# Consultation Process on the Historic Claims Resolution Process

## *Ministry of Social Development response to feedback*

The Ministry of Social Development (MSD) Claims Resolution Team would like to thank all contributors to our consultation and for the analysis that has gone into preparing the two consultation reports. We would also like to acknowledge the Senior Māori Leaders Group and thank them for their time in participating in the consultation sessions with Māori claimants and their overall guidance to the process. Both reports have provided valuable insight into the views of claimants that MSD will use to guide process improvement. We are committed to delivering a service that is responsive to claimants, addresses their needs throughout the process, and provides the support and services they need.

### Overall perceptions

MSD values the feedback from claimants on their experience and the individuals they encounter through the claims resolution process. We recognise the need to provide claimants with a service that is tailored to their wishes and personal circumstances and that provides closure within a reasonable period of time. We are working to develop a new process that allows claims to be assessed faster, but more importantly that considers the needs of claimants throughout the process. This includes reviewing our approach to providing support services and engaging with claimants in a manner where people feel valued and heard. As we progress, we will ensure that all changes support a process that recognises an individual’s culture, but more specifically tikanga Māori and the principles of mana, aroha, whakapapa, whanaungatanga, and manaakitanga.

Our aim is to put in place a continuous improvement process that enables feedback from claimants to directly feed in to improvements to the assessment process. Some changes may require more time and consideration, while others can be immediately actioned to provide an improved service. The feedback on claimants’ over-riding concern for the improvement of conditions for children currently in care is an example of a change that we can begin to immediately action. Feedback from claimants is currently compiled into a report to Oranga Tamariki to help them with social work practice improvement. We have also in the past held presentations for front line staff of Oranga Tamariki to inform their approach. We will work with Oranga Tamariki to improve these processes and ensure claimants understand how their experiences are helping to improve social work practice.

### Themes and Suggested Ideas

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| Theme | Suggested Ideas | MSD Response |
| ***Promotion of the Claims Process*** | | |
| Claimants believe there is a need for active promotion of the claims process. | * Develop a comprehensive communications strategy * Develop a website with information on how to lodge a claim, what is involved in the process, likely timeframes, any available support or assistance, and a FAQ section * Make information pamphlets available in outlets such as doctors’ surgeries, libraries, Work and Income offices, and other accessible places | MSD agrees and recognises a need to improve awareness of the claims resolution process. In regard to active promotion of the process we must take the Royal Commission process into consideration in our approach. In response to the suggested ideas we will:   * Develop a comprehensive communications strategy that aligns with the new resolution process * The MSD website is currently being re-designed. The Claims Resolution team will work with the teams in MSD responsible for the website to improve access to information in line with the communications strategy * The communications strategy will include an approach to making information available in accessible places |

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| *Communication during process / Claims status updates* | | |
| Claimants do not know about the status of their claim and wait many months in between communications. They feel there is need to improve communications at the beginning of the process so that claimants know what to expect. There is also a need to keep claimants in the loop throughout the process. | * Investigate the process used by ACC where claimants are regularly updated on the progress of their claim. They also have a unique identifier number that is linked to all their information so they do not have to give the details of their claims each time they make enquiries. | MSD agrees with the need to improve communication with claimants and ensure they are both aware of the process upfront and kept in the loop throughout. In response to the suggested ideas we will:   * Ensure the communications strategy addresses every aspect of outreach and communication with claimants * Investigate options for a case management system with unique identifier numbers |
| ***Length of time*** | | |
| Claimants noted that the process takes too long and that on average they had to wait up to two years before hearing anything about the status of their claim. The wait is stressful and traumatising, particularly following the interview process where there is no support or counselling to help them deal with the effects of disclosing their experiences. | * Investigate a wraparound service approach that helps claimants access other social services so that they are able to secure decent housing, job or training opportunities, further education opportunities, financial or budgeting services to help manage the financial component of their claim | MSD acknowledges that the process currently takes too long and is designing a new process and supporting communications to improve our level of service to claimants. For a response to the suggested idea, please see the section on *Access to services including counselling* below. |

