



24 October 2024

Tēnā koe

Official Information Act Request

Thank you for your email of 3 September 2024, requesting information about access to state care documents.

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision on each part of your request set out separately below.

- *Between 18 April 2024 and 3 September 2024, how many times have Ministry of Social Development staff accessed state care records held by Oranga Tamariki, including "court documents"*

The Ministry accesses state care records once, at a minimum, for each claim.

Once collected from Oranga Tamariki, state care records are stored at an individual claimant level on Objective, the Ministry's document management system. The Ministry would need to manually review approximately 3000 files to determine the number of times that files have been accessed in the 19-week period you have requested. As such, I refuse your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

- *On what dates did Ministry of Social Development staff access state care records held by Oranga Tamariki, including "court documents"?*

State care records are accessed every business day, as part of the daily activities of registering and assessing claims and responding to Personal Information Requests (PIRs).

- *Please provide copies of all internal memos and meeting minutes and similar documents related to operationalising access to court documents.*

I have attached five emails in the period 19 August 2024 to 3 September 2024 which are in scope of your request.

Some information is withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

Please note that the direct contact details of individuals have been withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Certain SEEMAIL trigger words have been marked and withheld as 'out of scope'.

- *Please also provide a timeline of work concerning "court documents", including implementation of the High Court's decision?*

Up to the date of your request, the Ministry's focus had been on understanding the High Court's decision and working through standard processes for when the Crown receives an unsuccessful decision.

Prior to your request, there were preliminary discussions between Crown agencies about forming an operational working group, though a meeting had not yet taken place.

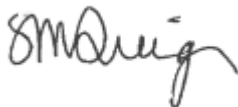
I understand that you are engaging in ongoing communication with Nadine Kilmister and Linda Hrstich-Meyer. Please refer to that correspondence for a more up to date timeline of work.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

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 my decision on your request, 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.

Ngā mihi nui

pp. 

Magnus O'Neill
General Manager
Ministerial and Executive Services

From: [Linda Hrstich-Meyer](#)
To: [Dierdre Fell](#); [Celia Kerr](#); [Christy Corlett](#); [Lisa Austin](#); [Toriana Sipeli](#); [Ben Martell](#); [s9\(2\)\(a\)@crownlaw.govt.nz](#); [s9\(2\)\(a\)@crownlaw.govt.nz](#); [Taylor Fairey](#); [s9\(2\)\(a\)@justice.govt.nz](#)
Cc: [Rebecca Martin](#); [Corey Sinclair](#); [Debbie Hughes](#); [Jay Randle](#); [Vanessa Withy](#)
Subject: RE: H v Attorney-General - next steps
Date: Friday, 23 August 2024 2:59:51 pm
Attachments: [image001.png](#)
[image002.jpg](#)

IN-CONFIDENCE

Kia ora all

Our MSD lawyers haven't had an opportunity to brief us yet, but my initial thoughts are as follows-

- a. The Crown needs to determine an approach on appeal and the legal issues (which not all will be relevant to all the agencies); and then
- b. Agencies (in consultation with CRU) can work through operational consequences of the decision (retrospectively and going forward). I note that MSD already has received correspondence on the day of the decision from the Cooper Legal in relation to previous releases and current releases. We have advised that the Crown will be considering the decision and will be back in contact with them after having done so.

Christy Corlett and Celia Kerr will attend for MSD Historic Claims.

Thanks

Linda Hrstich-Meyer – General Manager | Historic Claims
Phone: DDI 04 978 4242 | D2D 42242 | M 029 237 9202
Ministry of Social Development, 56 The Terrace Wellington

MSD purpose:

We help New Zealanders to be safe, strong and independent
Manaaki tangata, manaaki whānau



From: Elizabeth Begley [s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](#)>

Sent: Friday, August 23, 2024 2:13 PM

To: [Dierdre Fell](#) [s9\(2\)\(a\)@ot.govt.nz](#)>; [Celia Kerr](#) [s9\(2\)\(a\)@msd.govt.nz](#)>; [Lisa Austin](#) [s9\(2\)\(a\)@justice.govt.nz](#)>; [Toriana Sipeli](#) [s9\(2\)\(a\)@justice.govt.nz](#)>; [Ben Martell](#) [s9\(2\)\(a\)@ot.govt.nz](#)>; [s9\(2\)\(a\)@crownlaw.govt.nz](#)>

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s9(2)(a) @abuseinquiryresponse.govt.nz>

Subject: H v Attorney-General - next steps

IN-CONFIDENCE

Kia ora koutou,

Hope you're all having a good Friday so far.

