He Purapura Ora, he Māra Tipu

From Redress to Puretumu Torowhānui

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Abuse in Care
Royal Commission of Inquiry

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Historical Abuse in State Care and in the
Care of Faith-based Institutions

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Whakarāpopototanga rīpoata

Executive summary

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This report is about the struggle of many survivors of abuse in care to restore their lives, regain their mana and hold previous and current government of the day, State and faith-based institutions to account for the abuse survivors suffered. It's about the failures of those institutions to respond to the needs of survivors. This report also looks to the future, to what 'redress' should be available to survivors of abuse in care – that is, what is needed to put right the deep harm that has been done to individuals, their whānau and communities through abuse in care. We recognise the term 'redress' is unfamiliar to many survivors, and some consider it does not capture what is needed. Some have said the term reminds them of the abuse they suffered. In our report, we have chosen to use the reo Māori terms 'puretumu torowhānui', or holisitc redress, as it refers to a wider range of things that redress should include – things that can restore the lives, oranga or wellbeing and mana of survivors.

Despite harrowing accounts and often obvious signs of physical, emotional or psychological damage, many survivors found their efforts to obtain redress from State and faith-based institutions rejected time and again. For many survivors, their experiences were downplayed, disbelieved or dismissed. Their claims sat in in-trays for months or years. They struggled to get their personal records, and when they did, some were so heavily redacted they could barely make sense of them. A determined few continued their struggle in the courts, only to run into legal brick walls, the most overwhelming being accident compensation legislation and limitation defences.

Eventually, the Crown opted for a two-pronged approach: on the one hand, offering modest monetary payments and qualified apologies through separate, inconsistent claims processes run by the same departments and ministries responsible for the abuse; and on the other, strongly defending any claims taken to court. The Crown's goal was not only to win these individual cases, but also to discourage other claimants, and limit its liability for abuse in care. We found in some cases; the Crown did not behave at all like the model litigant it said it would be.[1] It lost sight of the people behind the claims who had been abused while in the State's care. Even when

it knew the substance of a claim to be true, it used aggressive tactics or hid behind technical defences, and after a series of losses by survivors, the reality became clear: survivors' only real option lay in a one-sided offer from a government agency that they could either take or leave.

Faith-based institutions also gave their own responses to reports of abuse and requests for redress, while relying on many of the same legal defences. Like government agencies, they generally offered – after many delays or much questioning of survivors' accounts – a modest payment and a qualified apology and looked no further into the matter. Processes were intimidating and often relied on legal representation or determined survivors for access to entitlements. Some perpetrators, already known or convicted abusers, were moved elsewhere, sometimes in secret, only to go on to abuse others. Support to rebuild broken lives was limited or non-existent. Few attempts were made to find survivors from known abusive environments.

Neither State nor faith-based institutions were willing to accept the widespread abuse that could have easily been uncovered. The scale of the abuse was simply too horrific to acknowledge, the financial ramifications too huge to contemplate. So they told themselves these cases were not symptomatic of any wider problem.

Society was also in denial, despite calls over the decades for an inquiry into abuse in care – abuse that was going on in hospitals, boarding schools, orphanages, foster and other care homes, homes for unmarried mothers and churches. The denial was fostered by the common and negative social attitudes of the time about race, gender, disability, mental health and the place of children, Deaf and disabled people. Many of those in care came from already disadvantaged or marginalised parts of the community.

A disproportionate number were Māori, the legacy of generations of monocultural and racist government policies, poverty and the harsh sentencing of children's courts, before which Māori appeared in large numbers. The children of Pacific migrants, socially and economically disadvantaged and targeted by racial profiling, were also amongst those in care. Deaf and disabled survivors and those with mental illness were systematically separated from society and placed out of sight in institutions or other full-time care settings, a result of ableist policies and beliefs.

These underlying attitudes and cultural factors are dealt with in the opening section of this report.

Many survivors suffered horrific physical and sexual violence, such as rape and violent treatment of children. There was psychological and emotional abuse, discrimination because of race or disability, isolation, improper use of medical

procedures as punishment. Much of this was criminal, and some of it was torture. Women and girls endured rape, forced examinations for sexually transmitted diseases and removal of their babies, and there are reports that some were sterilised without consent. Most suffered neglect of their basic need for stability, warmth and affection. Māori and Pacific children were deprived of knowledge of their whakapapa, connection to whānau and cultural identity. All of this took place in the institutions that held ultimate power over them. Survivors had also sustained serious neglect, including medical, educational and spiritual neglect. Deaf, disabled and mentally ill people were particularly likely to have suffered such neglect.

It is incomprehensible that human beings could behave like this towards another. What is just as baffling is how those in authority failed in their responses to survivors' requests for redress. It was clear survivors had been deeply harmed by their time in the institutions that were entrusted to care for them. How, in the face of this, could anyone not be shocked and stirred into action?

At the heart of our recommendations is the intention to provide a process by which survivors can address the tūkino, or abuse, harm and trauma, that has occurred to them, restore their mana and heal and grow in ways that allow them to achieve "utua kia ea" or restoration and balance. To do this we have proposed the establishment of a new puretumu, or holistic redress, scheme.

We have closely examined the current redress processes of the Ministry of Social Development, Oranga Tamariki, Ministry of Health, Ministry of Education, Anglican Church, Catholic Church and The Salvation Army. We found them to be completely inadequate in many ways. Findings about the different processes are detailed in Volume One Part Two of this report and in the case studies of individual experiences in Volume Two. Overall, we found that in most cases, the agencies and institutions:

- have developed processes without regard to te Tiriti o Waitangi and its principles, and in isolation from survivors
- do not recognise the mana of survivors or offer genuine support for survivors to heal their lives, or restore their mana and oranga
- do not include tikanga Māori or reflect te ao Māori concepts and values, including te mana tangata, whanaungatanga, or manaakitanga, in their processes
- designed processes to suit the institutions' own needs, not those of survivors, and as a result have added to survivors' harm and trauma
- take no account of Pacific peoples' values, or the importance of cultural restoration to many Pacific survivors, in their processes

- fail to consider the impact of abuse on survivors' whānau, hapū, iwi and hapori or communities
- are narrowly focused on settling individual claims and do not investigate or hold to account the individuals or organisations concerned or take measures to prevent further abuse
- offer only the most basic forms of wellbeing support
- take far too long, sometimes years, to come up with a settlement offer
- fail to offer meaningful financial payments
- fail to meaningfully acknowledge and apologise for the abuse, harm and trauma inflicted and suffered
- typically offer no more than a limited apology and some money, inadequate as each of these invariably is
- lack independence because the organisations tend to investigate themselves and control every part of the process and outcome
- require evidence of abuse, often disbelieve survivors, and do not adequately support survivors through their processes
- offer redress that is inconsistent with other offers they have made, and also with offers other institutions have made
- rarely provide survivors with adequate information on how to make a claim or how they arrive at their decisions
- have processes that do not meet the needs of many Deaf and disabled survivors for information and support that enable them to seek redress.

By contrast, we recommend a new puretumu torowhānui scheme be established that:

- is founded on a series of principles, values and concepts founded in te ao Māori
- provides for a process with an independent, government-funded inclusive Māori Collective leading the design of the puretumu scheme, working together with survivors, a government-funded group representing survivors described as the Purapura Ora Collective and with others
- is designed and run in a way that gives effect to te Tiriti o Waitangi
- is established by an Act of Parliament and funded by the Crown, but with contributions from participating institutions

- is independent of the institutions where the abuse took place
- requires the wind down of current State claims processes and for all government agencies to join and encourages faith-based institutions to join within a reasonable time, although the latter will, if necessary, be required to join
- provides for financial payments that give a meaningful recognition of the harm and trauma suffered
- facilitates oranga services tailored to individual survivors' needs (and, where appropriate, those of their whānau), including help with health, education, employment, secure housing, building and maintaining healthy relationships, counselling and social and cultural connections
- facilitates meaningful apologies
- provides a safe, supportive environment for survivors to interact with the puretumu torowhānui scheme, talk about their abuse and make a claim for puretumu torowhānui, and that is open to all survivors, including those who have been through previous processes and those covered by accident compensation legislation
- allows family members to continue a claim on behalf of a survivor who dies
- gives priority to elderly or seriously ill survivors
- covers the full range of physical, sexual, emotional, psychological, racial and cultural abuse, along with neglect
- develops and makes public information about the types of support available, eligibility and assessment criteria, and timeframes for making decisions on a claim
- allows survivors to choose between making a puretumu torowhānui claim that takes into account abuse and its impact or simply the abuse only, which will have lower standards of proof than applies in the courts
- makes belief of a survivor's account the starting point for assessing a puretumu torowhānui claim
- involves survivors in deciding on the form and content of apologies and acknowledgments and choosing the nature and extent of the oranga services they may need.