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| *Interview/Assessment Process* | | |
| Claimants find the process clinical and impersonal. It is seen as an information gathering process and the assessors are not seen as interested in the story of the claimant nor do they appreciate it may be the first time the claimant’s story is being told. Claimants feel vulnerable and exposed after the assessment and are left to deal with the aftermath themselves.  The process needs to be a more inviting and comfortable environment and carried out with more empathy and understanding of them, their cultural identity, and their circumstances.  Claimants feel there should be options about where and how an assessment might take place. It was also suggested that it might be a conflict of interest if an assessor worked at a residential facility at the same time the claimant was there or the abuser may have been a former colleague.  It was also strongly felt that more Māori need to be involved in the interview and assessment process. And it was questioned whether the assessors need to be Social Workers. The workforce needs to include people who are competent and possess the necessary skills to work with claimants and the constitution to deal with what may be a harrowing role. This could include claimants who have concluded the process. Their roles could be as interviewers and assessors as appropriate or as support people or facilitators to provide pastoral care, access to social services, and professional health services | * Investigate a recruitment and training programme that enables MSD to build a lay workforce to carry out appropriate aspects of the claims process. This could include identifying and properly resourcing independent service providers and community organisations * Investigate pastoral care roles that encompass support workers or facilitators that help with the application process, accessing and reading files, preparation for interviews, help to access counselling and other services. This may include reviewing the assistance model used by the Confidential Listening and Assistance Service as well as models developed by other sectors * Investigate a wraparound service/one stop shop model * Investigate options for carrying out interviews and assessments in settings that meet claimants’ preferences including a group interview mechanism | MSD is sorry that claimants find the process clinical and impersonal. This feedback is very important and will guide the process redesign that is currently underway. In response to the suggested ideas we will:   * Develop a recruitment strategy that builds diversity into the workforce and provides a level of service better tailored to claimants’ wishes. The workforce model will be informed by the final decision on the new process. * Investigate the inclusion of support workers and facilitators (navigators) in the workforce model. This may include access to formal services as well as options for claimants to identify an existing support person or trusted individual to work with them through the process. * Investigate a wraparound service. This is further addressed in the section on *Access to services including counselling* below. * Investigate alternative locations for interviews. Our aim is to provide claimants with options that best suit their wishes and circumstances. * Further explore the possibility of implementing a group interview mechanism. |
| ***Access to services including counselling*** | | |
| Many claimants noted that it would have been helpful to have access to counselling after the interview and assessment components of the process. Having access to other services regarding employment, training, housing during and after the claims process would also have been helpful. | * Investigate a wraparound service approach that helps claimants access other social services so that they are able to secure decent housing, job or training opportunities, further education opportunities, financial or budgeting services to help manage the financial component of their claim | Access to counselling is already part of our service offering to claimants following the interview. We note that this does not appear to be the experience of claimants and we take this feedback seriously. In response to the suggested ideas we will:   * Improve our communication to claimants to ensure they can access the services already available to them. This will also be systematised in our communications strategy. * Investigate the facilitation of a wraparound service that enables claimants to access services through other agencies throughout the process. The inclusion of a navigator in the workforce (as suggested above), may facilitate this. |