I understand that representatives from legal teams in Oranga Tamariki, MSD, MOJ, and Crown Law, as well as CRU's Head of Strategy and Policy (Rebecca) met yesterday to have an initial debrief of the [H v Attorney-General](#) judgment relating to access to court documents. I understand that some of the key points from this meeting were:

- s9(2)(h)

-

-

Would you all be available for a meeting next week to start this work? Key purposes of the meeting would be to:

- Establish which areas we need further legal advice on
- Understand what the operational implications of this decision are and what could be set up now to operationalise a change in process
- Understand when a decision will be made about whether to appeal the judgment (or whether we have a clear view of this now)
- Decide whether the Shared Redaction Guidance can be updated to remove references to redacting court documents or whether further decisions are needed before this can happen (related to the above question)
- Agree on a joined-up communications approach while we are working through the remaining legal and operational issues
 - What are the key messages agencies/Ministers can provide if people ask about accessing their court documents now?
 - Engagement with Cooper Legal
- Work towards preparing advice on this issue for relevant DCEs/CEs and enabling CRU to brief our Minister

If you would be available, **let me know if any of the following times would work** (they look relatively free for the CRU and Oranga Tamariki people whose calendars I can check):

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Wednesday 29 August 12-1pm

- Thursday 29 August 10-11am
- Friday 30 August anytime between 12-1:30pm

Please let me know if there's anyone else from your agency who should be included.

Jay and I jotted down early thinking on some of the operational and legal questions below which could be helpful to think about in preparation. There will almost definitely be other issues or questions we haven't thought of yet so we're keen to hear your thoughts in the meeting:

Outstanding Legal Issues?

• s9(2)(h)

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Operational Questions/ Considerations

- Do we know how often specific orders are made restricting the release of a court document?
- How often is it clear from the copies of court documents in Oranga Tamariki/MSD files themselves that there has been a specific restriction? [note: Jay and I have never seen any indication of this in an Oranga Tamariki/MSD file before]
- What systems, if any do the Courts/ MOJ have for providing visibility of where there has been a specific restriction on a document and how consistent are these systems?
- What systems could be developed for current and future documents to make specific restrictions easily identifiable for agencies releasing information?
- If agencies need to check with the Courts to be certain that there was no specific restriction put on a 'court document', how would they do this?
 - Are the court systems equipped to quickly and easily find this information with a high volume of requests? (if not what are the estimates timeliness implications for agencies and the Crown?)
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- What are our communications in the interim while these questions are being resolved?
- Are agencies resourced to meet the additional demand sparked by re requests for previously redacted court documents?

Look forward to speaking with you next week.

Ngā mihi nui,

Elizabeth Begley ([she/her](#))

Ngāti Rongomaiwahine, Ngāti Kahungunu ki Wairoa

Senior Advisor | Crown Response Unit

Crown Response to the Abuse in Care Inquiry

Phone: s9(2)(a)



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OFFICIAL INFORMATION ACT

From: [Elizabeth Begley](#)
To: [Kerrin Eckersley](#); [Dierdre Fell](#); [Celia Kerr](#); [Lisa Austin](#); [Toriana Sipeli](#); [Ben Martell](#); [Samantha Edwards](#); [Taylor Fairey](#); [Walker, Andrea](#); [Christy Corlett](#)
Cc: [Rebecca Martin](#); [Corey Sinclair](#); [Debbie Hughes](#); [Jay Randle](#)
Subject: RE: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]
Date: Monday, 26 August 2024 10:21:20 am
Attachments: [image001.png](#)
[image002.png](#)

IN-CONFIDENCE

Kia ora Kerrin,

Thanks for your reply. That sounds like a great plan and seems to match up well with Linda's thoughts on next steps. It'll be easier to talk through the operational implications after considering the legal advice.

Good idea to aim for a meeting later this week if that's enough time for everyone to receive and consider the legal advice. Hopefully, this Friday 12-1:30pm works for most of this group. Otherwise, we could aim for a meeting early next week – Monday 2 September 11:30am-1pm looks relatively free for the people whose calendars I can check. I'll wait until the advice comes through and then check in again to see when people are keen to meet.

