

**Under** the Inquiries Act 2013  
**In the matter** of the Royal Commission of Inquiry into Abuse in State Care and in  
the Care of Faith-based Institutions

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## **Supplementary Brief of Evidence of Linda Ljubica Hrstich-Meyer for the Ministry of Social Development – Redress**

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1	Introduction.....	2
2	Ombudsman complaint.....	2
3	Approach to claims that have an educational component .....	3
4	Claimant Support Service .....	3
5	Settlement of claims for legally represented people who did not accept their fast track offer .....	4
6	Historic Claims Conflict of Interest Policy.....	4
7	Correction to my Reply Brief in relation to Mr Wiffin’s OIA request .....	4
8	Claim numbers.....	4
	Appendix.....	6

## **1 Introduction**

- 1.1 My full name is Linda Ljubica Hrstich-Meyer.
- 1.2 I provided this Inquiry with a brief of evidence on behalf of the Ministry dated 27 January 2020 (**Primary Brief**) and a reply brief of evidence containing my response to evidence provided to the Royal Commission by a range of survivors and Cooper Legal dated 13 March 2020 (**Reply Brief**).
- 1.3 Given the period of time since my briefs were provided and with the redress hearing being postponed, this brief updates the Royal Commission on substantive changes and development of key pieces of work within Historic Claims since this time. Further, I provide updated statistics about claim numbers (previously outlined by my colleague, Simon MacPherson, in his brief of evidence dated 27 January 2020).
- 1.4 I was not involved in all of the events referred to in this brief and have at times relied on the relevant material held by the Ministry.

## **2 Ombudsman complaint**

- 2.1 In paragraphs 3.37 to 3.40 of my Reply Brief, I outlined the steps taken by the Ministry to release material about the historic claims process as part of the implementation of the new process.
- 2.2 In order to maintain the trust and confidence of legitimate claimants and the wider public in the historic claims process, the Ministry withheld certain information in the guidance material to ensure that only people with a proper basis for a claim would receive a settlement payment. Withholding the information was to prevent a person from understanding the threshold at which a higher level of scrutiny is applied to a claim assessment, or from moulding their allegations in accordance with language used in payment category descriptions to attract a higher payment category. Withholding this information was the primary control put in place to support the use of the high trust model, and allowed the Ministry to assess claims far more efficiently than previously.
- 2.3 Cooper Legal, in paragraph 506 of their brief of evidence dated 31 January 2020, referenced their complaint to the Ombudsman about redactions in the Ministry's Business Process document, after the Ministry refused a request from Cooper Legal to release to them an unredacted copy of this document.
- 2.4 On 26 May 2020 the Ombudsman provided a final opinion that the Ministry should not have refused Cooper Legal's request for an unredacted copy of this document. The Ministry accepted the Ombudsman's recommendation, and released this document to Cooper Legal shortly after. The Ministry has also published an unredacted copy of this guidance on its website, so that all claimants have access to the same information.
- 2.5 The Ministry agrees that it is beneficial for claimants to have detailed information about the claims process as this provides more visibility for them around how claims are assessed. It is also important that claimants retain confidence in the system, and that the ongoing integrity of the claims process for claimants is ensured. In order to respond to the previously redacted

information now being published, we have made some small changes to how we currently assess claims.

- 2.6 As an interim measure, where allegations are made after the full unredacted guidance was made public (1 July 2020), some additional checks will be made on a small number of allegations in certain circumstances. We do not anticipate a high number of claims being affected by these additional checks.
- 2.7 The Ministry's response to the full guidance being made public is an interim measure, while we review how claims are assessed during this period. Over the next 12 months, several things may contribute to how claims are assessed going forward, including feedback from the Royal Commission about our redress process. As part of our plan to continue to develop and improve how we work, we have also engaged with the Ministry's Systems Improvement Team, to further understand how the Historic Claims system operates so that evidenced based decisions can be made to further improve what we do and improve service and efficiency for claimants.

### **3 Approach to claims that have an educational component**

- 3.1 In paragraph 3.55 of my Primary Brief, I set out the Ministry's approach to claims that include concerns that relate to a Ministry of Education (MoE) facility such as a Residential Special School. Historically, we have individually considered each claim, collaborated with MoE and determined the most appropriate response for that individual case and its circumstances. Sometimes a joint Crown offer was made to claimants and in other cases separate responses were provided.
- 3.2 With the introduction of the Ministry's new assessment process, the Ministry and MoE have been carefully considering how best to assess and respond to claims brought by claimants who make allegations that relate to both agencies. We have recently finalised our approach going forward which is that in most cases the Ministry and MoE will separately assess and respond to the part of the claim that relates to them. Each agency will use their own assessment process to the allegations they are responsible for. Given both agencies have slightly different assessment models, separate assessments and responses ensures that all claimants who raise concerns with the same agency are treated consistently using the one assessment model. Separate responses from each agency also ensures that there is transparency as to how each ministry has assessed the claim.
- 3.3 If the Ministry receives a claim that includes an education component, the Ministry will work with the claimant to help them understand what their options are which could include supporting the claimant to raise their concerns with MoE. The Ministry is happy to facilitate lodgement of a claim with MoE if the claimant provides consent for us to pass any relevant information or allegations to MoE that we hold.