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| *Receiving files/data base & records* | | |
| Receiving files can take time for incarcerated claimants that may have moved within or between facilities.  Many claimants are unsure why their files are redacted and why there are no reports of the abuse they experienced, especially if it was reported. This may be the only source of information for claimants to reconstruct family connections and give them a more complete picture of their early lives.  Large tracts of redacted information reinforce claimants’ mistrust of government and reinforces the notion that information is being withheld.  Claimants whose siblings were also taken into care do not see the point of redacting siblings’ information when they are all treated as a single group file. They should also be able to make a group claim if more than one sibling wants to lodge a claim.  Professionals noted that redacted areas can make it difficult to make sense of what happened to claimants. Incidences of abuse or complaints are very rarely recorded in a claimant’s file – these records have likely been archived or destroyed. Not being able to build a complete picture impacts a claimant’s representative’s ability to present a good case, which may impact on the quantum of settlement.  Professionals also expressed concerns about the information collected by MSD and its storage and access. An MoU allowing to share information was suggested. | * Provide support to claimants when they received their files * Move to digitising hard copy records and making information more easily accessible * Look at the possibility of a MoU with MSD for information sharing purposes * Investigate data collection to see if the right data is being collected and if it can be disaggregated to make it more useful * Investigate or review the basis for withholding information based on privacy issues and if it is justified in these circumstances | MSD recognises that significant redaction can reinforce mistrust. We are however bound by the Privacy Act. It is rare that accounts of abuse are recorded in claimants’ records as these were often carried out covertly. In response to the suggested ideas we will:   * Ensure that claimants are aware of the counselling and support services they are already able to access to support them in receiving their records and build this into our investigation of a wraparound service * Improve our communication with claimants about the nature of the records that are and are not available, and the limitations of those records * Explore how we can present claimant records to them in a way that aids comprehension and understanding, eg present the information in chronological order * Explore what other information could be shared to increase transparency. |
| ***Whole whānau approach*** | | |
| The process should accommodate a whole whānau approach particularly in circumstances where more than one whānau member was taken into care and where they wish to take a group approach to lodging and settling claims. | * Investigate the idea of a group application model as used in Canada * Investigate the alert system used by the Māori Land Court where if one whānau member lodges a succession application, other members are notified * Investigate options for carrying out interviews and assessments in settings that meet the claimants’ preferences including a group interview model. | MSD is committed to supporting claimants to reconnect with whānau and provide options for claimants in going through the assessment process. In response to the suggested ideas we will:   * Seek guidance from Legal on the feasibility of a group application mechanism * Investigate an alert system as part of the development of our communications strategy * Investigate options for alternative locations for interviews that meet claimants wishes and circumstances |
| ***Claimants in prison or transient*** | | |
| Imprisoned claimants experience longer delays with completion of their claims. They are also more likely to be more transient on release. This makes concluding their claim more difficult if they are not easily contactable. | * Investigate a tracking or alert system that reminds claimants to inform MSD of their whereabouts / MSD should actively keep track of claimants | MSD recognises the additional difficulties that incarcerated and transient claimants experience with the claims resolution process. In response to the suggested ideas we will:   * Look to introduce more regular proactive contact with claimants at a frequency that meets their needs. * Explore with Corrections options to share information about claimant’s whereabouts (with their consent). |
| ***Offer*** | | |
| The financial recognition component is not the most important factor of the claim, but claimants nevertheless feel it is inadequate considering the abuse and neglect they have suffered. Telling the story and the Government’s acknowledgement that they suffered in care is very important.  The apology is just a standard letter that does not acknowledge claimants’ personal experience and therefore does not feel genuine. However, for some, the letter vindicates and validates their experience, and is a document they can use in other areas of their life.  The timing of the apology should be better aligned with the process as it is part of the healing process.  Additions to the offer might include counselling, empowerment course for women in therapeutic community, access to employment, training, housing and other social services. Access to services that can help reconnect with whakapapa, whānau, hapū, and iwi are of particular importance.  Represented claimants in particular reported feeling like they settled under duress. Most accepted the settlement for financial reasons. The new fast-track process should not put any undue pressure on claimants.  There should be more transparency about the settlement quantum. There is particular concern for a sliding scale for the amount of abuse suffered and recommended a relativity clause approach | * Investigate incorporating a whānau reconnection service into the settlement process * Ensure there is support/pastoral care * Investigate other services that can be included in the settlement package – eg empowerment courses, open therapy sessions * Ensure there is more transparency around the method used to quantify financial recognition * Investigate a relativity clause model | MSD is committed to providing a settlement that enables claimants to move on with their lives following the claims process. In response to the suggested ideas we will:   * Investigate including whānau reconnection as part of a wraparound service throughout the claims process and as part of its resolution * Seek guidance on how to ensure transparency around the method used to quantify financial recognition whilst managing the risks   Any decision on using a relativity clause model is a all of Crown issue and therefore outside the remit of the Claims Resolution Team or MSD. |
| ***Follow up post settlement*** | | |
| Claimants noted that there may be closure but never resolution following the claims assessment process. They felt there should be some follow-up after settlement to see how they are getting on or if there is any further assistance they may require. | * Investigate a wraparound service approach that helps claimants access other social services so that they are able to secure decent housing, job or training opportunities, further education opportunities, financial or budgeting services to help manage the financial component of their claim | Our aim is to provide a service to claimants that enables them to move on with their lives following the completion of the claims process. This feedback is useful in considering how to best support claimants. In response to the suggested ideas we will:   * Investigate a wraparound service as indicated above |
| ***Inconsistency and changes*** | | |
| Professionals think the process needs to be more transparent and consistent. A published rulebook would be useful and enable all stakeholders to be working off the same page and know what to expect. | N/A | The Claims Resolution Team will prepare business process documentation and a Policy & Practice guide for the new process to guide staff in its implementation. We will seek guidance from Legal whether and how this should be published. |
| ***Independent Claims Body*** | | |
| Some claimants and particularly the professionals strongly support a move to an independent claims body. They believe it is inappropriate for government to investigate itself with no built in accountability or review mechanism. There is no ability for claimants to seek a review or enter into negotiations on their offer.  Many potential claimants will be discouraged from engaging with the claims resolution process as long as it is part of the government infrastructure.  This model will undoubtedly be promoted through the Royal Commission inquiry. | N/A | Any decision on the establishment of an independent claims body is outside the remit of the Claims Resolution Team or MSD. The Royal Commission inquiry is likely the right forum to discuss and consider this issue. |