Ngā mihi nui,

Elizabeth Begley ([she/her](#))

Ngāti Rongomaiwahine, Ngāti Kahungunu ki Wairoa

Senior Advisor | Crown Response Unit

Crown Response to the Abuse in Care Inquiry

Phone: [s9\(2\)\(a\)](#)

-



From: Kerrin Eckersley [s9\(2\)\(a\)](#) @crownlaw.govt.nz>

Sent: Friday, August 23, 2024 4:29 PM

To: Elizabeth Begley [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>; Dierdre Fell [s9\(2\)\(a\)](#) @ot.govt.nz>; Celia Kerr [s9\(2\)\(a\)](#) @msd.govt.nz>; Lisa Austin [s9\(2\)\(a\)](#) @justice.govt.nz>; Toriana Sipeli [s9\(2\)\(a\)](#) @justice.govt.nz>; Ben Martell [s9\(2\)\(a\)](#) @ot.govt.nz>; Samantha Edwards [s9\(2\)\(a\)](#) @crownlaw.govt.nz>; Taylor Fairey [s9\(2\)\(a\)](#) @msd.govt.nz>; Walker, Andrea [s9\(2\)\(a\)](#) @justice.govt.nz>

Cc: Rebecca Martin [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>; Corey Sinclair [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>; Debbie Hughes [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>; Jay Randle [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>

Subject: RE: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]

Kia ora Elizabeth

Thanks for your email.

Yes, we had a good initial debrief yesterday but there is still a lot to consider from a legal perspective including the prospects of appeal. One of the outcomes of yesterday's meeting is that Sam and I will prepare advice from Crown Law that addresses primarily:

- s9(2)(h)

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This means the advice will cover-off the questions you have set out under the heading "Outstanding Legal Issues".

I suggest it would be appropriate to arrange a meeting, along the lines you describe, once this advice has been distributed to, and considered by the Ministries (MSD, OT (incl. CRU) and MoJ), as this will likely, pending discussion on the positions reached, inform next steps from both an operational and communications perspective.

We agree this work needs to move at pace, considering the Ministerial interest, the need for clarity across agencies, and to enable communications with Cooper Legal and their clients. We will endeavour to have our advice to the Ministries early next week with a view to meeting towards the end of the week.

Ngā mihi

Kerrin Eckersley ([she/her](#))

Crown Counsel

Te Tari Ture o te Karauna Crown Law Office

M: +s9(2)(a)

19 Aitken Street | PO Box 2858 | Wellington 6011

Out of scope



From: Elizabeth Begley [s9\(2\)\(a\)](#) [@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>

Sent: Friday, August 23, 2024 2:13 PM

To: Dierdre Fell [s9\(2\)\(a\)](#) [@ot.govt.nz](mailto:s9(2)(a)@ot.govt.nz)>; Celia Kerr [s9\(2\)\(a\)](#) [@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz)>; Lisa Austin

s9(2)(a) @justice.govt.nz>; Toriana Sipeli s9(2)(a) @justice.govt.nz>; Ben Martell s9(2)(a) @ot.govt.nz>; Kerrin Eckersley <s9(2)(a) @crownlaw.govt.nz>; Samantha Edwards s9(2)(a) @crownlaw.govt.nz>; Taylor Fairey s9(2)(a) @msd.govt.nz>; Walker, Andrea s9(2)(a) @justice.govt.nz>
Cc: Rebecca Martin s9(2)(a) @abuseinquiryresponse.govt.nz>; Corey Sinclair s9(2)(a) @abuseinquiryresponse.govt.nz>; Debbie Hughes s9(2)(a) @abuseinquiryresponse.govt.nz>; Jay Randle s9(2)(a) @abuseinquiryresponse.govt.nz>

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IN-CONFIDENCE

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s9(2)(h)

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Senior Advisor | Crown Response Unit

Crown Response to the Abuse in Care Inquiry

Phone: s9(2)(a)

-



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(a) reply promptly to that effect, and remove this email and the reply from your system; (b) do not act on this email in any other way. Thank you.

From: [Linda Hrstich-Meyer](#)
To: [Taylor Fairey](#)
Cc: [Christy Corlett](#)
Subject: FW: H v Attorney-General - next steps
Date: Tuesday, 3 September 2024 4:08:46 pm
Attachments: [image001.png](#)

IN-CONFIDENCE

FYI

From: Linda Hrstich-Meyer <linda.hrstich-meyer001@msd.govt.nz>
Sent: Tuesday, September 3, 2024 3:59 PM
To: Rebecca Martin [s9\(2\)\(a\)](#) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>
Cc: Elizabeth Begley [s9\(2\)\(a\)](#) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>
Subject: Re: H v Attorney-General - next steps

Thank you for facilitating a shared response.