This new approach will fit within a wider "puretumu torowhānui system" – a framework of services, laws and policies that have a role in providing different types of puretumu torowhānui. To make sure puretumu torowhānui is fair, effective and accessible, we recommend the new system include:

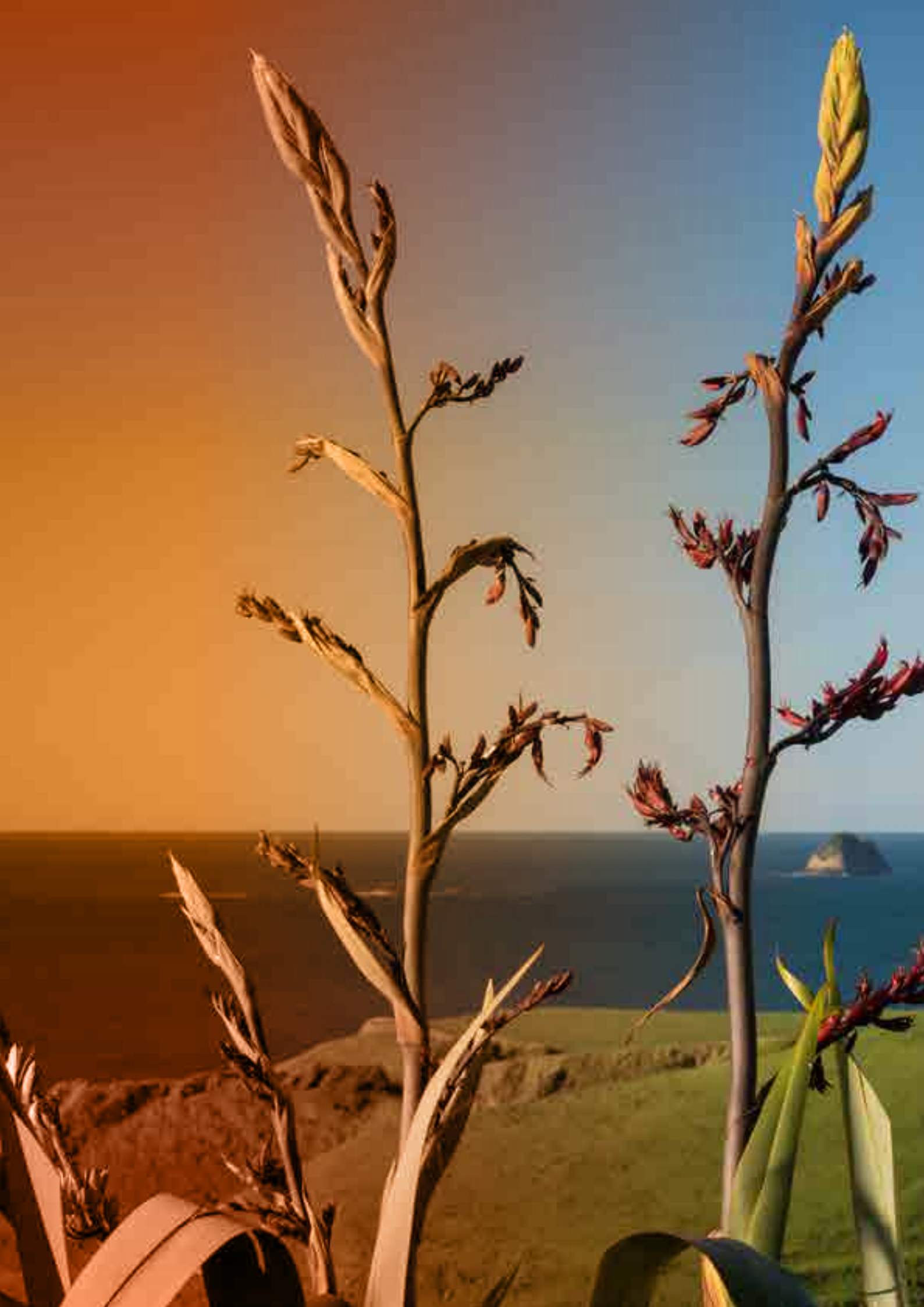
- an expansion of oranga and support services for survivors and their whānau
- training for those working with survivors

- establishment of a listening service
- development of processes for referring allegations of abuse or neglect to enforcement or other agencies
- better monitoring of, and reporting on, abuse and systemic issues
- memorials and other projects to honour survivors and remember abuse
- enactment of a right to be free from abuse in care, as well as of a duty to protect this right
- an exception to accident compensation legislation
- changes to laws relating to civil litigation
- a review of legal aid rates
- a new model litigant policy for the Crown
- improvements to the handling of survivors' requests for records, including as few redactions of survivors' records as possible
- a review of record-creation and record-keeping practices.

Importantly, we also recommend that there be public acknowledgement of, and apologies for, the abuse that occurred and the harm it caused, at a national and community level, including from the Governor-General, Prime Minister and leaders of faith-based institutions.

Our 95 recommendations are based on 15 weeks of public hearings, evaluations of hundreds of witness statements, a large number of public submissions, private sessions with hundreds of survivors, analysis of more than 150,000 documents,meetings with government agencies, discussions with the Scotland, Ireland, Australia and Canada redress organisations, hui and wānanga with experts and leaders from the Māori, Pacific and disabled communities, and policy, research and investigation work.

There is still much more to be done by our inquiry, but in presenting these recommendations at this stage in our work, we make the following point: survivors continue to suffer as they wait for puretumu, and many have died in the meantime. They should wait no more – the time for action is now.



Ngā tūtohitanga
Recommendations

Ngā tūtohitanga Recommendations

KUPU TAKAMUA - PREFACE

Current redress processes for survivors are unquestionably failing to produce fair, consistent or adequate outcomes for them and others affected by abuse in care. They are not designed in conjunction with survivors and affected communities or guided by any consistently applied principles, they fail to meet the needs of survivors, and they do nothing to prevent further abuse.

In this final part of the report, we outline a series of recommendations that, if implemented, will establish what will eventually be a single puretumu scheme to provide holistic redress for survivors of abuse in the care of State agencies, agencies providing care on the State's behalf (which we refer to as indirect State care), and faith-based institutions.[1] This puretumu scheme will aim to restore the power, dignity and standing of those affected by abuse in care, without them having to go to court, as well as take effective steps to prevent abuse. It will fit within what we refer to as the "puretumu system", which is the wider system of services, organisations (including the courts), laws, and policies that have a role in providing different types of puretumu and preventing or responding to abuse in care.

The changes we recommend to bring about the puretumu scheme and puretumu system can be summarised as:– expansion of oranga, or wellbeing, services and support services for survivors and their whānau

- increased financial payments for survivors
- training for those working with survivors
- establishment of a listening service
- development of processes for referring allegations of abuse to other agencies
- better monitoring of, and reporting on, abuse and systemic issues
- memorials and other projects to honour survivors and remember abuse

- enactment of a right to be free from abuse in care, as well as a duty to protect this right
- an exception to accident compensation legislation
- changes to laws relating to civil litigation
- a review of legal aid rates
- a model litigant policy for the Crown
- improvements to the handling of survivors' requests for records, including as few redactions of survivors' records as possible
- a review of record-creation and record-keeping practices.

Importantly, we also recommend that there be public acknowledgement of, and apologies for, the tūkino, or abuse, harm and trauma, that occurred and the impact it had.

The puretumu torowhānui system, including the scheme, will be based on a series of te ao Māori, Pacific and human rights principles, values and concepts, and will underpin and co-ordinate the work of various agencies and provide a range of services to survivors, their whānau and others. This system will put the needs of survivors and their whānau first and foremost.

