



15 AUG 2016



On 15 April 2016 you emailed the Ministry requesting, under the Official Information Act 1982, information regarding data on the Government's management of Historic Claims.

Since your last request regarding the Ministry's Claims Resolution work, the Ministry has undertaken a significant amount of work to achieve resolution for claimants. Significantly, the Ministry completed the first tranche of the fast track process for resolving claims. The fast track process was introduced in 2015 to help speed up the resolution of historic claims. It offered people a faster way of having their claim assessed and resolved, but they were also free to reject a fast track offer and to have their claim fully assessed through the normal historic claims process. Those claims received by 31 December 2014 were eligible for the fast track process and were assessed in two groups. The first group were those claims made by people who have no legal representation, while the second were those from people who are legally represented.

I can advise you that as at the end of March 2016, the Ministry had made 420 fast track offers to the first group of people who had no legal representation.

The Ministry had expected that by November 2015 it would have been ready to make offers of settlement to eligible legally represented claimants whose claims were received by 31 December 2014. This process was put on hold because in October 2015 many of those claimants lodged an application for judicial review. The review was heard by the High Court in May 2016 and it dismissed the claim and found that the fast track process did not breach any of the applicants' rights and is not contrary to natural justice. Work on progressing fast track offers to this group of claimants has now resumed.

You may be aware that since earlier correspondence with you regarding the Claims Resolution process, the Ministry's website now includes a quarterly data report on historic claims which will answer some of your questions. That report, as well as general information on the claims process can be found at <http://www.msd.govt.nz/about-msd-and-our-work/contact-us/complaints/cyf-historic-claims.html>. Data relating to historic claims is updated quarterly. The latest figures available are for the period up to the end of June 2016.

I will provide you with the updated data you were provided in your response dated 21 July 2015 below:

- *How many staff are there in the team?*

I can advise you that as at 30 June 2016, the Claims Resolution team included one Programme Manager, one Manager, one Chief Analyst and seven Senior Social Worker Advisors. The Contemporary Claims team (who manage claims made by people in care between 1993 and 2007) has four Senior Social Worker Advisors. In addition, the team is supported by an administration and support services team, the Ministry's Legal Services team and the Privacy and Official Information team.

- *How many claims have been received and settled by the teams by year and how many outstanding?*
- *How many Claims have been filed in court and what have been the outcomes of those cases been?*
- *What is the total amount of damages (if any) your Ministry been ordered to pay by a Court for historic abuse claims?*

Information on the number of claims received and resolved, broken down by year and outcome is now available on the Ministry's website. During 2016, the Ministry has reduced the number of claims on hand from 926 as at the end of December 2015, to 912 as at the end of June 2016, of which 820 are historic claims and 92 are contemporary claims.

- *What is the average period of time for a claim to be settled through the claims team?*

As at 31 December 2015 the average time for a claim to be settled was 28.1 months for a Historic Claim and 16 months for a Contemporary Claim to be processed.

- *How many claims has your Ministry settled by way of a settlement payment or ex-gratia payment?*
- *What total amount has your Ministry spent on payments under each of these headings?*
- *What has been the average payment under each heading?*

I have provided two tables which address your requests outlined above which have been broken down by Historic Claims (those made by people in care before 1993) and Contemporary Claims (those made by people in care between 1993 and 2007). You will see from the information below that settlement offers are usually made where offers have a higher payment, which is reflected in the higher average payment amount.

Table one: The number and amount spent on Historic Claims in the period 1 January 2004 to 31 December 2015 broken down by settlement payment and ex-gratia payments.

Payment Type	Settlement Payment	Ex Gratia Payment
Claims Settled	216	577
Total Amount	\$6,291,650	\$9,260,034
Average Payment	\$29,128	\$16,049

Table Two: The number and amount spent on Contemporary Claims in the period 1 January 2004 to 31 December 2015, broken down by settlement payment and ex-gratia payments.

Payment Type	Settlement Payment	Ex Gratia Payment
Claims Settled	1	15
Total Amount	\$18,000.00	\$239,500.00
Average Payment	\$18,000.00	\$15,967.00

- *What total amount has been spent by your Ministry on legal fees settling and defending these claims?*
- *How many of the Claimants have been legally represented?*

For the period 1 December 2006 to 31 March 2016, the Ministry has spent \$6,791,626 (excluding GST, including disbursements) on legal fees for the Crown Law Office and external legal counsel with respect to all historic claims. As previously advised this includes advice on all aspects of historic claims including for those claims settled out of court, for representing the Ministry for any court appearances and for advice on any other applications or matters not directly connected with claims.

As at 31 December 2015, 660 claimants had legal representation for Historic Claims and 14 claimants for Contemporary Claims. The number of people legally represented at any time is subject to change as some will engage a solicitor part way through the claims process while others will dispense with legal representation.

- *Have any of the claims the Ministry has investigated been made against existing members of staff?*
- *If so how many of your current staff members are the subject of these claims and/or investigation?*
- *Have any of the claim investigations turned up evidence of cover-ups and/or conspiracies by Ministry staff (past and/or present) to prevent abuse claims being referred to and/or investigated by Police?*
- *If so please provide details of the nature of the cover-up together with the outcome of any disciplinary action against those staff members.*

The Ministry has an obligation to protect children and vulnerable members of the community from criminal behaviour. As part of fulfilling this obligation and in supporting the Government's desire to hold criminal offenders accountable for their actions, the Ministry reports allegations of abuse to the New Zealand Police. For those reasons, claims which include allegations of physical or sexual abuse, that information will be referred to the New Zealand Police National Headquarters. The Police will make a decision about whether an investigation of any alleged criminal offending is warranted. Claimants may also make their own complaint to the Police if

and the Ministry encourages and supports people to do so. The Ministry began this in 2016 and is progressively providing alleged perpetrator information over time.

Allegations of abuse have been made in claims against 11 staff members who were employed by the Ministry at the time the claims were assessed. None of the allegations were substantiated.

None of the claims investigated, nor the Ministry's review of records, has revealed any evidence of cover ups or conspiracies concerning alleged abuse of children and young people in care. In some cases of the cases, allegations against staff members were referred to the Police and/or disciplinary action was taken at the time that the incidences occurred as would be expected and as appropriate. Although the claims resolution process has not substantiated the allegations, in some cases there were failures by staff to take the appropriate action in response to allegations at the time the incidences occurred.

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 after ten working days. The Ministry will do this by publishing this letter on the Ministry of Social Development'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.

I hope you find this information regarding historic claims helpful. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsman
PO Box 10-152
WELLINGTON 6143

Yours sincerely



Carolyn Risk
Deputy Chief Executive, Organisational Transformation