I agree that we need the relevant people in the room ops and legal teams. I am keen that this is resolved as quickly as possible.

L

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From: Rebecca Martin [s9\(2\)\(a\)](#) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>
Sent: Tuesday, September 3, 2024 3:54:31 PM
To: Linda Hrstich-Meyer <linda.hrstich-meyer001@msd.govt.nz>
Cc: Elizabeth Begley [s9\(2\)\(a\)](#) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>
Subject: RE: H v Attorney-General - next steps

IN-CONFIDENCE

Thanks Linda.

Don't think CRU is leading the Crown's response on this as such, but keen to support with bringing together agencies to facilitate speedy resolution and development of a shared approach where one is needed (eg on redaction guidelines) etc. Individual agencies will still need to be making their own decisions on approach to managing legal risk etc.

Now that Crown Law has provided the legal opinion, Lizzie is getting operational teams together this week to help expedite individual agency and joint decisions on way forward. I think she's concerned that having separate legal and operational meetings is slowing things down, but up to each agency whether to bring operational staff to the meeting with Crown Law next week.

From: Linda Hrstich-Meyer <linda.hrstich-meyer001@msd.govt.nz>
Sent: Tuesday, September 3, 2024 3:21 PM
To: Rebecca Martin [s9\(2\)\(a\)](#) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>

Subject: Fwd: H v Attorney-General - next steps

IN-CONFIDENCE

Kia Ora Rebecca

How are you?

As advised earlier we have had media queries from Cooper Legal and now an OIA. I will send you the OIA sent to our DCE for context.

It would be good to re-establish the group below and get the implementation/strategic plan moving. It appears that CRU have agreed to lead the Crown response on the court document which makes sense and we are grateful for this offer.

We are happy to contribute from an operational perspective and we are working towards a plan to establish a taskforce in November to start this work in Historic Claims.

It would be great if we could have a meeting this week.

Happy to discuss

Linda Hrstich-Meyer
GM - Historic Claims
MSD

0292379202

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Sent: Friday, August 23, 2024 2:13 PM
To: Dierdre Fell s9(2)(a) @ot.govt.nz>; Celia Kerr s9(2)(a) @msd.govt.nz>; Lisa Austin s9(2)(a) @justice.govt.nz>; Toriana Sipeli s9(2)(a) @justice.govt.nz>; Ben Martell s9(2)(a) @ot.govt.nz>; s9(2)(a) @crownlaw.govt.nz>; s9(2)(a) @crownlaw.govt.nz>; Taylor Fairey s9(2)(a) @msd.govt.nz>; s9(2)(a) @justice.govt.nz
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Phone: s9(2)(a)



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From: [Celia Kerr](#)
To: [Christy Corlett](#)
Subject: FW: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]
Date: Tuesday, 3 September 2024 12:40:16 pm
Attachments: [image001.png](#)
[image002.png](#)

IN-CONFIDENCE

From: Elizabeth Begley [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>
Sent: Tuesday, September 3, 2024 11:45 AM
To: Celia Kerr [s9\(2\)\(a\)](#) @msd.govt.nz>
Subject: RE: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]

IN-CONFIDENCE

Kia ora Celia,

Had a good meeting – Taylor was there and said he would update you. Crown Law provided some advice to agencies on Friday.

There's another meeting booked for Tuesday 10 September 11am-12pm to discuss the operational implications of the decision. I asked if we could invite the operational people along to that meeting rather than just the lawyers and Crown Law said they had no objections to this but that we should leave it up to agencies to decide who needs to be at that meeting. Hopefully, Taylor will catch you up on the meeting and hopefully will agree that it'd be good to have you/Christy/potentially Linda there.

I don't want to step on the toes of agencies deciding who needs to be at meetings or get in the way of your lawyers' ability to brief you but I also know you, Dierdre, Lisa and Tori will have heaps of useful information about operational implications of decisions and that working together could help resolve these issues more quickly. Heads up: there was talk about potentially MSD and Oranga Tamariki gathering lists of information about some of the court documents recently withheld (the Fam/Youth Court numbers, which court the proceedings were in, what type of document it was) to send to MOJ and MOJ using this as a sample to check how easy/hard it is to tell whether a court order has been made from the Courts' systems.