We first set out below the main purposes of the puretumu torowhānui system we propose and key requirements for its design and operation: that it give effect to te Tiriti o Waitangi, is consistent with international law, and that it is underpinned by a set of principles, values and concepts that we outline. We also set out the ways we propose Māori, survivors, the Crown, and faith-based institutions will build on our work and create the puretumu torowhānui system and the puretumu torowhānui scheme. We then focus on our recommendations for the substance of the puretumu torowhānui system and scheme, starting with public apologies, and then setting out the principal characteristics of the scheme, how the scheme will operate, and what it will offer survivors. Following that, we make recommendations on wider aspects

of the system, including on memorials, civil litigation, monitoring and records. In later reports we will expand on these recommendations and consider other aspects of the system.

WHAKATŪNGA O TĒTAHI PŪNAHA PURETUMU TOROWHĀNUI
ESTABLISHMENT OF A PURETUMU TOROWHĀNUI SYSTEM

Ngā aronga o te pūnaha - Purposes of system

1. The Crown should establish a puretumu torowhānui system to respond to abuse in State care, indirect State care and faith-based care that:
   - acknowledges and apologises for tūkino, or abuse, harm and trauma, done to, and experienced by, survivors, their whānau, hapū, iwi, and hapori or communities
   - aims to heal and restore individuals' mana, tapu and mauri
   - takes decisive and effective steps to prevent further abuse.

Whakamana i te Tiriti o Waitangi
Giving effect to te Tiriti o Waitangi

2. The puretumu torowhānui system, and those designing and operating it, should give effect to te Tiriti o Waitangi and its principles and, in particular, to the right to tino rangatiratanga, or self-determination and authority, which includes the right to organise and live as Māori and to make decisions to advance the oranga of survivors through the provision of care to whānau, hapū and iwi by whānau, hapū and iwi. The requirement to give effect to te Tiriti should be expressly stated in any legislation and policy relating to abuse in care.

Hāngaitanga ki ngā ture o te ao
Consistency with international law

3. The puretumu torowhānui system should be consistent with the commitments Aotearoa New Zealand has under international human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Convention on the Rights of Persons with Disabilities.

Ngā mātāpono, uara me ngā kaupapa
Founding principles, values and concepts

4. The puretumu torowhānui system should be founded on the following principles, values and concepts:

- Tu-kino: is, in this context, abuse, harm and trauma. It includes past, present or future abuse, whether physical, sexual, emotional, psychological, cultural or racial abuse; or neglect, which may also include medical, spiritual or educational neglect, experienced by individuals and their whānau, hapū, iwi and hapori or communities in the care of State and faith-based institutions.
- Purapura ora: in this context, refers to survivors and their potential to heal and regenerate in spite of the tūkino they experienced.
- Te mana tāngata: is, in this context, the restoration of and respect for the inherent mana (power, dignity and standing) of people affected by tūkino.
- Utua kia ea: is a process that must be undertaken to account for tūkino and restore mana to achieve a state of restoration and balance. In this context, pathways of utua kia ea should include scope for survivors, both as individuals and collectively, to chart their own unique course.
- Manaakitia kia tipu: is, in this context, the nurturing of the oranga or wellbeing of survivors and their whānau so that they can prosper and grow. This includes treating survivors and their whānau with atawhai, humanity, compassion, fairness, respect and generosity in a manner that upholds their mana (this includes being survivor-focused and trauma-informed) and nurtures all dimensions of oranga including physical, spiritual, mental, cultural, social, economic and whānau, in ways that are tailored to, culturally safe for, and attuned to, survivors.
- Mahia kia tika: is to be fair, equitable, honest, impartial and transparent. In this context it includes a puretumu torowhānui scheme that has clear, publicly available rules and other information about how it works, and regular reviews of its performance.
- Whakaahuru: in this context, refers to processes to protect and safeguard people including actively seeking out, empowering and protecting those who have been, or are being, abused in care as well as implementing systemic changes to stop and safeguard against abuse in care.

- Whanaungatanga: refers to the whakapapa, or kinship, connections that exist between people. In this context, it reflects that the impact of tūkino can be intergenerational and can also go beyond the individual and affect whānau, hapū, iwi and hapori or communities. Therefore, puretumu torowhānui should facilitate individual and collective oranga and mana, connection or reconnection to whakapapa, and cultural restoration.
- Teu le vā / tauhi vā: is the tending to and nurturing of vā, or interconnected relationships between people and places, to maintain individual and societal oranga. Where there has been abuse, harm or trauma steps must be taken to heal or re-build the vā and re-establish connection and reciprocity.
- He mana tō tēnā, tō tēnā – ahakoa ko wai: refers to each and every person having their own mana and associated rights, no matter who they are. In this context, it means that a new puretumu torowhānui system and scheme, and their underlying processes must value disabled people and diversity, accept difference, and strive for equality and equity. This includes challenging ableism – the assumptions and omissions that can make disabled people, the tūkino and neglect they experience and their needs for restoration of mana and oranga, invisible.

HANGA PŪNAHA ME TE TUKUTANGA
SYSTEM DESIGN AND DELIVERY

Te mahitahi me te Māori - Working in partnership with Māori

5. The Crown should establish and fund a well-resourced independent Māori Collective made up of Māori with relevant expertise and/or personal experience and representing a mix of survivors, whānau, hapū and iwi, pan-tribal organisations and urban Māori with a fair mix of gender, LGBTQIA+, rangatahi and Deaf and disabled people to:

- lead the design of the puretumu torowhānui scheme
- work with survivors, the Purapura Ora Collective, survivors' communities (including Māori, Pacific, Deaf and disabled communities) and other relevant groups to develop a plan to implement our recommendations, including:
  - establishing a puretumu torowhānui system underpinned by tikanga Māori
  - developing the process for applying for redress

- determining what support and services are needed to respond to tūkino, enhance mana and achieve utua kia ea
- considering proposed civil litigation reforms

› work with Māori survivors, whānau, hapū and iwi to:

- explore whether to establish a separate puretumu torowhānui scheme for Māori
- determine the nature, timing and content of an apology or apologies to Māori for abuse in care, as well as the nature of memorials to those abused

› commission any reports, reviews or expert advice on areas considered important to the design of the puretumu torowhānui system and scheme, including an expert review of oranga services (see recommendation 68)

› build on this inquiry's work by exploring how to respond to harm suffered by Māori in care to restore mana, tapu and mauri

› work with the Crown and agree on the contents of any draft legislation required to give effect to any of the recommendations set out in this report.

Ka whai wāhi mai ngā purapura ora, ā, ka pāhekoheko hoki te Karauna ki te wānanga i ngā panonitanga
Active involvement by survivors and consultation by Crown about changes

6. The Crown should closely consult and actively involve survivors in the design and running of the puretumu torowhānui system and scheme and the implementation of recommendations in this report and other reports this inquiry may produce. This should include establishing and funding an independent Purapura Ora Collective employing people with relevant expertise and lived experience of disability to:

› advocate for survivors during Crown decision-making on our recommendations

› ensure the puretumu torowhānui system and scheme are designed from the perspective of survivors

› commission, together with the Māori Collective, the expert review of oranga

services.

7. The Crown should consult survivors, experts and other interested people, including:
   - Pacific peoples: on how the puretumu torowhānui scheme should be designed and run in a way that is consistent with Pacific cultures, including how the scheme and broader system can incorporate principles from Pacific restorative processes such as ifoga, fakalelei, isorosoro and ho'oponopono
   - Deaf and disabled people: on how the design and running of the scheme will give effect to New Zealand's obligations in the United Nations Convention on the Rights of Persons with Disabilities, and the New Zealand Disability Strategy
   - A cross-section of survivors and experts: on how the scheme can be inclusive of a range of people, including youth and LGBTQIA+.
8. The Crown should also consult faith-based institutions, indirect State care providers, other interested parties and the public.

