

# Departmental Disclosure Statement

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Redress System for Abuse in Care Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Crown Response Office.

The Crown Response Office certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

Date finalised: 1 October 2025.

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## Part One: General Policy Statement

The Bill establishes a legal framework for the provision of redress to survivors of abuse in State care. It applies to existing redress schemes operated by the Ministries of Education, Health, and Social Development, Oranga Tamariki – Ministry for Children, the Department of Corrections, and Te Puni Kōkiri (core State agencies).

The purpose of the Bill is to:

- introduce a presumption against financial redress for serious violent or sexual offenders, and
- provide legal protections for core State agencies when making apologies for abuse in State care.

### ***Redress for abuse in care***

The New Zealand Government's approach to responding to claims of abuse in State care has developed over the past two decades as an alternative dispute resolution model. Initially shaped by litigation against the Crown in the 1990s, over time, State redress for abuse in care has evolved to one focused on resolving claims outside of court.

The Bill provides that the purpose of a redress scheme operated by a core State agency is to:

- recognise a person's experience of abuse in care, and
- offer a pathway as an alternative to litigation to provide for redress for abuse in care, including provision of one or more of the following:
  - financial payment (financial redress)
  - an apology, and
  - the provision of counselling or other wellbeing support.

### ***Royal Commission of Inquiry into Abuse in State and Faith-based Care***

The Government has taken a series of decisions responding to the Royal Commission of Inquiry into Abuse in State and Faith-based Care's recommendations regarding redress for claims of abuse in State care and those decisions requiring legislative change are progressed through this Bill. The complete list of decisions is detailed in the Crown Response Plan (available at <https://www.abuseinquiryresponse.govt.nz/assets/Uploads/Crown-response-plan/Crown-response-plan-digital-version.pdf>).

### ***Presumption against financial redress for certain offenders***

A financial payment is one element of redress. The Government considers that making payments to individuals convicted of serious violent or sexual offences, without further independent consideration, risks bringing the redress system into disrepute.

Accordingly, the Bill introduces a presumption against making redress payments to new claimants who:

- make a claim for redress for abuse in care from 9 May 2025
- have been convicted of a qualifying offence under Schedule 1AB of the Sentencing Act 2002, and
- were sentenced to five years or more in prison for that offence.

The Bill establishes an independent decisionmaker (the 'Redress Officer') who can overturn the presumption in circumstances where the making of a payment would not bring the redress system into disrepute. The Bill sets out the appointment criteria, functions, and reporting obligations of the Redress Officer.

### ***Offences for non-disclosure of criminal history***

To support the integrity of the redress system, the Bill creates new strict liability offences for:

- failing to declare a qualifying conviction when applying for redress, and
- failing to disclose a subsequent conviction before redress is granted.

Each offence carries a maximum penalty of \$5,000.

***Legislative protections for apologies by some core State agencies***

Apologies form an important part of the redress provided to survivors of abuse in care. However, the risk of liability following an apology in a context where it has not been possible to fully establish the facts provides a disincentive to the making of fulsome apologies by core State agencies.

The Bill provides that personal apologies given by core State agencies as part of providing redress for abuse in care will not be admissible as evidence in civil proceedings that seek remedies for abuse in State care and are not to be treated as expressly or implicitly admitting guilt.

These protections will help support core State agencies to make more fulsome apologies that meet the needs and expectations of survivors.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
The Royal Commission of Inquiry into Abuse in State and Faith-based Care made recommendations related to providing redress for abuse in State care in two reports: He Purapura Ora, he Māra Tipu: From Redress to Pūretumu Torowhānui (December 2021) Accessible at: <a href="https://www.abuseincare.org.nz/reports/from-redress-to-puretumu">https://www.abuseincare.org.nz/reports/from-redress-to-puretumu</a> Whanaketia – Through pain and trauma, from darkness to light (June 2024) These reports are accessible at: <a href="https://www.abuseincare.org.nz/reports/whanaketia/">https://www.abuseincare.org.nz/reports/whanaketia/</a>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>

<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>N/A</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>NO</b>
The Ministry for Regulation determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the economic, social, or environmental impacts are limited and easy to assess.	

<b>2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>N/A</b>

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>N/A</b>

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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New Zealand's international obligations were considered during the policy development phase. The Crown Response Office also consulted with Crown Law on the potential impact of the proposals.

The Bill will limit access to financial redress for some survivors of abuse in care that have been convicted of certain serious sexual and violent offences. This may attract criticism from international bodies, such as the Human Rights Committee and the United Nations Committee Against Torture, for apparent inconsistencies with New Zealand's international obligations relating to the safeguarding of the right to an effective remedy. However, survivors to whom the presumption applies will still be able to access other forms of redress, such as an apology and access to support services, but not financial redress. They will also continue to have the ability to seek remedies through the courts.

The presumption against financial redress does not apply to survivors seeking financial redress through the Lake Alice Torture Redress scheme. It is a discrete scheme which was established in recognition of the specific nature of torture and the specific international obligations that apply in this context.

The proposals regarding personal apologies are consistent with the New Zealand Bill of Rights Act 1990 and Human Rights Act 1993. The provision of redress for abuse in care, which can include a personal apology from the responsible agency, seeks to address breaches of a survivor's human rights.

### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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Crown Response Office officials analysed the policies in the Bill for consistency with the rights and interests of Māori protected by the Treaty of Waitangi. The Crown Response Office also consulted with public service agencies, including Te Puni Kōkiri and the Ministry of Justice, on the potential impact of the proposals.