Anyway, hope you and the team are having an OK day

Cheers,

Elizabeth Begley ([she/her](#))

Ngāti Rongomaiwahine, Ngāti Kahungunu ki Wairoa

Senior Advisor | Crown Response Unit

Crown Response to the Abuse in Care Inquiry

Phone: [s9\(2\)\(a\)](#)

-



From: Celia Kerr [s9\(2\)\(a\)@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz)
Sent: Tuesday, September 3, 2024 10:13 AM
To: Elizabeth Begley [s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)
Subject: RE: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]

IN-CONFIDENCE

Awesome, thank you. And no doubt we'll hear from Taylor.

From: Elizabeth Begley [s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)
Sent: Tuesday, September 3, 2024 9:45 AM
To: Celia Kerr [s9\(2\)\(a\)@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz)
Subject: RE: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]

IN-CONFIDENCE

Kia ora Celia,

Thanks for sending this through – it looks like there's a meeting with the lawyers of MSD, Oranga Tamariki, Crown Law, and some CRU folks I've been invited to at 10am. I'm hoping they'll all be keen for the bigger meeting with the operational people soon as well so we can start working through how we could operationalise this if we decide not to appeal. If we do get that operational meeting, I'll include Linda also.

Will let you know how the meeting goes (you might also get an update from Taylor who will be at the meeting).

Cheers,

Elizabeth Begley ([she/her](#))
Ngāti Rongomaiwahine, Ngāti Kahungunu ki Wairoa
Senior Advisor | Crown Response Unit
Crown Response to the Abuse in Care Inquiry
Phone: [s9\(2\)\(a\)](tel:s9(2)(a))



From: Celia Kerr [s9\(2\)\(a\)@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz)

Sent: Tuesday, September 3, 2024 8:01 AM

To: Elizabeth Begley s9(2)(a) @abuseinquiryresponse.govt.nz>

Subject: Re: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]

IN-CONFIDENCE

Hi Lizzie

Not sure if you've seen the recent media article on this matter but it may be worth setting up that meeting now. The sooner the better I think. Please could you also invite Linda?

Thank you!

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From: Elizabeth Begley s9(2)(a) @abuseinquiryresponse.govt.nz>

Sent: Monday, August 26, 2024 10:20:34 AM

To: Kerrin Eckersley s9(2)(a) @crownlaw.govt.nz>; Dierdre Fell

s9(2)(a) @ot.govt.nz>; Celia Kerr s9(2)(a) @msd.govt.nz>; Lisa Austin

s9(2)(a) @justice.govt.nz>; Toriana Sipeli s9(2)(a) @justice.govt.nz>; Ben Martell

s9(2)(a) @ot.govt.nz>; Samantha Edwards s9(2)(a) @crownlaw.govt.nz>; Taylor

Fairey s9(2)(a) @msd.govt.nz>; Walker, Andrea s9(2)(a) @justice.govt.nz>;

Christy Corlett <Christy.Corlett002@msd.govt.nz>

Cc: Rebecca Martin s9(2)(a) @abuseinquiryresponse.govt.nz>; Corey Sinclair

s9(2)(a) @abuseinquiryresponse.govt.nz>; Debbie Hughes

s9(2)(a) @abuseinquiryresponse.govt.nz>; Jay Randle

s9(2)(a) @abuseinquiryresponse.govt.nz>

Subject: RE: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]

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Kia ora Kerrin,

Thanks for your reply. That sounds like a great plan and seems to match up well with Linda's thoughts on next steps. It'll be easier to talk through the operational implications after considering the legal advice.

Good idea to aim for a meeting later this week if that's enough time for everyone to receive and consider the legal advice. Hopefully, this Friday 12-1:30pm works for most of this group. Otherwise, we could aim for a meeting early next week – Monday 2 September 11:30am-1pm looks relatively free for the people whose calendars I can check. I'll wait until the advice comes through and then check in again to see when people are keen to meet.

