts of the Historic Claims process, including being able to share their story and access wider supports
- 3 **note** that key design principles relating to payment have been developed, namely that average payments under a rapid payment being consistent with those that continue to have an individualised assessment (around \$20,000)
- 4 **agree** that the primary criteria for the rapid payment approach will be based on the length of time a claimant has been involved with Child, Youth and Family or its' predecessor agencies

Agree / Disagree

- 5 **agree** that payment amounts for length of time of involvement be calculated as follows:
 - Under 5 years - \$10,000
 - 5 - 15 years - \$20,000
 - Over 15 years - \$25,000

Agree / Disagree

- 6 **agree** that additional top-up payments would be added to claims where applicable to reflect current payment frameworks and payment levels, as follows:
 - concerns about conduct in an NGO bush programme placement (\$5,000)
 - inappropriate detention - applies where a claimant alleges placement in a secure care unit in a residence, detained in a place or room or placed on 'Alcatraz' at the Whakapakari programme (\$1,500, \$2,500 or \$5,000)
 - potential New Zealand Bill of Rights Act (BORA) breaches - applies where a claimant alleges concerns about conduct at a residence that has a secure unit or an NGO bush programme on or after 25 September 1990 (\$4,000 or \$8,000)


Agree / Disagree

¹ 'Alcatraz' was a small island off the coast of Great Barrier Island where boys were often sent there for a number of days, usually as a form of punishment, where there often inadequate food and water and little shelter.

- 7 **agree** that the maximum a person can receive under a rapid payment is \$30,000 to ensure payments are generally aligned with current payments


Agree / Disagree

- 8 **note** that testing of the above parameters shows that the majority of people (68 percent) will be the same or better off if they choose a rapid payment. Mitigations will be built into implementation to ensure claimants understand what the two different assessment processes will likely mean for the outcome of their claim so they are empowered to make choices that work for them
- 9 **note** that we are forecasting, based on current staffing levels, completing between 433 and 603 claim assessments between 1 October 2022 and 30 June 2023 which is likely to be three to four times more than completing individualised assessments under the current process
- 10 **note** MSD has funding to complete a total of 960 claims by 30 June 2023. As long as further staff can be recruited, capability built quickly and assumptions around current time savings are correct, Historic Claims will be able to complete these claims by 30 June 2023
- 11 **note** that further funding as part of Budget 2023 will be sought to enable MSD to continue to resolve claims until the new independent redress system is set up.



Nadine Kilmister
Deputy Chief Executive
People and Capability

23 September 2022
Date



Hon Carmel Sepuloni
Minister for Social Development and
Employment

26/9/22
Date

Relevant Context

Ministers have agreed to the high-level framework for rapid payments for use by agencies operating claims processes for abuse in state care

- 9 In the recent Cabinet Paper which discussed responding to the Royal Commission's redress findings and immediate projects to improve survivors' experiences of seeking redress, Cabinet agreed that agencies could progress developing rapid payments under existing historic claims processes, with this work jointly reporting to the four Ministers responsible for these claims processes [CBC-22-MIN-0035 refers].
- 10 A cross-agency working group, consisting of the claims' agencies, Crown Law and the Crown Response Unit have been meeting to work through options for Ministers. This work has culminated in a joint Ministers paper seeking approval to the high-level framework for rapid payments which focusses on rapid payments as an option that can be provided by claims agencies to help prevent further trauma to abuse survivors due to long wait-times. You have recently signed off this paper (REP/22/8/807).
- 11 Key features of the high-level framework that all claims agencies have signed up to include:
 - rapid payments would involve a standardised claim review approach that is based on readily identifiable metrics for the particular care setting covered by the agency, to respond to claims in a shorter timeframe. The intention is that the metrics would be easy and efficient to apply and broadly aligned with the likely level of harm experienced. There would be no individualised assessment of allegations made
 - they would be applied to claim queues in a prioritised way that puts ill, elderly and those who have been waiting the longest first
 - payment levels are kept broadly on par with existing payment levels, to maintain consistency with claimants who choose to go through individualised assessment processes and those who have already settled their claims
 - rapid payments are offered by agencies as an option within their existing claims processes, with claimants continuing to have the choice of an individualised assessment if they wish
 - rapid payments are implemented in a phased way by MSD and the Ministry of Education, as the agencies with claims queues
 - lessons from the phased implementation are shared with the Ministry of Health and Oranga Tamariki, which do not currently have claim queues, so those agencies can tweak their processes as needed or look to implement a rapid payment approach if a queue arises
 - there is close monitoring of the rapid payments to ensure there are no unintended negative consequences for survivors, with reporting to Ministers on roll out progress and any further changes that need to be made.
- 12 It is intended that this would be an interim, time-limited approach until the new integrated independent redress system is established.