He ahunga pūnaha - All-of-system approach

9. The Crown should take an all-of-system approach to responding to abuse in care.

MIHI ME TE WHAKAPĀHA TŪMATANUI
PUBLIC ACKNOWLEDGEMENT AND APOLOGIES

10. The Crown and relevant faith-based institutions and indirect State care providers should publicly acknowledge and apologise for the tūkino inflicted and suffered, at an individual, community and national level, including:
    - a public apology to survivors by the Governor-General, Prime Minister and heads of relevant faith-based institutions and indirect State care providers
    - specific public apologies, where appropriate, to specific groups harmed, including Māori, either on this inquiry's recommendation or that of the puretumu torowhānui scheme, or as a result of direct engagement with affected communities.
11. The Crown, Māori Collective, Purapura Ora Collective and relevant institutions should determine the content of public apologies and related matters, such as when and where they are made, in collaboration with survivors and in conformity

with the principles of good apologies set out below in recommendation 33.

TE WHAKATŪNGA O TĒTAHI KAUPAPA PURETUMU TOROWHĀNUI HOU
ESTABLISHMENT OF A NEW PURETUMU TOROWHĀNUI SCHEME

He kaupapa motuhake - An independent scheme

12. The Crown should set up a fair, effective, accessible and independent puretumu torowhānui scheme to help survivors and their whānau affected by abuse in State care, indirect State care and faith-based care to achieve utua kia ea or heal the vā, heal the relational space between all things and help prevent abuse in care.

13. The principles, values, concepts, te Tiriti obligations and international law commitments that will guide the design of the puretumu torowhānui system should guide the design and implementation of the puretumu torowhānui scheme.

14. The membership of the governance body for the puretumu torowhānui scheme should give effect to te Tiriti o Waitangi, and reflect the diversity of survivors, including disabled survivors, as well as including people with relevant expertise.

Ka mutu ngā hātepe kēreme o te wā
Discontinuation of current claims processes

15. State and faith-based institutions should phase out their current claims processes for abuse in care, and any faith-based institution or indirect State care provider that chooses to continue its own claims process should direct survivors to the puretumu torowhānui scheme and give them information about it.

Ngā āhuatanga o te kaupapa puretumu torowhānui
Functions of the puretumu torowhānui scheme

16. The functions of the puretumu torowhānui scheme should be to:

- provide a safe, supportive environment, consistent with the value of manaakitia kia tipu, for survivors to talk about their abuse
- consider survivors' accounts and make decisions on puretumu torowhānui, which may include:
  - facilitating acknowledgements and apologies by institutions for tūkino, or abuse, harm and trauma, in care
  - facilitating access to support services, financial payments and other measures that enables te mana tāngata
- disseminate information about the scheme so as many eligible individuals as possible know about and can access its services
- report and make recommendations on systemic issues relevant to abuse in care.

Motuhaketanga - Independence

17. The puretumu torowhānu scheme should operate independently of the institutions where tūkino or abuse, harm and trauma took place and should have no interactions with these institutions or the people within them, except where necessary to carry out its functions, and this includes individuals or institutions:

- responsible for providing care to survivors
- allegedly responsible for the abuse
- responsible for defending any abuse in care claims in court.

Whaiwāhitanga me te uruparetanga
Inclusivity and responsiveness

18. The puretumu torowhānui scheme should:

- be open to all survivors, including those who have been through previous redress processes, those covered by accident compensation, and those in prison or with a criminal record
- enable whānau to continue a claim made by a survivor if the survivor dies, or make a claim on a survivor's behalf if there is clear evidence that the survivor intended to apply to the scheme or had taken other steps to claim redress before their death

- prioritise claims from elderly or seriously ill survivors, including making urgent interim payments to those survivors where appropriate.

Ngā hara ka whai wāhi atu e ai ki te kaupapa
Abuse covered by the scheme

19. The puretumu torowhānui scheme should cover:

- physical, sexual, emotional, psychological, racial and cultural abuse in care, along with neglect, which may include medical, spiritual and educational neglect
- historical, contemporary and future claims of abuse in care.

20. The puretumu torowhānui scheme should, regardless of whether an institution still exists or has funds, cover abuse in:

- any State agency that assumed responsibility, either directly or indirectly, for the care of an individual when they were abused, including:
  - State schools
  - any individual, or any private, public or non-governmental organisation, including a service provider, to which the State passed on its authority or care functions, whether by delegation, contract, licence or in any other way
- any faith-based institution that assumed responsibility for the care of an individual when they were abused.

Te whakaurunga o ngā kaiwhakarato taurimatanga motuhake a te Karauna me ngā ratonga taurima whakapono
Participation of faith-based and indirect State care providers

21. The Crown should give faith-based institutions and indirect State care providers a reasonable opportunity, say four to six months, to join the puretumu torowhānui scheme voluntarily before considering, if necessary, options to encourage or compel participation, including:

- not offering contracts to non-participating institutions
- terminating or not renewing any contracts with them

- revoking their charitable status
- making participation in the scheme compulsory.

Te whakawhiti kōrero me ngā purapura ora
Communicating with survivors

22. The puretumu torowhānui scheme should:

- extensively and proactively publicise, on an ongoing basis, what it does, how to contact it, the types and levels of redress and support available, eligibility and assessment criteria, and timeframes for making decisions on claims
- develop specific strategies to communicate with survivors, including running specialist education sessions for disabled people about the scheme and what constitutes abuse
- develop specific strategies to communicate with Māori survivors and their whānau, hapū, iwi and hapori (communities)
- actively reach out to disabled survivors including disabled survivors in long-term or life-long care
- offer easy-to-read information in a variety of accessible formats about how the scheme works
- ensure a supported decision-making process is available for disabled people that is consistent with the United Nations Convention on the Rights of Persons with Disabilities, including, where necessary, by providing dedicated support and communication assistance.

Ngā whakawhitinga i waenganui i te kaupapa me ngā purapura ora
Scheme's interactions with survivors

23. The puretumu torowhānui scheme should:

- be trauma-informed and flexible, give survivors choices and empower them to make decisions
- minimise any barriers to obtaining redress
- be timely, give accurate estimates of timeframes and regularly update survivors on the progress of their claim
- allow survivors to be flexible about when they start, put on hold and resume their claim

- be respectful of, and responsive to, the cultures of all survivors, including Māori, Pacific peoples and Deaf people
- support survivors to make their own informed decisions throughout the claims process, particularly those with decision-making impairments
- have enough suitably trained staff so that each survivor ideally needs to contact just one person about their needs
- minimise the number of times survivors must recount the tūkino or abuse, harm and trauma) suffered.

He tautoko i te wā tuku kerēme
Support when making a claim

24. The puretumu torowhānui scheme should have processes in place so that survivors and their whānau who interact with it receive manaakitia kia tipu.

25. The puretumu torowhānui scheme should provide support services that are free, flexible, culturally appropriate and tailored to individual needs to help survivors, and where appropriate whānau, understand the tūkino and make a claim, including:

- counselling and psychological care, including when survivors receive their records, and for a reasonable period afterwards
- social workers and navigators to help meet any immediate needs
- free independent legal advice, irrespective of eligibility for legal aid and non-legal advocacy, including advocacy for disabled people that meets the requirements of articles 13(1) and (2) of the United Nations Convention on the Rights of Persons with Disabilities
- help to obtain and understand personal records
- advocates for survivors in their dealings with organisations holding their records
- help to get in touch with survivor support groups
- support to make complaints about alleged abusers
- interpreters, translators, supported decision-making and communication assistance
- safeguards to ensure disabled survivors in care are safe from any retribution for making a claim

- help, as necessary, to make complaints to the Privacy Commissioner or an ombudsman.

Ratonga whakarongo - Listening service

26. The puretumu torowhānui scheme should offer a listening service to survivors so they can talk about their experiences of tūkino, or abuse, harm and trauma, in a private and non-judgemental setting.

27. The puretumu torowhānui scheme should, if survivors wish, use information disclosed to the listening service in support of their claim for puretumu torowhānui.

E RUA NGĀ ARA KI PURETUMU TOROWHĀNUI
TWO ROUTES TO PURETUMU TOROWHĀNUI

Momo kerēme - Standard and brief claims

28. A survivor should have a choice of:

- making a standard claim that takes into account the abuse and its impact
- making a brief claim that takes into account only the abuse
- making a brief claim first, and then a standard claim at a later date.

29. In both claims, the scheme should work with the survivor to work out what is needed to achieve utua kia ea or to teu le vā / tauhi vā.