Ngā mihi nui,

Elizabeth Begley ([she/her](#))

Ngāti Rongomaiwahine, Ngāti Kahungunu ki Wairoa
Senior Advisor | Crown Response Unit
Crown Response to the Abuse in Care Inquiry
Phone: s9(2)(a)



From: Kerrin Eckersley s9(2)(a) @crownlaw.govt.nz>
Sent: Friday, August 23, 2024 4:29 PM
To: Elizabeth Begley s9(2)(a) @abuseinquiryresponse.govt.nz>; Dierdre Fell s9(2)(a) @ot.govt.nz>; Celia Kerr s9(2)(a) @msd.govt.nz>; Lisa Austin s9(2)(a) @justice.govt.nz>; Toriana Sipeli s9(2)(a) @justice.govt.nz>; Ben Martell s9(2)(a) @ot.govt.nz>; Samantha Edwards s9(2)(a) @crownlaw.govt.nz>; Taylor Fairey s9(2)(a) @msd.govt.nz>; Walker, Andrea s9(2)(a) @justice.govt.nz>
Cc: Rebecca Martin s9(2)(a) @abuseinquiryresponse.govt.nz>; Corey Sinclair s9(2)(a) @abuseinquiryresponse.govt.nz>; Debbie Hughes s9(2)(a) @abuseinquiryresponse.govt.nz>; Jay Randle s9(2)(a) @abuseinquiryresponse.govt.nz>
Subject: RE: H v Attorney-General - next steps [CLO-DOCS.MVC001.229.FID498469]

Kia ora Elizabeth

Thanks for your email.

Yes, we had a good initial debrief yesterday but there is still a lot to consider from a legal perspective including the prospects of appeal. One of the outcomes of yesterday's meeting is that Sam and I will prepare advice from Crown Law that addresses primarily:

- s9(2)(h)
-

This means the advice will cover-off the questions you have set out under the heading "Outstanding Legal Issues".

I suggest it would be appropriate to arrange a meeting, along the lines you describe, once this advice has been distributed to, and considered by the Ministries (MSD, OT (incl. CRU) and MoJ), as this will likely, pending discussion on the positions reached, inform next steps from both an operational and communications perspective.

We agree this work needs to move at pace, considering the Ministerial interest, the need

for clarity across agencies, and to enable communications with Cooper Legal and their clients. We will endeavour to have our advice to the Ministries early next week with a view to meeting towards the end of the week.

Ngā mihi

Kerrin Eckersley ([she/her](#))

Crown Counsel

Te Tari Ture o te Karauna Crown Law Office

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19 Aitken Street | PO Box 2858 | Wellington 6011

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From: Elizabeth Begley s9(2)(a) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>

Sent: Friday, August 23, 2024 2:13 PM

To: Dierdre Fell s9(2)(a) <[s9\(2\)\(a\)@ot.govt.nz](mailto:s9(2)(a)@ot.govt.nz)>; Celia Kerr s9(2)(a) <[s9\(2\)\(a\)@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz)>; Lisa Austin s9(2)(a) <[s9\(2\)\(a\)@justice.govt.nz](mailto:s9(2)(a)@justice.govt.nz)>; Toriana Sipeli s9(2)(a) <[s9\(2\)\(a\)@justice.govt.nz](mailto:s9(2)(a)@justice.govt.nz)>; Ben Martell s9(2)(a) <[s9\(2\)\(a\)@ot.govt.nz](mailto:s9(2)(a)@ot.govt.nz)>; Kerrin Eckersley s9(2)(a) <[s9\(2\)\(a\)@crownlaw.govt.nz](mailto:s9(2)(a)@crownlaw.govt.nz)>; Samantha Edwards s9(2)(a) <[s9\(2\)\(a\)@crownlaw.govt.nz](mailto:s9(2)(a)@crownlaw.govt.nz)>; Taylor Fairey s9(2)(a) <[s9\(2\)\(a\)@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz)>; Walker, Andrea s9(2)(a) <[s9\(2\)\(a\)@justice.govt.nz](mailto:s9(2)(a)@justice.govt.nz)>

Cc: Rebecca Martin s9(2)(a) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>; Corey Sinclair s9(2)(a) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>; Debbie Hughes s9(2)(a) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>; Jay Randle s9(2)(a) <[s9\(2\)\(a\)@abuseinquiryresponse.govt.nz](mailto:s9(2)(a)@abuseinquiryresponse.govt.nz)>

Subject: H v Attorney-General - next steps

IN-CONFIDENCE

Kia ora koutou,

Hope you're all having a good Friday so far.