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| *Government’s responsibility for loss of opportunity* | | |
| Claimants believe government’s responsibility extends beyond what happened to them as children. The cost of lost opportunities as a result of their experiences is profound and a constant reminder of the life they have been denied. | N/A | This is outside the remit of the Claims Resolution Team or MSD. The Royal Commission inquiry is likely the right forum to discuss and consider this issue. |
| ***Narrow scope of settlement*** | | |
| Claimants and the professional group believe the scope of settlement is too narrow and should factor in emotional abuse, cultural disconnection, and the consequences of injuries. Cultural disconnection from whānau, hapū, and iwi and being denied your identity was a hugely significant issue for all claimants. | N/A | We will investigate the inclusion of cultural/whānau reconnection services as part of a wraparound service for claimants. Any decision regarding the scope of assessment and settlement is outside the remit of the Claims Resolution Team or MSD. The Royal Commission inquiry is likely the right forum to discuss and consider this issue. |
| ***Claimants’ role in designing process*** | | |
| Claimants believe they should be an integral part of designing the claims process as they have been through and understand the system. Some thought that claimants should be leading the process in line with the concept of mana motuhake (self-determining) | N/A | The engagement with claimants through this process is part of an effort to provide an avenue for claimants to participate in the design of the process. We will also investigate the feasibility of including claimants in the workforce and future design enhancements of the process. |
| ***Lodging claim posthumously*** | | |
| Claimants support the idea of accepting claims lodged posthumously and considered the issue needs to be reconsidered as recommended by the Ombudsman. | N/A | MSD notes the feedback from claimants and will review its position taking into account all relevant considerations. |
| ***Number of claims*** | | |
| Claimants believe the number of claims is just the tip of the iceberg. There is a potential for a sharp rise in lodged claims once the Royal Commission begins its inquiry | N/A | MSD takes note of the feedback from claimants and will consider this in forecasting service levels going forward to ensure team resourcing is in line with claims levels. |

### Conclusion

MSD thanks the claimants, the facilitators, and the Senior Māori Leaders Group for the feedback provided in the report. We recognise the potential for claimant numbers to increase and are working to put in place a process that can be scaled accordingly while still ensuring our claimants feel valued and heard and have access to the support services they require.

We note that the Royal Commission of Inquiry into Historical Abuse in State Care is likely to look into how claims are resolved, which may result in possible recommendations for improvements to our service in the future. We will work with the Royal Commission to support their work and will work with our Minister to consider any recommendations and identify any changes we may need to make.