MSD's Proposed Rapid Payments Approach

Historic Claims will continue to offer its full support offerings to claimants if they choose to receive a rapid payment

- 13 Claimants will continue to have the option of a more individualised assessment if they do not choose a rapid payment process. This will enable claimants to decide what is more important for them. For some claimants it will be important to have their concerns individually assessed, but for others this will not be as important. There may be claimants who do not want to share the specifics of their abuse which can lead to further trauma. Full details of the abuse will not be needed if a person elects a rapid payment.
- 14 No matter whether a claimant elects a rapid payment or a more individualised assessment, key elements of the MSD claims process will continue. These include:
 - claimants are given the opportunity to tell their story and be heard
 - assisting claimants to access supports and services such as counselling, wraparound support services etc
 - providing claimants with a copy of their care files and answering any questions they may have about their time in care
 - providing feedback to the person on their claim and offering a settlement payment, along with an apology letter from the Ministry's Chief Executive.
- 15 A faster assessment process will not only assist with providing outcomes to claimants in a more timely way, but will also provide staff with more time to work directly with claimants to understand and assist them with any support needs.

Claimants who are ill, elderly and those that have been waiting the longest will be prioritised

- 16 Consistent with the high-level rapid payment framework, claimants who are at risk of passing away before their claim is assessed will be prioritised, along with the elderly (those claimants who are aged 70 years or over)². As at 12 September 2022, there are approximately 70 claimants in this age group.

The Historic Claims team has carried out operational testing to inform recommendations for MSD's rapid payment criteria and developed design principles relating to payment

- 17 To inform proposals for rapid payment criteria, 200 claims that have been assessed under the current Historic Claims assessment process (introduced in December 2018) were randomly selected and key data collected relating to potential criteria that was being considered. This included information such as length of time in care, the type of placements the person was in and the payment received under the current assessment process.

² ² Under current policy, MSD already prioritises those claimants who may pass away before their claim is completed. However, the introduction of prioritisation for the elderly is new.

18 The team also developed three key design principles to guide thinking on payment:

- the average payment will align with payment levels of resolved claims and other claims that may be undergoing a more individualised assessment under the existing assessment process (this is around \$20,000)
- there is a tight spread of payments ranging from approximately \$10,000 to \$25,000 so that there are less extremes at either end. A high minimum payment reduces the risk that the offer does not appropriately acknowledge a claimant's experience and a maximum baseline payment reflects the reduction of testing of the details of the claim (i.e. a lower evidentiary standard) and keeps the average payment at \$20,000
- the payment, more often than not, results in a settlement offer that would not be significantly less than what the claimant would receive through an individualised assessment under the current assessment process.

19 The Historic Claims team used the data collected to test multiple payment options to see how well each aligned with the design principles.

The recommended rapid payments approach is primarily focussed on the length of time a person was involved with CYF or its predecessors

20 It is proposed that MSD's rapid payments would use the length of time a person was involved³ with CYF or its predecessors as the primary criteria. Testing of 200 claims has confirmed that there is a correlation between the length of time a person is involved with CYF and the level of payment; the longer a person has been involved with the State, the more likely they will have experienced repeated harm.

21 There was consideration of slightly different metrics such as the time a person was under the custody of CYF as opposed to being involved with CYF, but there was no discernible difference in the correlation.

22 Using this as the primary criteria ensures that all registered claims with MSD could receive a payment under this framework as the requirement to have been involved with CYF or its predecessors is already a key part of the Historic Claims eligibility criteria.

23 This criterion would also be easy and efficient to apply. Operational testing suggests that it will generally be a quick process to confirm in care records the length of time a person has been involved with the State.

³ The Historic Claims definition of "involved" will be based on its eligibility criteria for its claims process and includes those who "were in the care, custody, guardianship, or came to the notice of the Child Welfare Division, the Department of Social Welfare, the New Zealand Children and Young Persons Service or Child, Youth and Family before 1 April 2017.