I understand that representatives from legal teams in Oranga Tamariki, MSD, MOJ, and Crown Law, as well as CRU's Head of Strategy and Policy (Rebecca) met yesterday to have an initial debrief of the [H v Attorney-General](#) judgment relating to access to court documents. I understand that some of the key points from this meeting were:

- s9(2)(h)

s9(2)(h)

-
-

Would you all be available for a meeting next week to start this work? Key purposes of the meeting would be to:

- Establish which areas we need further legal advice on
- Understand what the operational implications of this decision are and what could be set up now to operationalise a change in process
- Understand when a decision will be made about whether to appeal the judgment (or whether we have a clear view of this now)
- Decide whether the Shared Redaction Guidance can be updated to remove references to redacting court documents or whether further decisions are needed before this can happen (related to the above question)
- Agree on a joined-up communications approach while we are working through the remaining legal and operational issues
 - What are the key messages agencies/Ministers can provide if people ask about accessing their court documents now?
 - Engagement with Cooper Legal
- Work towards preparing advice on this issue for relevant DCEs/CEs and enabling CRU to brief our Minister

If you would be available, **let me know if any of the following times would work** (they look relatively free for the CRU and Oranga Tamariki people whose calendars I can check):

- Monday 27 August 9:30-10:30am or 1-2pm
- Wednesday 29 August 12-1pm
- Thursday 29 August 10-11am
- Friday 30 August anytime between 12-1:30pm

Please let me know if there's anyone else from your agency who should be included.

Jay and I jotted down early thinking on some of the operational and legal questions below which could be helpful to think about in preparation. There will almost definitely be other issues or questions we haven't thought of yet so we're keen to hear your thoughts in the meeting:

Outstanding Legal Issues?

s9(2)(h)

-
-
-

• s9(2)(h)

Operational Questions/ Considerations

- Do we know how often specific orders are made restricting the release of a court document?
- How often is it clear from the copies of court documents in Oranga Tamariki/MSD files themselves that there has been a specific restriction? [note: Jay and I have never seen any indication of this in an Oranga Tamariki/MSD file before]
- What systems, if any do the Courts/ MOJ have for providing visibility of where there has been a specific restriction on a document and how consistent are these systems?
- What systems could be developed for current and future documents to make specific restrictions easily identifiable for agencies releasing information?
- If agencies need to check with the Courts to be certain that there was no specific restriction put on a 'court document', how would they do this?
 - Are the court systems equipped to quickly and easily find this information with a high volume of requests? (if not what are the estimates timeliness implications for agencies and the Crown?)
- How should agencies approach requests currently in progress while awaiting CL advice and MOJ/Courts clarity?
- What are our communications in the interim while these questions are being resolved?
- Are agencies resourced to meet the additional demand sparked by re requests for previously redacted court documents?

Look forward to speaking with you next week.

Ngā mihi nui,

Elizabeth Begley ([she/her](#))

Ngāti Rongomaiwahine, Ngāti Kahungunu ki Wairoa

Senior Advisor | Crown Response Unit

Crown Response to the Abuse in Care Inquiry

Phone: s9(2)(a)



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From: [Taylor Fairey](#)
To: [Christy Corlett](#)
Subject: FW: H and Anor v A-G - decision to appeal [CLO-DOCS.MVC001.229.FID498469]
Date: Wednesday, 4 September 2024 9:24:26 am
Attachments: [image002.png](#)
[image003.png](#)

IN-CONFIDENCE

Mōrena,

just forwarding this for visibility seeing as HC weren't included in the recipients list – I understand this follows the conversation that was had with CRU yesterday.

Taylor

From: Elizabeth Begley [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>
Sent: Tuesday, September 3, 2024 4:18 PM
To: Kerrin Eckersley [s9\(2\)\(a\)](#) @crownlaw.govt.nz>; Taylor Fairey [s9\(2\)\(a\)](#) @msd.govt.nz>; Walker, Andrea [s9\(2\)\(a\)](#) @justice.govt.nz>; Rebecca Martin [s9\(2\)\(a\)](#) @abuseinquiryresponse.govt.nz>; Ben Martell [s9\(2\)\(a\)](#) @ot.govt.nz>; Alice Orsman [s9\(2\)\(a\)](#) @ot.govt.nz>
Cc: Samantha Edwards [s9\(2\)\(a\)](#) @crownlaw.govt.nz>; Vanessa Howell [s9\(2\)\(a\)](#) @crownlaw.govt.nz>
Subject: RE: H and Anor v A-G - decision to appeal [CLO-DOCS.MVC001.229.FID498469]

IN-CONFIDENCE

Kia ora koutou,

Thanks for this morning's meeting and for setting up a meeting next Tuesday.