### **4 Claimant Support Service**

- 4.1 In paragraph 6.8 of my Primary Brief, I outlined the changes to occur over the next few years as part of implementing the new approach, one of which is the development of wraparound services to support claimants. We are making good progress in this area, and are in early discussions with a provider, with the

intention that a pilot begins later this year. As part of the pilot, we will be seeking feedback from both claimants and the provider about the service to ensure that the development of wraparound services meets claimant needs.

## **5 Settlement of claims for legally represented people who did not accept their fast track offer**

- 5.1 In paragraph 3.16 of my Reply Brief I noted that there were 31 legally represented claimants who are still waiting to receive an offer from the Ministry following a full assessment. Since this Reply Brief, we have made progress with this group of claims and the number has reduced to 16 claimants.

## **6 Historic Claims Conflict of Interest Policy**

- 6.1 Historic Claims is committed to responding to claims in a fair and objective manner, and aims to build and maintain trust and confidence with claimants that decisions about their claim have been made with integrity. In order to recognise the unique nature of the role that Historic Claims has in working with people, we have developed policy guidance specific to Historic Claims for declaring and responding to conflicts of interest that staff may have in their roles in addition to the conflict of interest policy that is in place for the whole organisation.<sup>1</sup> This policy guidance has formalised and built upon the way in which Historic Claims has previously managed conflicts of interest.

## **7 Correction to my Reply Brief in relation to Mr Wiffin's OIA request**

- 7.1 In paragraph 4.5 of my Reply Brief I noted that Mr Wiffin's OIA request was made for information on the Ministry's staff files which did not include information on criminal convictions. I wish to correct this statement. Mr Wiffin's request was for "staff records and any other information MSD holds about the staff members". This matter is further discussed by my colleague, Garth Young, in his brief of evidence.

## **8 Claim numbers**

- 8.1 My colleague, Simon MacPherson, provided claim numbers and statistics as at 31 October 2019 in his brief of evidence, paragraphs 13.6 and 13.7 (dated 27 January 2020). I will take this opportunity to provide an update of this information.
- 8.2 The information below provides claim numbers as at 30 June 2020. This is operational data, and Historic Claims typically allows at least two months for data to settle and stabilise. This information is being provided within this "settling" period. Therefore, please note that a review of this data in the future may result in minor differences, though not in a material way to the information being presented.
- 8.3 As at 30 June 2020, the Ministry had received 4,177 claims in total.

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<sup>1</sup> Ministry of Social Development *Historic Claims Conflict of Interest Policy Guidance*, 21 May 2020.  
Crown Bundle - Tab 125

#### 8.4 Key data to note are:

- (a) Most years, claims have increased year on year. The actual claim numbers can be seen in the table in the appendix. Although numbers can fluctuate, on average Historic Claims receives 40 claims a month.
- (b) The Ministry has closed 1942 claims (see appendix).
- (c) As at 30 June 2020, 59% of claims were registered directly with the Ministry without a lawyer and the remaining 41% were legally represented.
- (d) Approximately 17% of claims received to 30 June 2020 have been filed in court, with the remaining 83% unfiled, with or without legal representation.
- (e) As at 30 June 2020, of the 1,948 claims the Ministry had closed, 43% were resolved by way of an ex gratia payment and 39% by way of a settlement payment. Further, 8% of claims were assessed but no offer was made for a variety of reasons, but common reasons include where the assessment concludes that the Ministry is not the responsible agency to respond to the abuse a person has been subjected to, or that there is insufficient information to support the claim. The remaining 10% were closed for other reasons (often without being assessed) such as the claimant being uncontactable, withdrawing their claim or the claimant becoming deceased and no contact being received from the claimant's estate.

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## Appendix

### Number of claims received year by year

Financial year	Claims Registered	Claims Resolved/ Closed	Backlog of claims
F03/04	6	0	6
F04/05	6	0	12
F05/06	63	1	74
F06/07	82	4	152
F07/08	130	19	263
F08/09	105	31	337
F09/10	141	43	435
F10/11	212	89	558
F11/12	254	109	703
F12/13	193	107	789
F13/14	254	114	929
F14/15	316	162	1083
F15/16	311	465	929
F16/17	359	393	895
F17/18	577	176	1296
F18/19	766	102	1960
F19/20	402	127	2235