In addition to length of time involved with CYF, it is proposed that there will be additional payments for particular programmes where more serious abuse occurred and for situations where a person's legal rights may have been breached

- 24 Operational testing has shown that claimants placed in Non-Government (NGO) Bush Programmes⁴ in isolated settings often experienced more serious abuse than in other care settings and received higher payments (on average \$5,000 more). To help ensure these experiences are appropriately acknowledged, an additional payment is proposed for claimants who have raised concerns about experiences in these programmes.
- 25 It is also proposed that additional top-up payments would be added to claims where applicable to reflect current payment frameworks under existing claims processes that respond to instances of potential inappropriate detention and potential New Zealand Bill of Rights Act 1990 (BORA) breaches:
- the inappropriate detention payment framework applies to claims which include an allegation of inappropriate detention or confinement in any placement (including residential, caregiver and NGO placements) and/or where the claimant was placed at a residence which had a secure unit and alleges that they were held in secure care on at least one occasion
 - the BORA payment framework applies to claims where the claimant raises concerns about conduct at residences or NGO bush programmes on or after 25 September 1990.
- 26 Incorporating these aspects into MSD's rapid payment approach would ensure consistency between the two assessment processes and continuing to include recognition of potential BORA breaches helps ensure that MSD is meeting its public law obligations.
- 27 For these additional payments, we would rely upon what the claimant has told us (rather than checking the records to confirm allegations), except where the relevant BORA placement could be reasonably close to 25 September 1990 as it would be unreasonable for a claimant to recall the exact date of their placement. This is consistent with how the inappropriate detention and BORA frameworks currently operate.

⁴ In the 1990s and early 2000s, there were a number of 'bush programmes' run by contracted NGOs for those who were in state care. They were often in isolated areas such as Great Barrier Island or in forests (e.g. Te Urewera) where there was less supervision of the providers and the young people, allowing more serious abuse and practices to care.

The recommended payment structure is based around payment bands for the number of years a person has had involvement with the State

28 The Historic Claims team tested multiple payment options to see which option was most consistent with the design principles in para 14. The recommended option is discussed below:

Criteria	Payment	Rationale
Length of time involved with CYF	Under 5 years - \$10,000 5 – 15 years - \$20,000 Over 15 years - \$25,000	These figures best aligned with the design principles - average payments were just under \$20,000 (see below) and the proposed fixed payment bands helped keep a tight spread of payments generally between \$10,000 - \$25,000. A minimum \$10,000 payment also helps ensure that more serious experiences can be appropriately acknowledged, even if the person was in care for a short period of time.
Inappropriate detention	\$1,500, \$2,500 or \$5,000 (where applicable)	These payment amounts align with the existing inappropriate detention framework: <ul style="list-style-type: none"> • \$1,500 is paid when a claimant alleges that they were detained in one placement which is less than 84 days in length (i.e. less than 3 months⁵) • \$2,500 is paid where the placement is 84 days or more or where there are multiple placements capable of detention • \$5,000 is paid where a claimant alleges continuous detention for 29 days or more.
BORA	\$4,000 or \$8,000 (where applicable)	These payments align with the existing BORA framework: <ul style="list-style-type: none"> • \$4,000 is paid for conduct on or after 25 September 1990 that took place in a residential placement (which had a secure unit) • \$8,000 is paid for conduct on or after 25 September 1990 that took place in an NGO run bush programme. <p>The two payments are alternatives, and not cumulative.</p>

⁵ One month is defined as 28 days.

Conduct at an NGO run bush programme	\$5,000 (where applicable)	Operational testing has shown that people who have raised concerns about their time in bush programmes, on average received \$5,000 higher than other claimants.
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29 A diagram of how the payment would work in practice is:



30 Of the 200 claims that were tested using the above criteria, the average payment was \$19,415, with the median and mode payments being \$20,000. This amount is broadly consistent with past and current settlement payments.

31 It is recommended that the maximum payment a person could receive under a rapid payment is capped at \$30,000. A maximum payment ensures general alignment with individualised claims assessments, is appropriate given the reduction in testing of allegations and keeps the average payment at around \$20,000. We checked to see whether any claims would be disadvantaged by this decision but did not identify any in the testing sample.

Testing has shown that most people will be the same or better off if they elect a rapid payment

32 Analysis of this option shows that assuming the claims tested are reflective of the total population that may be offered a rapid payment, the majority of claimants (68 percent) would be the same or better off if they elect a rapid payment than if they chose an individualised assessment. The remaining 32 percent would be worse off to varying degrees.

33 We have considered whether any adjustments could be made to reduce the number of people that are worse off. However, this is difficult to do given that rapid payments are not intended to consider individual allegations (including their severity) meaning that increased amounts could not be added for more serious abuse. Also, our testing did not show any other placement types (other than NGO bush programmes) where there are more likely to be a higher number of serious allegations.

34 However, mitigations can be built into implementation – staff would be equipped to have conversations with claimants around their options and what the two different assessment processes might mean for the outcome of their claim, including how payments and timeframes might differ.

