MINISTRY OF SOCIAL DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

[redacted]

Dear [redacted]

On 3 March 2017 you emailed the Ministry seeking some information about the historic claims process. I apologise for the delay in responding to your request for information.

I thought it helpful to provide some contextual background to the claims process and in doing so answer the specific questions you have.

During 2005-2006, it became evident that the Crown was facing an increasing number of civil claims alleging abuse while in state care, the Ministry and other agencies sought to develop an alternative means of resolving the claims, rather than relying on the courts to do so. This also recognised that the court process did not necessarily meet the needs of historic abuse claimants. That work resulted in the Crown historic claims litigation strategy, the first principle of which is for individual agencies to work directly with claimants wherever possible to resolve their claim.

For the Ministry that meant having a resolution process that focused on providing each claimant with the opportunity to have a personal conversation about their care experiences with senior representatives of the Ministry, and for each person's claim to be individually assessed and responded to. It also did not require claimants to get legal representation or to file formal proceedings in court, although they are free to do either at any stage in the claims process if they wish to.

Between 1 January 2004 and 31 March 2017, the Ministry received 2,072 historic claims. Of those, 1,388 have been resolved and none of them with the need for recourse to the courts. From the feedback we receive from claimants, the Ministry is confident that this process-apart from bringing a formal apology and financial payment to acknowledged harm caused while in care – goes some way to putting that very painful and damaging part of their lives to rest and enables them to move forward more positively.

A consequence of this time and resource intensive approach however is that claims are not resolved as quickly as either claimants or the Ministry would like, and a backlog of claims has built up over time. That has meant that for those claims closed to 31 March this year, the average time from receipt of a claim to it being closed has been 36.9 months.

One means of addressing that backlog was the implementation in 2015 of the Two Path Approach. This provides claimants with the choice of electing a fast track settlement offer based on a face value assessment of the claim, or a full, but more

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time consuming assessment of the claim. That approach was successful in resolving 377 of 423 fast track offers made to claimants who had brought their claims directly to the Ministry. Similar fast track offers to 280 legally represented claimants were delayed by almost a year when a judicial review of the process was sought. That review concluded that the Ministry was entitled to develop and implement the Two Path Approach as it did. Those 280 offers were subsequently made from September 2016 and to date 214 have been accepted.

The Ministry is cognizant of the need to ensure that the claims resolution process continues to provide for the needs of claimants, and does so in a timely way. We continue to look at ways to improve its processes in this area.

You also asked about progress on arrangements for settlement of claims brought by high tariff offenders. As you note, a legislative mechanism is being developed that is proposed to manage the way in which settlement payments are made to high tariff offenders. It is important to note that it will not affect the way in which their claims are assessed or the level of payment they are due to recognise the harm they suffered while in care as children. As soon as that mechanism is confirmed, you will be invited to discuss the details of the process.

I trust this assists your understanding of the claims resolution process. If you have any further questions please don't hesitate to contact [redacted]

Yours sincerely

Marc Warner
Deputy Chief Executive Corporate Solutions