30. The scheme should, in assessing a standard claim:

- make its starting point that it believes a survivor's account
- consider the reasonable likelihood that abuse took place and the survivor suffered the impact claimed
- consider any impact that is plausibly linked to the abuse
- meet the survivor unless the survivor has no wish to and the scheme has enough information to make a decision on the claim
- invite, if a survivor wishes, representatives of relevant organisations and any named perpetrator to attend any meeting to hear and understand the abuse and its impact on the survivor

- notify organisations and individuals named in a claim and invite them to comment in a way that:
  - does not allow them to question the survivor directly
  - does allow the survivor to respond to any comment if the survivor wishes
- ensure survivors will be safe from any retribution before notifying organisations and individuals for this purpose, particularly disabled survivors still in care
- have clear times within which organisations and individuals must respond
- proceed with a decision if they fail to respond in time.

31. The scheme should, in assessing a brief claim:

- make its starting point that it believes a survivor's account
- consider the reasonable likelihood that abuse took place
- meet the survivor only if requested.

HUA PURETUMU TOROWHĀNUI
PURETUMU TOROWHĀNUI OUTCOMES

Whakapāha - Apologies

32. If desired by a survivor, the scheme should facilitate meaningful acknowledgements and apologies from the responsible institution to the survivor and others affected by abuse in care.

33. Apologies should:

- acknowledge the tūkino or abuse, harm and trauma caused
- accept responsibility for the tūkino
- express regret or remorse for the tūkino
- be made by a person at an appropriate level of authority so the apology is meaningful
- commit to taking all reasonably practicable steps to prevent any recurrence of the tūkino
- be flexible and respond appropriately to the needs and wishes of the individualsurvivor

- be consistent, where appropriate, with tikanga Māori or with Pacific cultural practices
- come directly from the institution concerned.

34. To give effect to these apology principles, the institution concerned should:

- work with those harmed by the tūkino to apologise in a way that is meaningful to them as part of their wider healing
- ensure the person making the apology has the necessary cultural awareness and humility, and has received training about the nature and impact of abuse and the needs of survivors
- provide information about the steps it is taking or will take to prevent further abuse.

35. The scheme should, where appropriate, give guidance to participating institutions about the form and the delivery of apologies.

36. The institution should, if a survivor wishes, give an apology as part of a culturally based or other restorative process. The scheme should arrange such a process between the survivor (and any whānau if so desired) and the institution (if it agrees to take part) and any perpetrator (if the perpetrator agrees to take part and the survivor agrees to the perpetrator's participation).

Ratonga oranga - Oranga services

37. The scheme should enable survivors and, where appropriate, their whānau to access measures to restore mana and wellbeing, consistent with the principle of manaakitia kia tipu. Survivors should be able to access, aided by an advocate or navigator if necessary, a range of services to meet their unique needs, and these services should include:

- counselling and other psychological care
- rongoā Māori practitioners
- healers
- help with education and employment, healthcare, secure housing, financial advisory services, disability support services and community activities
- help to connect or reconnect with whakapapa, whānau, hapū or iwi, wider community and fellow survivors
- cultural redress and help to build cultural capacity and connection or reconnection with culture, including language learning

- help with family and other important relationships after disclosing abuse
- support to build and maintain healthy relationships with family members.

38. The scheme should be able to offer survivors a choice of modest, one-off redress measures such as small purchases or services that will help them and their whānau to achieve utua kia ea.

39. The scheme should facilitate contact, such as for pastoral support, with a participating institution if a survivor wishes.

Utu pūtea - Financial payments

40. Financial payments by the puretumu torowhānui scheme should provide meaningful recognition of abuse and where relevant impact, but not compensation for harm or loss.

41. The scheme should, in determining the size of a financial payment, take into account:

- the seriousness of the tūkino inflicted and suffered
- factors that increased a person's risk of abuse when in care or harm from the abuse, including young age, disability, mental health condition and previous abuse. Such factors may be seen as aggravating the seriousness of the abuse
- the impact of the abuse on the oranga of the survivor, including lost opportunities and, where relevant, intergenerational impact
- the principles underpinning the system including manaakitia kia tipu
- the scheme's standards of proof
- payments to other survivors to ensure consistency and fairness
- any other payments a survivor may have received for abuse in care, such as from previous redress processes, court cases or settlements
- the need for payments to:
  - be sufficiently high to make the scheme a meaningful alternative to civil litigation
  - compare favourably with those made by overseas abuse in care schemes.

42. The scheme's financial payments should not adversely affect survivors' financial position and should not count as income. Other than for ACC purposes, the financial payments should not reduce or limit any entitlements to financial

support from the State, including welfare and unemployment benefits, disability benefits and disability support services.

43. The scheme should periodically review the financial payments it makes and increase them as necessary to ensure:

- payments continue to provide appropriate value to survivors, taking into account matters such as changes in the consumer price index and relevant awards by the courts
- equity between survivors.

Utu wheako māori - Common experience payment

44. Any survivor placed in an institution or care setting that the puretumu torowhānui scheme determines was a place of systemic abuse or neglect should be able to apply for a common experience payment of a set amount. The scheme should:

- develop criteria to determine what institutions or settings, if any, were places of systemic abuse that would make a common experience payment justified, using the findings of this inquiry's reports and evidence gathered from claims the scheme receives
- actively reach out to ensure as many eligible survivors as possible receive a common experience payment once an institution or setting is identified as a place of systemic abuse or neglect
- tailor efforts to contact qualifying survivors to the specific needs of those identified
- take into account any other payments a survivor has received for abuse in care, such as payments from previous redress processes, court cases and settlements.

45. The scheme should have the power to recommend an investigation into whether systemic abuse or neglect occurred at an institution or other care setting for the purposes of determining whether there should be a common experience payment for people who were in that institution or care setting.

Pārongo hua kerēme - Record of claim outcomes

46. The scheme should give survivors a written record of its decision, which should set out the tūkino, or abuse it accepts took place and where relevant the impact

it had (or if not accepted why the scheme does not accept the claim), along with the reasons for its decision. The record should be in plain language and, if preferred, in reo Māori or New Zealand Sign Language. The scheme should make available assistance as necessary to help survivors to understand the record.

Tuku mana me te hua ā-ture o ngā whakatau
Waivers and legal effect of decisions

47. Accepting puretumu torowhānui from the scheme should not:

- prevent a survivor from taking civil proceedings or making a complaint for abuse and harm, although the redress should be taken into account in any successful civil proceedings
- affect any rights a survivor may have against an individual allegedly responsible for the abuse or affect any rights regarding abuse or harm not covered by the puretumu torowhānui from the scheme
- prevent a survivor from making a complaint to Police, a professional or faith-based disciplinary body or an employer of an alleged or known perpetrator.

48. A scheme decision should have no legal effect on any organisation or individual named in a claim, other than for the purposes of the scheme.

Utunga o Te Kaporeihana Āwhina Hunga Whara
ACC entitlements

49. Survivors should be able to make a claim to both the puretumu torowhānui scheme and ACC. Any payments or services provided or facilitated by one should be taken into account by the other.

Te ara whakatinana - Establishment and operational methods

50. The Government should legislate to establish the puretumu torowhānui scheme and should set out in this legislation, or in regulations, eligibility criteria and entitlements. It should also consider setting out in regulations the timeframes for the scheme to make decisions.

51. The puretumu torowhānui scheme should:

- make decisions that are fair, equitable, predictable, timely, transparent and consistent from survivor to survivor and from year to year

- be adequately resourced, including having information technology systems, so it can make good, timely decisions
- have an oversight body to consider complaints about the scheme.

52. The puretumu torowhānui scheme should have the power to:

- require any organisation that joins the scheme and any other relevant body to give it information
- give information to survivors, organisations in the scheme and any other relevant body without redactions, provided the scheme reasonably considers this is necessary to fulfil its functions.

Arotake whakataunga - Reviewing decisions

53. Survivors and institutions should be able to ask for a review of decisions by the puretumu torowhānui scheme. A review brought by or on behalf of a survivor should not result in a decision less favourable to the survivor than the original one.

54. A scheme decision should be open to review, including by the scheme of its own accord, if more information comes to light that is likely to have had a significant effect on the outcome of the decision.

