



31 March 2023

Tēnā koe

On 10 January 2023 and 7 February 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

*Your office was very helpful in providing me with information in May 2020 and October 2021 (see attached your most recent response). We are now in the process of finalising our data set and, given that the scheme is ongoing, I am now seeking updated information.*

*In particular, could you please provide me with the following information from the beginning of Historic Claims (2004) to present:*

- 1. Number of claims received by Historic Claims*
- 2. Number of claims closed by Historic Claims with financial payment (or other redress)*
- 3. Number of claims assessed by Historic Claims and closed without an offer being made*
- 4. Number of claims closed by Historic Claims for other reasons*
- 5. The total and average amount paid to claimants by the Ministry*
- 6. The total legal cost of resolving claims*

*Further, in your October 2021 response, you noted that 'payments have ranged from \$1,000 to \$90,000'. Could you please advise whether there are officially stipulated minimum/maximum payment amounts, i.e., is there a range that payments must fall within? If so, what is the minimum and maximum payment?*

On 3 February 2023, the Ministry emailed you to advise you that time to respond to your request for information. You were informed that a decision would be provided to you no later than 31 March 2023. The reason for the extension is that consultations necessary to make a decision on the request

were such that a proper response to the request could not reasonably be made within the original time limit.

On 23 February 2023, the Ministry provided you with an interim response which explained the eligibility for making a request under the Act in New Zealand. To confirm that advice, to our knowledge you do not meet the eligibility criteria set out in section 12(1) of the Act, to make requests for official information in New Zealand. Given the time required to date to respond to the requests you have made, we will not be continuing to provide responses to any further requests you submit.

To aid clarity, each part of your request will be responded to in-turn.

*1. Number of claims received by Historic Claims*

Please see Table 1 which shows the number of claims registered and closed by financial year for the period 1 January 2004 to 31 December 2022.<sup>1</sup>

**Table One: The number of claims registered and closed by Historic Claims by financial year**

<b>Financial year</b>	<b>Claims registered</b>	<b>Claims closed</b>
1 January 2004 to 30 June 2004	6	0
2004/2005	6	0
2005/2006	63	1
2006/2007	82	2
2007/2008	130	18
2008/2009	105	30
2009/2010	141	42
2010/2011	211	85
2011/2012	253	107
2012/2013	193	107
2013/2014	254	96
2014/2015	315	150
2015/2016	311	439
2016/2017	359	385
2017/2018	581	163
2018/2019	766	87
2019/2020	402	135
2020/2021	567	253
2021/2022	489	183

---

<sup>1</sup> There may be some slight variances in this data when matched against the data provided to you in October 2021. As explained at that time, the data is extracted from our operational database which means that after-the-fact updates and human error can cause some variance in specific data reported over different time periods.

2022/2023 to 31 December 2022	226	233
<b>Total</b>	<b>5,460</b>	<b>2,516</b>

*2. Number of claims closed by Historic Claims with financial payment (or other redress)*

*3. Number of claims assessed by Historic Claims and closed without an offer being made*

Our system shows that 2,189 claims were closed with a payment being made. Claims closed without payment total 327 for the period. Accordingly, 87% of claims closed have resulted in a payment being made, with a mean payment of \$20,002.

*4. Number of claims closed by Historic Claims for other reasons*

As noted in our previous response, claims may be closed without payment for a variety of reasons including that the claimant was not in state care or had no involvement with the state when harmed, that the Ministry was not the responsible agency to address the harm the claimant was subjected to, there was insufficient information to support the claim, or the claimant had died before their claim could be addressed and it was not possible to locate their estate. Where a claimant does die prior to their claim being resolved and an estate can be identified and contacted, then any settlement payment and apology is provided to the estate.

*5. The total and average amount paid to claimants by the Ministry*

*6. The total legal cost of resolving claims*

The total amount paid to claimants over the period from 1 January 2004 to 31 December 2022 is \$43,785,000 and the total amount paid in legal aid is \$6,871,000.

*7. Further, in your October 2021 response, you noted that 'payments have ranged from \$1,000 to \$90,000'. Could you please advise whether there are officially stipulated minimum/maximum payment amounts, i.e., is there a range that payments must fall within? If so, what is the minimum and maximum payment?*

Where a claim is assessed through the normal alternative dispute resolution assessment process and a settlement payment is recommended, then there is no officially stipulated minimum or maximum amount. The only exception to that is under the recently implemented Rapid Payment framework.<sup>2</sup> This

<sup>2</sup> Please see the **Appendix** which provides the Rapid Payment Fact Sheet.

framework was introduced late in 2022 at the recommendation of the Royal Commission of Inquiry into Abuse in State Care and Faith Based Institutions, to provide claimants with an option for a faster resolution to their claim.

