



4 September 2023

Tēnā koe

On 26 July 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *I note paragraph 37 of briefing CRACI 22/005 dated 2 September 2022, relating to the rapid payment approach, which reads: Agencies will also continue to operate referral processes to the Police and other appropriate agencies to investigate allegations of abuse and torture. Due care will need to be taken so the rapid payments' standardised approach does not create a risk that safety and legal obligations are not met.*
- *Please provide information, and any documentation or correspondence, relating to steps taken by MSD to ensure its RPF approach does not create a risk that safety and legal obligations are not met.*

The Historic Claims team already had processes in place for safety checks and checks under the United Nations Convention Against Torture, prior to the introduction of the Rapid Payment Framework. An overview of the safety checking process is in the *Historic Claims Business Process Guidance* which we have previously provided to you, at pages 11 and 12.

No new documentation was developed, following the introduction of the Rapid Payment Framework, as generally the same steps are followed when an allegation is raised, irrespective of the claim pathway that is followed. The exception to this is the downloading of rapid payment allegations from the Historic Claims Application noted below. Therefore, there is no documentation or correspondence in scope, specifically relating to the Rapid Payment Framework. This part of your request is refused under section 18(e) of the Act, as these documents do not exist.

We have provided you with a summary of the steps the Historic Claims team take when assessing allegations.

Safety risks

The Ministry takes its child protection obligations seriously. Where concerns are raised about safety issues for children, the Historic Claims team will share that information with the appropriate agency.

The Historic Claims team continues to operate the same safety referral processes that were in place prior to the introduction of the Rapid Payment Framework, for all claims that are undergoing rapid payments.

When a new claim is registered or information is received from a claimant's lawyer regarding the claim – for example, a letter of offer or statement of claim - a safety check is completed to identify any current safety risks to children by identifying any staff member or caregivers referred to in the claim who may be currently employed by Oranga Tamariki, the Ministry, the Ministry of Education, or an operating non-governmental organisation.

The staff member conducting the safety check will usually need to contact the relevant agency to check whether the staff member is still employed by that agency. At this initial stage of the check, no details of the allegation or details of the claimant will be provided to the agency. If the agency identifies the alleged offender as a current staff member or caregiver, a discussion with the claimant or their legal representative would occur. Following this, a safety referral with full details of the offending would be made to that agency or any other appropriate agency deemed appropriate.

Safety checks can be completed at any stage of the claims process where the claimant may provide further information about their claim.

There has been a recent additional identification check that has been put in place specifically for rapid payments in that there is further consideration of any outstanding safety checks after the rapid payment assessment has been completed. As part of this assessment process, any allegations that the Ministry has received by a claimant are entered into the Historic Claims Application (HCA), which centrally records information about claims. At regular intervals, a staff member will download all recently assessed rapid payment allegations from the HCA and check to see whether there are any allegations that may need safety checking that have not been checked up to that point.

United Nations Convention Against Torture (UNCAT)

The Historic Claims team has processes in place to identify any claims where articles 1 (torture) and 16 (cruel, inhuman, or degrading treatment) may apply for both individualised assessments and rapid payments that relate to events after 10 January 1990.

Where an allegation is received from a claimant that is considered to be a breach of Article 1 or Article 16 of UNCAT (where the claimant alleging mistreatment is still in state care or the alleged perpetrator is still

employed/engaged by the state), the allegation will be recorded and forwarded to the Historic Claims internal strategy team for further advice.

These allegations may then be forwarded to another agency to act on, if that agency would be the more appropriate agency to respond. For example, the allegation may be forwarded to Orange Tamariki, where the person alleging mistreatment is still in state care or the alleged perpetrator is still employed or engaged by the State. Where the Ministry is the appropriate agency to respond, the Historic Claims process requires that an Article 1 breach is referred to the Police.

Allegations are also considered for UNCAT purposes at the time of assessment. For individualised assessments, this is done as part of the Consistency Panel process. For rapid payments, as noted above, allegations are recorded in the HCA as part of the assessment process. When rapid payment allegations are downloaded, as well as the allegations being checked for safety referrals, they are also assessed as to whether Articles 1 or 16 of UNCAT may apply. Where there is a potential Article 16 breach and the claimant is not in state care and the alleged perpetrator is not currently employed by the State, these allegations are recorded by the Historic Claims team with next steps to be considered after the Royal Commission of Inquiry has reported.

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 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 steps taken by the Ministry to ensure the RPF approach does not create a risk that safety and legal obligations are not met, you have the right to seek an investigation and review by the Ombudsman. 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 black ink, appearing to read 'L. H. Hrstich-Meyer', written in a cursive style.

Linda Hrstich-Meyer
General Manager
Historic Claims