Tūmataiti me taunakitanga - Confidentiality and referrals

55. The puretumu torowhānui scheme should keep confidential any information it receives, and should:

- clearly set out and explain any exceptions to this obligation
- not disclose any information to any organisation not in the scheme without a survivor's consent unless:
  - the disclosure is in accordance with its referrals process
  - the information is redacted to remove anything that could identify a survivor, subject to any exceptions established by law
- clearly tell survivors how it manages their records, including who can access them and when, and how long it will keep them.

56. The puretumu torowhānui scheme should redact any alleged perpetrator's name and any other identifying details from its decisions.

57. The puretumu torowhānui scheme should establish consistent processes for

the referral of allegations of abuse to police, employers of alleged perpetrators, professional or faith-based disciplinary bodies and other relevant agencies. Safeguards against neglect or retribution of disabled survivors in care or other survivors should be built into these processes.

58. A survivor should be able to disclose to anybody the puretumu torowhānui they received, the scheme's decision and the identity of the institution concerned. The survivor should also, subject to law, continue to be able to disclose details of the abuse to any person as they see fit.

Whakapūrongo - Reporting

59. The puretumu torowhānui scheme should publish a report at least yearly with statistics on:

- the number of claims made, the number of claims relating to each participating institution, and the types of abuse or neglect involved
- a breakdown of its decisions on these claims
- the average time for making a decision
- the size and range of financial payments
- the types and frequency of other entitlements made available
- the age, iwi affiliation, ethnicity – including specific Pacific ethnicity, gender, and any disability of survivors who made the claims
- the number of reviews sought and the decisions made on them.

Arotake motuhake - Independent reviews

60. The Crown should designate an independent agency to review all aspects of the puretumu torowhānui scheme's operations after it has been running for two years, and thereafter at periodic intervals, to ensure continuous improvement in its services. The review should include survivors and should give effect to the Crown's obligations under te Tiriti o Waitangi.

Mana pūrongo - Reporting powers

61. The puretumu torowhānui scheme should have the power to:

- report to care providers or any agency, including monitoring agencies, on information it receives about systemic issues and make recommendations

on how to respond to these issues including for the purposes of determining a common experience payment

- require care providers or agencies to report on actions they have taken in response to its recommendations
- make recommendations and responses public
- provide information and recommendations to the Crown on areas of reform relevant to abuse in care, including health, disability services, adoption, Oranga Tamariki, ACC, education and housing.

TUKUTANGA PŪTEA, RATONGA HOKI
FUNDING AND SERVICE DELIVERY

Whakaritenga pūtea - Funding arrangements

62. The Crown should have overall responsibility for funding the puretumu torowhānui scheme so survivors receive financial payments in a timely manner.

63. Faith-based institutions and indirect State care providers should contribute to the scheme's funding.

64. Those designing the puretumu torowhānui scheme should determine how the Crown or the scheme should collect financial payments awarded against individual faith-based institutions and indirect State care providers and how to apportion the scheme's costs including the costs of oranga services.

Tukutanga ratonga urupare - Responsive service delivery

65. The puretumu torowhānui scheme and any other funders should encourage the provision of support services locally by giving preference to collectives within communities in the design and delivery of support services, recognising the specific obligations under te Tiriti o Waitangi for Māori, while the Crown should properly resource local services, which may include:

- extra resourcing to service providers, such as holistic Whānau Ora health providers or iwi, to increase their capability and capacity
- commissioning new support services, particularly where gaps have been identified.

66. The Crown and the puretumu torowhānui scheme should ensure sufficiently skilled workforces are available to provide oranga services to survivors, and that all those who have contact with survivors, including scheme staff, advocates, navigators and lawyers, are trauma-informed and culturally responsive. This will require the Crown to have a transformative workforce change strategy and resourcing training and workforce skill development, including:

- providing incentives and additional and ongoing skills training to workforces
- developing and making mandatory training for those entering relevant workforces
- ensuring workforces receive awareness raising and training on the rights of disabled people, in particular:
  - disabled people's rights to access to justice under article 13 of the United Nations Convention on the Rights of Persons with Disabilities
  - the inclusion of disabled people in the design and provision of this training
- a strategy for developing relevant skills among survivors and Māori, Pacific and disabled people to help relevant workforces to relate appropriately to survivors.

Arotake i ngā roopu whai oranga - Reviews of oranga services

67. The Crown should immediately commission a stocktake of available oranga services for survivors, including counselling and other psychological care, educational services and vocational services.

68. The Māori Collective, in conjunction with the Purapura Ora Collective, should commission an expert review to evaluate the services identified in the stocktake and make recommendations on any changes or extra services needed. This should be completed well in advance of final decisions on the scheme.

69. The Crown should consider establishing a dedicated fund for any extra services or improvements to services recommended by the expert review, along with any independent monitoring and review arrangements.

Ara kōrero - Communication channels

70. Each faith-based institution should establish or nominate an entity to provide a single point of contact with the puretumu torowhānui scheme and with other institutions in the scheme. The Crown should consider whether State agencies should each establish or nominate an entity for this purpose or whether one such entity should serve all State agencies.

TIROHANGA WHĀNUI
WIDER CONSIDERATIONS

Whakamaharatanga me te whakatairanga aroā
Memorials and awareness-raising

71. Acknowledgements and apologies should, where appropriate, be accompanied by tangible demonstrations of goodwill and reconciliation. As part of this, the Crown, indirect State care providers and faith-based institutions should consider:

- funding memorials, ceremonies (including "citizenship" ceremonies) and projects that remember survivors
- establishing archives of survivors' accounts of their abuse, and also the accounts of their whānau, hapu and iwi, with the informed consent of these people
- removing any memorials to perpetrators.

72. The Government should consider funding a national project to investigate potential unmarked graves and urupā or graves at psychiatric hospitals and psychopaedic sites, and to connect whānau to those who may be buried there. The Government should support tangata whenua who wish to heal or whakawātea the whenua where this has occurred.

73. The Government should take active steps to raise awareness of abuse in care, what it is, its effects, what has been done in response, and how those abused can seek help. This should include widely disseminating this inquiry's interim report, this report and all subsequent inquiry reports.

74. The Government should fund an ongoing programme focused on supporting the delivery of independent Aotearoa New Zealand-specific research on the effects and causes of abuse in care, and social campaigns that seek to eliminate abuse in care and highlight the need to keep people safe from harm, and events acknowledging what has happened.

Whakaūnga tika, mahi anō hoki - Enforceable rights and duties

75. The Crown should create in legislation:

- a right to be free from abuse in care
- a non-delegable duty to ensure all reasonably practicable steps are taken to protect this right, and direct liability for a failure to fulfil the duty
- an exception to the ACC bar for abuse in care cases so survivors can seek compensation through the courts.

76. The Crown should, if it decides not to enact the changes in recommendation 75, consider:

- empowering the puretumu scheme to award compensation
- reforming ACC so that it covers the same abuse the new puretumu scheme covers and provides fair compensation and other appropriate remedies for that abuse.

Mahi Haumaru Aotearoa - WorkSafe

77. WorkSafe New Zealand should include abuse in care within its focus areas. This should include investigating and, where appropriate, prosecuting breaches by a care provider and its officers under the Health and Safety at Work Act 2015.

Hātepe whakaea nawe - Civil litigation

78. The Crown should amend the Limitation Act 1950 and Limitation Act 2010, with retrospective effect, so:

- any survivor who claims to have been abused or neglected in care while under 20 is not subject to the Acts' limitation provisions
- any survivor who has settled such a claim that was barred under either Act may relitigate if a court considers it just and reasonable to do so
- any survivor who has had a judgment on such a claim can relitigate if they were found to have been barred under either Act's limitation provisions, and the time bar prevented the survivor from getting redress
- the court retains a discretion to decide that a case cannot go ahead if it considers a fair trial is not possible.

79. The Crown should:

- consider whether there should be any other conditions on a survivor's right to litigate or relitigate a case that has been settled or a judgment has been issued on, or whether a survivor should have any extra rights in these circumstances
- direct the Law Commission to review other obstacles to civil litigation by survivors and recommend any corrective steps, a task the Law Commission should complete within 12 months of the Governor-General receiving this report.