The framework is based on the period of time the claimant was involved with the state and does not require any assessment of individual allegations. The maximum amount payable under the rapid payment framework is \$30,000. Additional payments can be made to acknowledge potential inappropriate detention and Bill of Rights Act breaches, although even with those included the maximum amount payable remains at \$30,000. If a claimant does not want to accept a rapid payment offer, then they are able to have their claim assessed as normal.

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. The Ministry will do this by publishing this letter on the Ministry'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](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with this response about the resolution of Historic Claims, 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](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui



Linda Hrstich-Meyer  
**General Manager**  
**Historic Claims**

# Appendix



## Rapid Payments Fact Sheet

MSD has introduced a new rapid payment assessment option into its claims process to offer options to claimants about how their claim is resolved depending on what is important to them. Rapid payment offers will be able to be progressed within a faster timeframe than is available under current processes.

### **Why have rapid payments been introduced?**

The Royal Commission has called for advance payments to historic abuse survivors who, due to age and ill-health, may not be alive when the new redress system is introduced. Crown agencies have reflected on this and work has occurred to develop a framework for making rapid payments for claimants. Given its large number of claimants, MSD is starting first.

### **What is a rapid payment?**

Rapid payments differ to MSD's current assessment process in that payments are not calculated based on a person's individual experience and concerns, but rather the length of time a person was involved with Child Youth and Family or its predecessor agencies. This acknowledges that the longer a person has been involved with the State, the more likely they will have experienced repeated harm.

These payments can be calculated more quickly as a person's care records will not be checked to consider what information supports a person's specific concerns.

If a person chooses to receive a rapid payment offer, they will still have the opportunity to receive all other parts of MSD's historic claims process. This includes having the opportunity to tell their story, receive their care files, be supported to access counselling and receive an apology for their experience.

### **How much will rapid payments be?**

Rapid payments will range from \$10,000 to \$30,000.

The main payments bands that will be used are linked to how long a person has been involved with Child, Youth and Family (CYF) and its predecessor agencies. The bands are:

- Under 5 years - \$10,000
- 5 - 15 years - \$20,000
- Over 15 years - \$25,000

The time is calculated from the first date a claimant came to the notice of CYF as a client through to the last date they ended involvement with CYF. Where a person had multiple entries and exits into care, to keep our calculations simple, it will be for the entire period from beginning to end.

If you have any questions, please contact us on **0800 631 127**.

There will also be additional payments for some claims where we know more serious abuse occurred or where a person's legal rights may have been potentially breached. These include:

- where a person raises concerns about conduct while placed at an NGO run bush programme (up to \$5,000);
- where a person has raised concerns about being placed in secure care or detained in another location (up to \$5,000 in line with MSD's inappropriate detention framework);
- where a person has raised concerns about conduct while placed at an NGO run bush programme (up to \$8,000) or care residence (up to \$4,000) on or after 25 September 1990, being the date the New Zealand Bill of Rights Act came into force. These two payments are alternatives and not cumulative.

As rapid payments can not exceed \$30,000, the full amount of the additional payments above may not be added to all eligible claims.

### **Will the payment offered under an individualised assessment be the same as under a rapid payment?**

The offer made under an individualised assessment may be different from a rapid payment because the two assessment processes calculate payments differently. However, given rapid payments have been designed to be broadly on par with existing payment levels, we do not expect significant differences for most claimants. However, if you have any questions about how payments might look under the different processes, please discuss this with MSD's Historic Claims team.

### **Who will be eligible to receive a rapid payment?**

It is possible that all MSD historic abuse claimants may be eligible to choose a rapid payment. However, in line with the Royal Commission's recommendations, we will be prioritising claims from people who are ill or elderly (70 years or older). We will then be prioritising those who have been waiting the longest.

Given MSD has a large backlog of claims (current wait-times are over four years) – it could be quite some time before we are able to offer rapid payments to those claimants who are not in these priority groups.

### **Does a person have to accept a rapid payment offer?**

Claimants do not have to take part in the rapid payment process and are free to reject any rapid payment offer that is made and request to have a more individualised assessment. For those that choose to ask for an individualised assessment, this will take longer to complete given the assessment process requires a more detailed review of a person's care records.

### **Will a claimant be able to access the new redress system if they settle their claim with MSD?**

All settlement agreements, including those with rapid payments, continue to include a clause allowing a person to access the new redress system if the scheme is open to survivors. Cabinet has yet to make final decisions on this.