It is anticipated that the presumption against financial redress will disproportionately impact Māori, given the clearly documented link between abuse in care and later offending, including violent and sexual offending, and the over-representation of Māori in care and the criminal justice system. Consequently, the proposal may engage Article Three of the Treaty of Waitangi as it may not achieve equitable outcomes.

### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	
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YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the [Ministry's website](#).

## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>YES</b>
<p>The Bill creates two strict liability offences:</p> <ul style="list-style-type: none"> <li>• clause 23 makes it an offence for a person, without reasonable excuse, to fail to declare a criminal conviction when applying for financial redress</li> <li>• clause 24 makes it an offence for a person, without reasonable excuse, to fail to disclose a violent, sexual, or firearms offence if the person was convicted after applying for financial redress but before redress is granted.</li> </ul> <p>Both offences are punishable by a maximum fine of \$5000. Both offences are Category 1 offences which means they will be dealt with in the District Court.</p> <p>A person affected by a decision made by the Redress Officer has the right to apply for judicial review through the High Court.</p>	

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
<p>The Ministry of Justice's Offences and Penalties vetting team were consulted on the Bill and were broadly comfortable with the construction of the offences and penalties in the Bill.</p>	

## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>YES</b>
<p>The Bill relies on the redress agency and Redress Officer having access to relevant information about a person's criminal history in order to decide about whether the presumption against survivors with serious sexual and violence convictions receiving financial redress should be overturned.</p> <p>Clause 13 establishes a consent-based approach in which a person applying for financial redress must:</p> <ul style="list-style-type: none"> <li>• consent to the redress agency undertaking a criminal record check, and</li> <li>• make a declaration as to whether they have been convicted of a violent, sexual, or firearms offence when applying for financial redress.</li> </ul> <p>Clause 14 provides that the person must disclose a violent, sexual, or firearms offence if the person was convicted after applying for financial redress but before redress is granted.</p> <p>If the person is determined to be a serious violent or sexual offender and requests that a referral is made to the Redress Officer for a determination, clause 17 provides that the person must give consent for the Redress Officer to collect and consider sentencing notes, Parole Board decisions, and any relevant Corrections information.</p> <p>Clause 5 includes definitions of criminal record, criminal record check, and relevant Correction information.</p>	

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>NO</b>
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The Office of the Privacy Commissioner was not consulted on the Bill. This is because the Bill is a consent-based regime that relies on people applying for financial redress providing consent for a criminal record check by a redress agency and consent for the Redress Officer to collect and consider certain information (e.g. relevant Corrections information) for the purposes of making decisions about whether the presumption against financial redress should be overturned.

### External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
Consultation occurred with public service agencies on the policy proposals and on the draft Bill. The judiciary and New Zealand Parole Board were consulted on aspects of the Bill relating to the sharing of criminal record information.	

### Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>NO</b>

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>

### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>YES</b>
<p>Clause 8 provides that clauses 9 to 24 of the Bill will apply to applications for financial redress lodged on or after 9 May 2025. This means that the presumption against financial redress for some survivors with serious sexual and violent convictions will apply retrospectively to applications for financial redress that were lodged on or after 9 May 2025 and before the legislation is enacted.</p> <p>The presumption against redress for survivors with serious sexual and violent convictions was announced publicly as part of the Government's announcements about improvements to redress on 9 May 2025. This means that new claimants that have serious sexual or violent convictions will be, or ought to be, aware of a potential limitation on their ability to receive financial redress. See: <a href="https://www.beehive.govt.nz/release/budget-2025-invests-care-system-and-improving-redress-survivors-abuse-state-care">https://www.beehive.govt.nz/release/budget-2025-invests-care-system-and-improving-redress-survivors-abuse-state-care</a>.</p>	

### Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>YES</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>
<p>Clauses 23 and 24 create strict liability offences for failing to declare or disclose certain offences as part of an application for financial redress. The purpose of the offences is to deter people from providing false or misleading information about their criminal history when applying for financial redress.</p> <p>Clauses 23 and 24 provide for a defence of reasonable excuse where a person has a legitimate reason for providing false or misleading information (e.g. a person with a cognitive impairment who is unable to recall the details of their offending).</p>	

### Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>

## Significant decision-making powers

<b>4.6. Does this Bill create or amend a decision-making power to make a determination about a person’s rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>YES</b>
<p>The Bill creates the new role of ‘Redress Officer’. The Redress Officer is a statutory officer who is authorised to make determinations about whether to grant financial redress to certain serious sexual and violent offenders.</p> <p>Clause 19 provides that the Redress Officer must decide whether financial redress should be made available where a redress agency has determined that the person is a serious violent or sexual offender and, therefore, is not eligible for financial redress under a redress scheme. The presumption against redress can only be overturned where the Redress Officer is satisfied that providing financial redress to that person would not bring the scheme into disrepute.</p> <p>Clause 20 sets out the matters that the Redress Officer must consider when making a decision. This includes the information obtained through a criminal records check, the nature of the person’s offending, and the length of time since the relevant offending took place.</p> <p>Clauses 20 and 21 provides the following safeguards:</p> <ul style="list-style-type: none"> <li>• the person must be given the opportunity to put forward relevant information and make submissions to the Redress Officer</li> <li>• the Redress Officer must consider the information or submissions put forward by the person</li> <li>• if a Redress Officer determines that financial redress is not available, a person may reapply for financial redress three years after the date of the determination, and</li> <li>• if a redress scheme is being wound up, the redress agency must notify a serious violent or sexual offender who may reapply at any time before the scheme closes.</li> </ul>	

## Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>NO</b>

## Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>