



: 6 SEP 2016



Dear

On 8 July 2016 you emailed the Ministry requesting, under the Official Information Act 1982, information regarding historic claims of children in state care.

The Ministry has undertaken a significant amount of work to achieve resolution for claimants. Significantly, the Ministry has 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, alleging that the Ministry had acted unlawfully in the way it had decided to develop and implement the fast track process. The review was heard by the High Court in May 2016 and it dismissed the claim. Work on progressing fast track offers to this group of claimants has now resumed.

In the interests of clarity, I will address each of your questions in turn.

- *How many individuals have been offered compensation payments to date?*
- *How many of those offers have been settled?*
- *How many offers are still outstanding, awaiting reassessment?*

On 12 July 2016, you were provided with a link to the Ministry's website that holds data regarding historic claims and which is updated quarterly. The information found on the website addresses the questions noted above.

- *What is the maximum amount that has been paid in compensation?*
- *What is the minimum amount that has been paid in compensation?*
- *How many have received that maximum payment?*
- *How many have received that minimum payment?*

I can advise you that one individual has received a minimum payment of \$1,150 and one person has received a maximum payment of \$80,000.

- *Will compensation still be available once CYFS transitions into the new entity?*

I can advise you that the claims resolution process will not change as a result of any changes to organisational structure. The Ministry is continuously looking at how to improve the efficiency and effectiveness of its work including claims resolution.

- *What qualifies people for these compensation payments?*
- *Is the offer of compensation yet to be made to some individuals who suffered under CYFS care?*

I refer you to the Ministry's website which shows the process for making a claim. Each claim is assessed on a case by case basis and where one or more element of the claim is found, the Ministry makes a settlement offer to acknowledge the particular circumstances of the claimant. Further information on eligibility criteria and data on historic claims yet to be settled is available at the link below:

www.msd.govt.nz/about-msd-and-our-work/contact-us/complaints/index.html

- *How many people under CYFS care have been placed with over ninety different families?*

The Ministry has no record of any child or young person having been placed with over 90 different families, however data prior to 1996 is not readily available. It is worth noting that the data system captures every placement change for a child or young person, including weekends with respite carers, time spent at boarding schools each term, and times spent staying with approved relatives or friends over school holidays.

This means, for example, a child or young person who is in a stable placement with an approved caregiver, who then attends boarding school and spends one week each school holiday period with another approved family member would be recorded as having at least 13 placements in a single year (one each time they changed location) despite the fact that they were only in three distinct caregiver situations (usual caregiver, family member and school) over the period.

- *Is multiple placement seen as a reason to be compensated due to its disruptive effects?*

In isolation no, the specific facts around multiple placements would determine if it was something for which a settlement payment should be made. Such factors might include the number of placements and the decision making around them and the harm that arose as a consequence.

- *What number of placements is seen as optimal?*

There are no specified numbers of placements that are considered optimal. Placement decisions for children, who are unable to remain with their parents are made on a case-by-case basis based on the needs of the child. However, Child, Youth and Family is required to report to the Minister for Social Development on the percentage of children and young people in out-of-home care for more than 12 months, who have had more than three caregivers within the previous 12 months. The required standard for the performance measure is no more than 16 per cent (based on the international benchmark). In 2014/2015 the result was 8.2 per cent.

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 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