Āwhina ā-ture - Legal aid

80. The Crown should review and consider raising the rates available for abuse in care work.

81. The Ministry of Justice should:

- work with New Zealand Law Society to offer training to lawyers wanting to take on abuse in care cases, including training on how to ensure effective access to justice for disabled people
- establish, maintain and publicise a list of lawyers who are competent and available to work on abuse in care cases.

Tauira kaupapa here kaitāwari - Model litigant policy

82. The Crown should draw up a model litigant policy to replace the Attorney-General's civil litigation values, and the policy should be:

- consistent with the contents of this report
- completed within 12 months of the Governor-General receiving this report.

83. State agencies, indirect State care providers and faith-based institutions, along with their lawyers, should act consistently with the model litigant policy in responding to all abuse in care claims, whether lodged through the courts or the scheme.

84. The Crown should draw up a set of principles to guide its conduct in responding to abuse in care claims, and indirect State care providers and faith-based institutions should draw up their own, too.

Tono pārongo me ngā putunga pārongo - Record requests and record-keeping

85. Institutions, when responding to record requests, should:

- help survivors obtain their records in as full a form as possible while still respecting the privacy of others
- help survivors to understand their records
- favour disclosure wherever possible
- be consistent as much as possible in what they disclose, irrespective of whether in response to court discovery rules or survivor requests
- give specific explanations of the privacy reasons they use to justify withholding information
- have the necessary resources to respond in an appropriate and timely way.

86. Institutions should, before making redactions that would withhold a significant amount of information to protect the privacy of one or more individuals, consider seeking the consent of those individuals to release the information.

87. The Crown should develop guidelines, applicable to all institutions, on the matters set out in recommendations 85 and 86, and it should do this in partnership with Māori and with the involvement of survivors and institutions.

88. The Crown should complete its work on a policy to streamline the way agencies handle survivor records within six months, and this policy should also deal with the preservation of records and the advantages and disadvantages of centralising records.

Ngā take me te muku i ngā pārongo - Content and destruction of records

89. The Crown should:

- urgently review disposal authorities relevant to care records and consider whether to prohibit the disposal of care records until at least the completion of its work on records

- review care providers' record-keeping practices, consider whether to set a standard governing what records providers should create and keep, and consider whether those keeping records for care providers should receive training
- decide whether Aotearoa New Zealand should have a service similar to Find and Connect.

Te aroturuki - Monitoring

90. The Crown should ensure that any monitoring body or monitoring activities relating to children, young people and adults at risk in care:

- nurtures the trust of children, young people and adults at risk
- is consistent with the Crown's te Tiriti o Waitangi obligations
- is organised to reflect the Māori-Crown relationship
- is independent of other oversight mechanisms and the organisation(s) being monitored
- complies with all relevant human rights obligations
- operates regularly, or is conducted regularly, using staff with appropriate skills and expertise.

TIKANGA MŌ TE WĀ NEI
INTERIM MEASURES

Ngā kawenga kerēme o te wā - Handling of existing claims

91. Institutions should use their best endeavours to resolve claims in the lead-up to the establishment of the puretumu torowhānui scheme and should offer settlements that do not prejudice survivors' rights under the new puretumu torowhānui scheme or under any legislation enacted in response to our recommendations on civil litigation.

92. Institutions should, until our limitation reform recommendations are implemented, rely on limitation defences only in cases where they reasonably consider a fair trial will not be possible.

Utu tōmua - Advance payments

93. The Crown should immediately set up and fund a mechanism to make advance payments to survivors who, because of serious ill health or age, are at significant risk of not being able to make a claim to the puretumu torowhānui scheme. The mechanism should stop when the scheme starts.

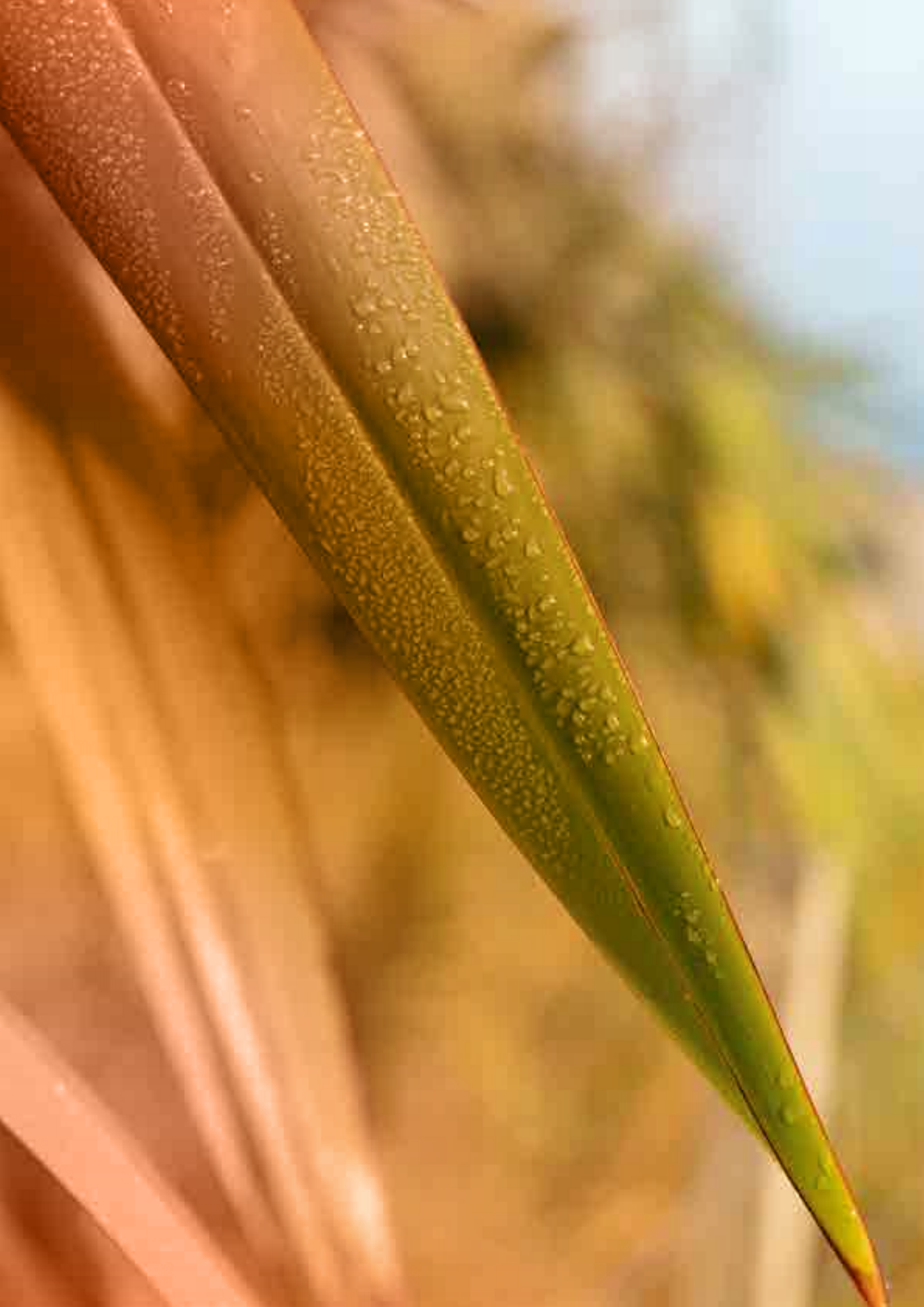
Ratonga whakarongo - Listening service

94. The Crown should fund a listening service for survivors in the period between the end of this inquiry and the establishment of the scheme. For those with particularly urgent needs, this should include referral and assistance to access existing services.

TE URUPARE I ĒNEI TŪTOHITANGA
RESPONDING TO THESE RECOMMENDATIONS

95. The Minister for the Public Service should, within four months of the tabling of this report in the House of Representatives, make public the Crown's initial response to the report's recommendations, and this response should include:

- its plan and timetable for giving priority and urgency to claims from elderly or seriously ill survivors, including making interim payments to these survivors where appropriate
- its timetable and resourcing for the Māori Collective and Purapura Ora Collective
- its plan for consulting survivors and their communities about the design of the new puretumu torowhānui system and scheme
- dates by which the puretumu torowhānui scheme will be established and ready to receive claims, and civil litigation reforms enacted.