Forecasting around the rapid payment option

35 Until testing starts and we begin engaging with claimants about rapid payments it is difficult to predict the full impact this option will have on the end-to-end time to complete a claim.

- 36 Testing and data gathered from the current end-to-end process suggest that a rapid payment process is likely three to four times faster than an individualised assessment⁶.
- 37 It is expected that not all claimants will wish to receive a rapid payment and as noted above for some claimants an individualised assessment would provide a more appropriate redress response. Based on our previous experience of using a more standardised assessment approach⁷ it is assumed that at least 70 percent⁸ of claimants will choose to have their claim assessed using the rapid payment approach.
- 38 Based on current staff numbers⁹ we expect Historic Claims to complete between 433 and 603 claims assessments over the next nine months until 30 June 2023.
- 39 We are recruiting more staff and building capacity. If we get the number of staff needed and our assumptions around current time savings are correct, we anticipate being able to complete more than the forecasted number of assessments and will likely reach our remaining budgeted number of assessments (960) by year end.
- 40 There are several factors that could impact on the final number completed by the end of the financial year including being the number of claimants that choose a rapid payment and how rapid payments may impact on other parts of the claims process. For example, engagement with the claimant after their settlement offer has been approved may look different in a rapid payment environment. Also, our ability to recruit, train, and retain staff to work with claimants in what is a difficult and uncertain environment (a new independent redress entity is being established) may influence the number of assessments that can be completed.
- 41 Further funding will be sought as part of Budget 2023 to enable MSD to continue to resolve claims until the new independent redress system is set up.

Next Steps

- 42 Once the framework is approved, Historic Claims will begin using a 'test and learn' approach to implement the rapid payments option with a focus on understanding what staff guidance and resources need to be in place and how the option is best communicated to claimants. This 'test and learn' process has been used to implement both the inappropriate detention and Bill of Rights Act frameworks and has been successful in ensuring resources and processes are fit for purpose and staff capability is built.

⁶ Delays in the completion of claims over the past few years as a result of Inappropriate Detention and potential Bill of Rights Act breaches has made measuring the end-to-end time to complete a claim under the current assessment process difficult.

⁷ A standardised approach was used by the Ministry in a one-off initiative in 2015-2016 to reduce a growing backlog of claims. It was known as the "Two Path Approach".

⁸ Although there was a higher uptake rate under the Two Path Approach (approximately 80%), a conservative estimate has been provided for the time being until we begin to engage with claimants. Also, from our testing, approximately 30 percent of claimants may receive a better outcome from an individualised assessment and therefore could be a helpful indicator of the group who are more likely to elect an individualised assessment.

⁹ Historic Claims is not currently fully staffed – see paragraph 47 for further information.

- 43 The intention is to use a small team of staff who will start working with a small group of claimants to offer them a rapid payment and then work through that process with the claimant. The team will learn from that experience, make adjustments to the way they work with claimants (if required) and then consider how delivery can be scaled.
- 44 While working through these steps, resources and templates will be developed and communications material finalised. Data will also be collected on such things as processing times and the number of claimants that elect a rapid payment compared with a more individualised assessment to help us understand whether the assumptions used in the above forecasting were correct. This information will help inform further funding and resourcing decisions.
- 45 As communications and staff guidance are being developed in the first few weeks of implementation, MSD's communications with stakeholders and claimants will need to be phased and require a 'soft' roll-out. For example, when the initial implementation testing is commenced, Historic Claims will likely request to meet with Cooper Legal (who represent nearly half of all claimants) to share the high-level details of the approved rapid payment approach, but the updated process guidance (and publication of this on the Ministry's website) and more detailed communications with claimants will need to follow.
- 46 Concurrently we will be looking at our current operating model, considering what changes may be needed to support full implementation of rapid payments and the number and types of resources needed to increase the team and the capacity of the team to resolve claims. Learning from our early testing will be critical to support this work.
- 47 There has been a reduction in staff over the past six months due in part to uncertainty about the future of the redress system and we had delayed recruiting while the rapid payment decisions are being finalised. Planning is underway to recruit to vacant roles.
- 48 We anticipate that it will take up to three months to fully implement rapid payments across the whole Historic Claims team, including the review of resourcing discussed in paragraph 46.
- 49 We will keep your office updated as this work progresses.

Author: (Delwyn Clement, Director Strategy and Christy Corlett, Lead Strategic Advisor, Historic Claims)

Responsible manager: (Linda Hrstich-Meyer, General Manager, Historic Claims)