Following our discussion, we were informed that Minister Stanford has requested the matter of litigation related to survivors be on the agenda for the next Ministerial meeting on 17 September, which Ministers Upston and Chhour will be attending, and that it's likely agencies will need to provide some information to support discussions ahead of this meeting (papers for this meeting are due by Tuesday 10 September).

In the interests of having accurate information for Ministers ahead of this meeting, I wanted to:

- a. Confirm the key actions (and timeframes) we discussed today
- b. Request we move Tuesday's meeting forward to Monday 9 September, subject to everyone's availability, and
- c. Request we set up a meeting with relevant agency operational people this week (Thurs or Fri), to expedite discussions on operational implications and ensure everyone is on the same page.

Actions related to appeal and Shared Redaction Guidance:

My understanding of the key actions was:

- Ministries to confirm with Crown Law instructions not to appeal – *what are the*

estimated timeframes for confirming?

- Once agencies confirm not to appeal:
 - CRU to prepare updated Shared Redaction Guidance ready for publication; and
 - Crown Law to send comms to Cooper Legal confirming the decision will not be appealed and the Shared Redaction Guidance will be updated
- Once this comms has gone out, CRU to publish updated Shared Redaction Guidance (with court documents section updated) and re-share with stakeholders (including Cooper Legal).

Actions related to operational implications:

s9(2)(h)

We discussed that agencies would benefit from having more information about the operational implications/feasibility of checking with the court each time to help consider this advice and decide on an approach, and that gathering this data could involve:

- MSD and Oranga Tamariki to collate a sample of information to share with MOJ Courts Information about recently withheld court documents (potentially 20-30 of these recent cases?), including:
 - Court reference number
 - Which court the proceedings were held in
 - Type of document (e.g. s132 report)
- MOJ Courts Information to use this sample to understand what information is available on the courts' systems about whether specific orders were made, including:
 - Does CMS indicate whether an order restricting the release of documents has been made in any of the sample cases (without ordering paper files into check)?
 - If CMS does indicate this in some of the sample cases, does it give sufficient information about what the order was?
 - Is there a trend that CMS indicates this for sample cases after a certain date – e.g., after 2015, CMS indicates whether an order has been made but before 2015, paper files would need to be ordered in to check?

In the interests of getting this data quickly and in a coordinated way, we propose arranging a meeting of the relevant agency operational people later this week, ahead of the next legal discussion. Our understanding from the agencies (from our Agency Records Working Group) is that this would be Celia and Christy from MSD, Dierdre from Oranga Tamariki, and Lisa and Tori from MOJ Courts Information - but keen to know if there is anyone else who would need to be involved (and lawyers welcome if available, of course).

Let me know your thoughts about all of this – if all is OK, I will aim to set up the operational meeting asap.

Ngā mihi nui,

Elizabeth Begley ([she/her](#))

Ngāti Rongomaiwahine, Ngāti Kahungunu ki Wairoa
Senior Advisor | Crown Response Unit
Crown Response to the Abuse in Care Inquiry
Phone: s9(2)(a)

-



From: Kerrin Eckersley s9(2)(a) @crownlaw.govt.nz>
Sent: Tuesday, September 3, 2024 11:24 AM
To: Taylor Fairey s9(2)(a) @msd.govt.nz>; Walker, Andrea s9(2)(a) @justice.govt.nz>; Rebecca Martin s9(2)(a) @abuseinquiryresponse.govt.nz>; Elizabeth Begley s9(2)(a) @abuseinquiryresponse.govt.nz>; s9(2)(a) @abuseinquiryresponse.govt.nz>; Ben Martell s9(2)(a) @ot.govt.nz>
Cc: Samantha Edwards s9(2)(a) @crownlaw.govt.nz>; Vanessa Howell s9(2)(a) @crownlaw.govt.nz>
Subject: H and Anor v A-G - decision to appeal [CLO-DOCS.MVC001.229.FID498469]

Kia ora koutou

Thank you for meeting with me this morning.

s9(2)(h)

From our meeting, I understand the Ministries s9(2)(h) do not seek to file an appeal against the judgment (Ben, I will speak separately with you/Emily to confirm the position of Oranga Tamariki).

I appreciate you will need to confirm this position with internal decision-makers. To that end, I would appreciate each Ministry responding by return email with confirmed instructions not to appeal, once those are to hand.

If any questions arise out of internal discussions, please do not hesitate to contact me.

Ngā mihi

Kerrin Eckersley ([she/her](#))

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