



Ministry of Education Claims

Ministry of Education (MoE) Claims

Last Review date: July 2020 (New policy guidance)
Next Review Date: July 2021
Approved by: General Manager Historic Claims
Owner: General Manager Historic Claims

Background

Prior to the introduction of MSD's new assessment process, MSD and MoE worked together to resolve claims that involved both agencies, which often involved MSD assessing education allegations and a joint offer from both agencies was made to claimants. This approach is changing and MSD and MoE have agreed to separately assess and respond to allegations that relate to their agency responsibilities.

MSD's primary role when allegations are received that relate to MoE responsibilities is to ensure that these allegations are identified as early as possible and then have a discussion with the claimant as to their options. MSD will assist the claimant in connecting with MoE (including transferring allegations) if they request this. This approach is generally consistent with how we manage other allegations that fall outside the scope of our claims process (e.g. allegations relating to faith-based institutions or psychiatric hospitals).

Important Note

MSD is still responsible for assessing any allegations that relate to the actions of Child Welfare/DSW/CYPS/CYFS/CYF while a claimant was residing at or attending a school. This includes social work decisions that were made, inaction by Social Welfare (e.g. failing to follow up allegations of abuse that incurred in a school that they were notified of) or events that took place during school holidays if the claimant was not residing at the school during that time.

Identifying Ministry of Education allegations

MoE allegations need to be identified as early as possible so that a claimant can be informed of their options. They might be identified at the time of registration, after the claimant has been interviewed or we have received a written summary of their claim or occasionally during the assessment.

How to identify Ministry of Education involvement:

- If the claimant said the alleged abuser was a teacher
- If the claimant said the alleged abuse occurred at any of the following Residential Special Schools no matter the position of the alleged abuser:
 - Waimokoia Residential School (aka. Mt Wellington)
 - Salisbury Girls School
 - McKenzie Residential School
 - Campbell Park (previously Otekaike)
 - Hogben School

Note – For allegations relating to events post 1 October 1989 that relate to a school still operating, Boards of Trustees will likely be responsible for responding to the allegation rather than MoE. Though MoE will be able to clarify this with the claimant and help the claimant navigate any contact with the Board.

There may be situations where enquiries with MoE are required to determine which is the correct agency to assess the allegation. An example is where a claimant who was in a social welfare residence and attended an attached school identifies a named staff member but is unsure whether the person was a teacher or not. Enquiries should be made with MoE by the Lead or relevant Senior Claims Advisor to establish whether they were employed as a teacher.

Once an allegation has been identified

For direct claimants, Claimant Support should advise the claimant that allegations relating to schools or teachers are not allegations that MSD take responsibility for responding to, but that generally these are assessed by and responded to by MoE.

However, MSD can support claimants to raise these concerns with MoE. Options include:

1. We can pass on MoE's contact details (0800 663 252 or Sensitive.Claims@education.govt.nz) to the claimant for them to contact MoE themselves.
2. We can email MoE asking MoE to contact the claimant. The claimant's preferred contact method and contact details will need to be provided in an email by Claimant Support to Sensitive.Claims@education.govt.nz.
3. If the claimant has provided us with details of the allegations (e.g. in an interview or in writing), we can provide these allegations to MoE on the claimant's behalf. An email can be sent to Sensitive.Claims@education.govt.nz by the Lead or relevant Senior Claims Advisor with a summary of the allegations along with the claimant's contact details. Any relevant written material provided by the claimant (that they give consent to be shared with MoE) should be provided by way of Share File (Citrix). Interviews should only be sent (via Citrix) if the claimant requests this knowing that the whole interview would need to be provided as we cannot edit the interview.
4. If the claimant has not provided specific details of the allegations yet and would prefer to take part in one interview only, Claimant Support can ask the claimant about their MoE concerns during the interview and obtain consent to pass these to MoE in accordance with point 3 above. Alternatively, there could be scope to consider a joint interview with both MSD and MoE representatives in attendance. The Lead or relevant Senior Claims Advisor can discuss the feasibility of this with MoE.

For all occasions when we are providing the claimant's personal information to MoE (including contact details, allegations, written documents or their interview), oral consent to the transfer of specified information needs to be obtained and documented in a file note to be saved into the claimant's Objective file.

For legally represented claimants, if the Information Coordination and Administration team (or any other staff member) identify any MoE allegations in written correspondence or in court documents (where MoE is not a defendant), an email should be sent to their lawyer advising that their client's

educational allegations are not allegations that fall within the scope of MSD's claim process and will not be assessed but that they should contact MoE who may be able to assist.

If MoE allegations are identified at the assessment stage, the assessment team should discuss with the Lead or Senior Claims Advisor as to next steps. Factors such as the nature and severity of the allegations and how long feedback is expected to take may influence the decision as to how and when the claimant is contacted. For example, if the allegation is reasonably minor (such as inappropriate punishment) and is only one small component of the claim, it may make sense to wait and discuss the client's options at feedback rather than contacting them solely to discuss that particular allegation.

Recording of MoE allegations in assessments

If the claimant has not been previously advised that the education's allegations will not be assessed by MSD, the allegation should be included in the claims assessment but be assessed as 'out of scope'. This then ensures that Claimant Support can discuss this reasoning with the claimant at feedback and/or noted in the Letter of Offer.

Identifying information in claimant's files

If, during the assessment, an assessor identifies information in a claimant's social work file that may answer an allegation that the claimant previously raised with MSD relating to a teacher or Residential Special School and where we know a claim has been lodged with MoE, the assessor should discuss next steps with the Lead or Senior Claims Advisor.

If it is thought the information is highly relevant, the claimant will need to be contacted to seek their views/permission to pass the information on to MoE and this consent should be recorded. Any transfer of information should be done via Citrix.

This is not needed for represented claimants where the claimant's social work files have already been provided to the lawyer under a Privacy Act request as the lawyer will have this information to enable them to raise the existence of records with MoE.

There may be situations where MoE request specific information from MSD about a claimant who has lodged a claim with them (e.g. confirmation of dates that a claimant attended a school attached to a social welfare residence). In all cases, consideration must be given to privacy considerations and whether there are grounds to release. Consultation with MSD Legal may be useful if there is any ambiguity.

Approve guidance for Ministry of Education claims

Approve/Decline



Linda Hrstich-Meyer

General Manager Historic Claims

27.7.2020

Date