Key Findings

KEY FINDINGS

This report contains 148 adverse findings about the way State and some Faith-based institutions responded to claims from survivors for redress for abuse that happened in their care, both generally and in relation to specific case studies. It also contains common themes of how survivors experienced redress processes run by government agencies and faith-based institutions.

The full details of those findings must be read in the context of the report.

STATE AGENCIES

There are 16 findings about how State agencies (including Crown Law, Ministry of Social Development, Ministry of Health, Ministry of Education, and Oranga Tamariki) responded to claims of abuse in State care generally (see Vol 1 p 164), and 46 further findings about the actions of Crown Law, Ministry of Social Development, and Ministry of Health in relation to specific case studies (Vol 2)

Some of the key findings include:

- In responding to claims of abuse in care, the Crown adopted a strategy aimed primarily at managing financial and legal risk, rather than ensuring survivors of abuse in care were fairly treated

  Vol 1, p 164

- The Crown failed to consider its obligations under te Tiriti o Waitangi and those under international human rights conventions

  Vol 1 p 164

- The Crown failed to recognise, investigate or respond to signs of systemic abuse and systemic failures that led to abuse in care

  Vol 1, p 164

- Crown Law developed an overly adversarial culture in abuse in care cases and lost sight of the people behind the claims who were abused while in the State's care. Crown Law, together with the Ministry of Social Development and Ministry of Health, fell far short of the high standards expected of the Crown in handling key litigation brought by survivors of abuse in care

  Vol 1, p 16

See also specific findings in relation to claims brought by Leoni McInroe, Paul and Earl White, and Keith Wiffin, in Vol 2. 4

- The Ministry of Social Development, Ministry of Health, Ministry of Education and Oranga Tamariki created out-of-court claims processes in an ad hoc, reactive and siloed way. The claims processes created were not independent and failed to provide fair, consistent, accessible and timely redress for survivors of abuse in care

Vol 1, p 164,

See also specific findings in relation to the response of the Ministry of Social Development to the claim brought by David Crichton in Vol 1, p 147

FAITH-BASED INSTITUTIONS

We focused on the redress responses of some Faith-based institutions involving the Catholic Church, Anglican Church and The Salvation Army, and made findings in relation to each institutions' processes generally, as well as specific findings in relation to their responses in three case studies.

- When receiving reports of abuse, many faith-based institutions have prioritised the needs of the church over the needs of survivors. Most redress processes we looked at were ad hoc, intimidating, difficult to navigate, adversarial, slow, lacking in transparency and poorly formulated

Volume 1, p 199 - 205

- The Catholic Church processes frequently failed to provide appropriate care and support for survivors during redress process, the focus was on a "quest for truth" which resulted in an investigative response, often requiring corroboration in the context of abuse occurring in secrecy

see Catholic Church findings, Volume 1, pp 199 - 201

- The faith-based institutions have not taken sufficient steps to eliminate barriers to disclosing abuse, they have rarely taken proactive steps to seek out survivors when armed with knowledge of abusive church leaders/members or institutions

Volume 1, pp 199 - 205

- Faith based institutions have had poor record-keeping, a culture of secrecy - particularly in the Catholic Church - and an apparent lack of interest or inclination to understand the nature and extent of abuse has meant church leaders had limited insight into systemic issues impacting the safety of those in its care

see Volume 1, Summary of Findings for faith-based institutions, pages 199 - 205

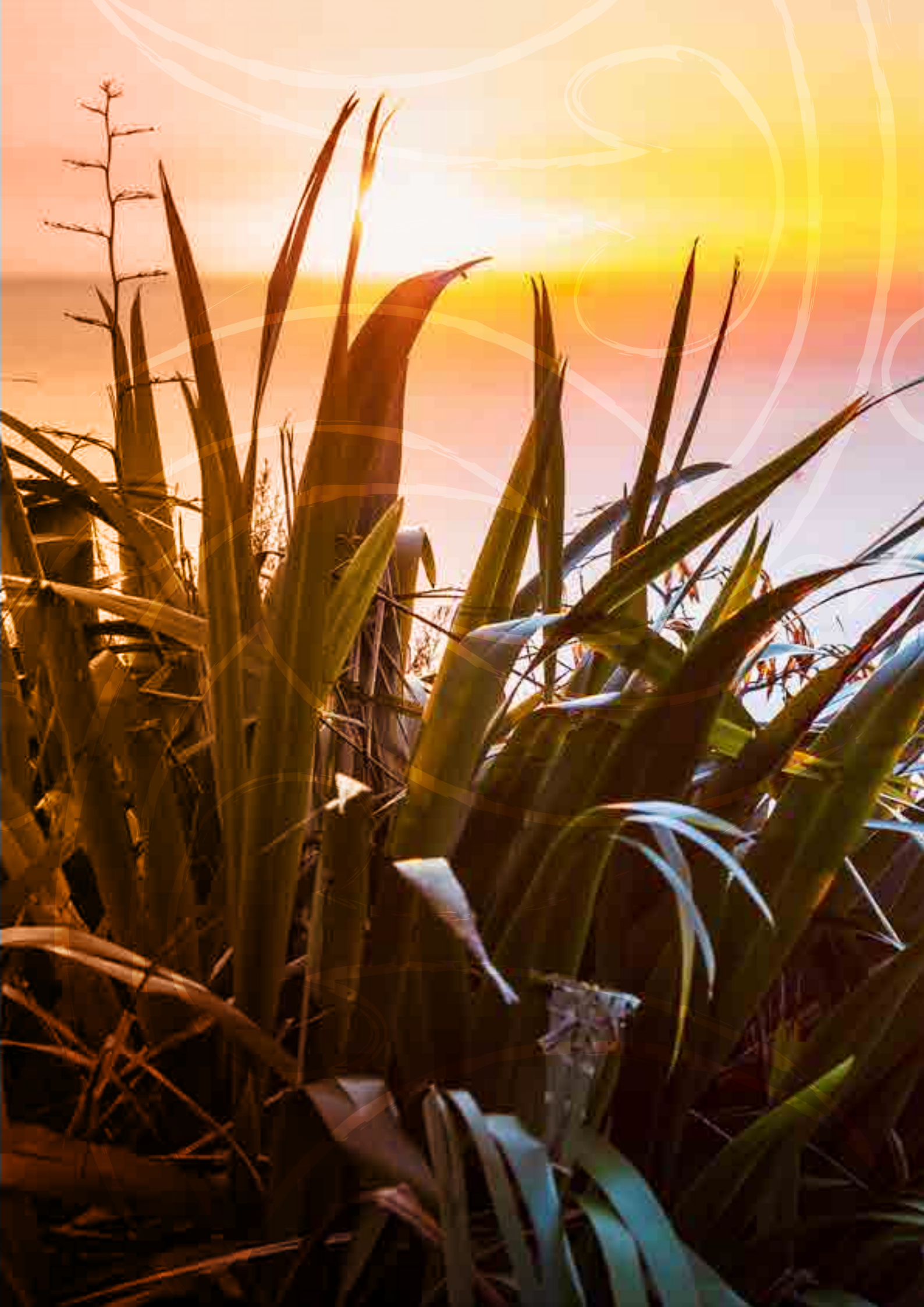
see also Volume 2 case studies for Roy Takiaho, Robert Oakly, Emery-James Wade and David Crichton for redress process examples for each faith

GENERAL – SURVIVOR EXPERIENCES

The report profiles specific experiences of survivors in seeking redress from State and faith-based institutions in part 2.2 (Vol 1 pp 91 - 131) and in Volume 2 (case studies) and draws out key themes common to many survivor experiences in part 2.5 (Vol 1 pp 206 - 227). These themes include the following:

- In general, redress processes run by State and faith-based institutes are not independent, and left survivors in the dark through inadequate information and contact.
- Most take far too long, provide inadequate financial payments and apologies and no more than very basic wellbeing support, and fail to restore the mana and oranga, or wellbeing, of survivors and their whānau. They have added to the tūkino, or abuse, harm and trauma, experienced by survivors.
- Redress for abuse in care has been unobtainable for most Deaf and disabled people, and redress processes have failed to take incorporate tikanga Māori values or be responsive to Pacific cultures.

See specific findings at p 164, 186, 200, 205



Abuse in Care
Royal Commission of Inquiry

Endnotes
1