



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

5 OCT 2017

Dear

On 6 September 2017 you emailed the Ministry requesting, under the Official Information Act 1982, a copy of any information sharing protocol the Ministry has with the Police.

As per your email on 8 September 2017, your request is interpreted as referring to information-sharing protocols between the Ministry and the Police with regards to victims of abuse in state care.

Please find attached a copy of the '*Letter of Agreement*' between the New Zealand Police and the Claims Resolution team of the Ministry of Social Development and its associated Schedule. This letter sets out the protocol by which information is shared between the parties.

Please note that the practicalities in clause 9 have changed slightly. The Ministry will make contact with the claimant and ask whether they wish the Police to follow-up. The claimant's answer is then communicated to the Police and this supersedes the requirement in 9(a) for the claimant to make contact with the Police.

In light of a recent High Court Decision, the Ministry is not providing information to the Police where this has come from claims which are filed in the High Court.

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 shortly. The Ministry will do this by publishing this letter and attachments 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.

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 relating to information sharing protocols between the Ministry of Social Development and the New Zealand Police with regards to Claims Resolution, 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.

Yours sincerely

PP 

Merv Dacre
Deputy Chief Executive, Corporate Solutions

Letter of Agreement

1. This letter of agreement (LOA) confirms the relationship between New Zealand Police (NZP) and the Claims Resolution team of the Ministry of Social Development (MSD). Both agencies/organisations share a common goal of protecting children from abuse and making perpetrators' accountable and wish to formalise that relationship.
2. The purpose of this agreement is to facilitate the development of a process, in relation to historical abuse claims of physical or sexual abuse referred by MSD to Police for the purpose of Police completing an assessment and investigation into the allegations as they see fit. For the purposes of this LOA historical abuse claims are those claims that are made against MSD and its predecessors that are managed by the Claims Resolution team.
3. New Zealand Police and MSD agree if practicable to consult with each other beforehand, if either is considering providing information or comment external to either organisation on a matter which comes within the other agency's responsibility or in which that other agency has an interest in relation to this LOA.
4. All issues, disputes and differences between New Zealand Police and MSD will, firstly, be resolved at the earliest opportunity by New Zealand Police local staff and the Claims Resolution Team Chief Analyst at MSD.
5. Matters that remain unresolved will be referred to the Police National Criminal Investigations Manager and Programme Manager Claims Resolution or anyone at an equivalent level in either agency. If agreement cannot be reached within 28 days from referral, the matter will be referred, in writing, to the *MSD Chief Executive* and the Commissioner of Police for final resolution.
6. The parties agree that from time to time they may develop agreements or protocols relating to specific procedures and activities between them.
7. Nothing in this LOA is intended to create legal relations between the parties and neither party will be liable for actions of the other.
8. This LOA is subject to Cabinet directives and any enactment.
9. Either party may terminate this LOA by providing 14 days written notice to the other party.

10. This LOA commences on the date it is signed below and will be reviewed no later than two years from the date of signing.

Signed on this 18th day of May 2016



Deputy Chief Executive
Ministry of Social Development

Signed on this day of

2016



Michael Clement
Deputy Commissioner, National Operations
New Zealand Police

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

SCHEDULE FOR LETTER OF AGREEMENT BETWEEN NZ POLICE AND MINISTRY OF SOCIAL DEVELOPMENT

Background and Rationale

1. The Ministry of Social Development (MSD) has received and continues to receive claims from persons who allege serious allegations of abuse (ie. Claimants allege that they have been physically or sexually abused whilst in the care or oversight of the Ministry of Social Development or its predecessors).
2. This agreement relates to claims made against MSD and its predecessors that relate to alleged abuse whilst the claimants have been in the care of MSD and that alleged abuse occurred pre 2007.
3. MSD will consider the civil aspect of these claims under the Crown Historic Claims Litigation Strategy.
4. MSD are aware these claims involve alleged criminal offending and will disclose this information to Police under Principle 11(e) (i) of the Privacy Act 1993 which allows disclosure of personal information to avoid prejudice to the maintenance of the law – so that the Police can determine the appropriate course of action, including conducting an assessment, possible prevention work and a criminal investigation where they see fit.
5. MSD and the Police understand that in some instances claimants may have made a separate complaint directly to the Police. Claimants that have already made claims to MSD are not aware this information is going to be shared with Police but new claimants will be advised of this process.

Legal Justification for Information Sharing

6. MSD believes, on reasonable grounds, that under Principle 11(e) (i) of the Privacy Act 1993 the disclosure is necessary to avoid prejudice to the maintenance of the law through the prevention, detection and investigation of criminal offences and in some cases under Principle 11(f) of the Privacy Act 1993 that the disclosure is necessary to prevent or lessen a serious threat to public safety.

Sharing Information Process

7. Information sharing process will provide for a two stage process (the frequency of the sharing has not been confirmed):

STAGE 1

8. MSD will supply (where available) the following claim details to the Police:
 - a. Full name of claimant
 - b. Date of birth of claimant
 - c. Current address of claimant
 - d. Name DOB and addressed of alleged perpetrator (if known)
 - e. Date and time of offending
 - f. Brief details of alleged offending including location in New Zealand

STAGE 2

9. After Police have assessed the information supplied in stage one Police will request in writing, further information for the files they identify for further investigation. Upon receiving a request MSD will:
- a. Contact the claimant advising them that the details of their claim have been given to the Police and asking them to contact the Police. If the claimant does not contact the Police it is up to the Police if or how they make contact with the claimant.
 - b. Supply to Police a copy of the MSD file relevant to the alleged offending- including but not limited to the initial claim, taped claimant interview, summary report, investigation notes and any other relevant MSD records (eg. Child Youth and Family file).

Supplying information

10. MSD will supply the information to Police using the following process to ensure that the security of the information is maintained:
- a. Electronically provided it is password protected
 - b. Physically using a flash drive or similar provided it is password protected.

Contacts

11. The contacts for Police and MSD will be:
- a. NZP: Detective Inspector KIRBY or Manager Adult Sexual Assault and Child Protection
 - b. MSD: Elisabeth BRIGHT *EL BRIGHT*

Signed for Ministry of Social Development



Name and position

Date 18/5/16

EL BRIGHT
Programme Manager Claims Resolution

Signed for New Zealand Police



T R ANDERSON

Detective Superintendent

National Manager Criminal Investigation Group

Date

2 MAY 2016