



Submission on the Redress System for Abuse in Care Bill Social Services and Community Select Committee

***Submitted by Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA)
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Overview

1. Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA) welcomes the opportunity to submit on the Redress System for Abuse in Care Bill (the Bill).
2. Te Pai Ora SSPA does not support the Bill or its proposed legal presumption against financial redress for serious violent or sexual offenders. Redress should be made available to all survivors, regardless of their actions since their experience of care.
3. We oppose the proposed legislative protections for apologies by some core State agencies as these would further restrict the provision of redress.
4. We would like to see the actioning of all recommendations from the reports issued by the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (the Inquiry). These recommendations include a number that specifically relate to providing redress and honouring Te Tiriti o Waitangi.
5. It took enormous courage for survivors to participate in the Inquiry, reliving their stories in the hope that it would change the system of care for future generations of tamariki and vulnerable adults. Limiting their ability to access justice, ignores our collective responsibility to prevent future harm and protect those who experienced abuse in care.
6. We are also disappointed by the short consultation process, at a busy time of the year and overlapping with the National Day of Reflection. This has made it difficult for survivors to have their say on the Bill.

About Te Pai Ora SSPA

7. Te Pai Ora SSPA is a membership-based national organisation, comprising over 250 community-based social service organisations working alongside children, and whānau around Aotearoa New Zealand.¹ Our organisational membership represents three quarters of Aotearoa New Zealand's care sector including s.396 and/or s.403 providers. This includes local and national service providers, large national care providers, kaupapa Māori and Iwi social service organisations and Pacific providers.
8. Te Pai Ora SSPA works to strengthen the Aotearoa social sector through advocacy and engagement, learning and development, relationships and sector leadership.
9. We practice a Te Tiriti o Waitangi-based model of governance, with equitable tangata whenua and tauwiwi representation on our Board.

¹ Find out more about Te Pai Ora SSPA at www.sspa.org.nz. Our strategic plan 2023-2026 can be found [here](#)

10. We are committed to ensuring the findings and recommendations of the Inquiry are addressed and implemented. We have initiated a programme of work in strategic partnership with the sector that seeks to amplify and maintain accountability of the work being done, to help inform the decision-makers and government, and support the delivery of the recommendations of the final report: *Whanaketia – Through pain and trauma, from darkness to light*. A number of our member organisations have directly contributed to the work of the Inquiry and are working to implement the recommendations in their own practice.
11. We are working with the sector to ensure the voices of survivors and the experiences they share are not forgotten, that the issues raised by the Inquiry are addressed, and those in care are safe and protected. This programme of work will be advised by a Sector Advisory Group.
12. Te Pai Ora SSPA is a part of the Youth and Justice Coalition which works to coordinate advocacy efforts supporting young people in conflict with the law, including survivors of abuse in care. We support the submissions of other members of this coalition including VOYCE Whakarongo Mai, Aotearoa New Zealand Association of Social Workers and Community Law Centres Aotearoa.

Te Pai Ora SSPA's position on this Bill

We do not support the Bill

13. The Bill fundamentally goes against the recommendations in the redress report, *He Purapura Ora, he Māra Tipu from Redress to Poretumu Torowhānui* and demonstrates a lack of compassion for those who have endured deep, long-lasting harm in care and their whānau and communities.
14. Recommendation 18 of *He Purapura Ora* specifies that redress 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.” This carries through to recommendation 11 of *Whanaketia*, to “Compensate survivors of abuse and neglect in care.”
15. Both reports also include recommendations aimed at giving effect to Te Tiriti o Waitangi. We believe any limitations on redress will undermine the Crown's obligations under Te Tiriti.

The safety of children is paramount

16. As an organisation focused on achieving positive outcomes for children, rangatahi and whānau, we are very aware of the wide-reaching impacts of instances when our care system has operated contrary to this purpose.
17. Most people are put into care when they are children and those who experience harm do so when they are at their most vulnerable, in places they should be safe. This breaches the United Nations Convention on the Rights of the Child (UNCRC). Articles 19 and 2 respectively oblige States to protect children “from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse,” and prohibit all forms of discrimination.
18. Any redress sought for harm experienced in care is likely to happen once the survivors are adults. By this point, their lives will have been impacted by their childhood experiences. The long-term outcomes for care-experienced young people have been well-documented:

Abuse affected survivors' behaviour, mental health, physical health, personal relationships, education, employment and finances. It showed up in aggression, anger, alcohol and drug use,

suicidal thoughts and attempts, poor education, poor job prospects, little financial security, more physical injuries and criminal behaviour.²

19. There is a proven link between childhood abuse and criminal behaviour. The Inquiry highlighted the “pathways into criminality and prison” for survivors.³ Noting that survivors are more likely to engage in criminal behaviour precisely *because of* the abuse they have suffered. This is supported by the *Care to Custody: Incarceration Rates Research Report*⁴ which found that: “People who had been in State residential care were usually about five to nine times more likely to be incarcerated than people who had not.” This is the case for all those who have been in care, not just those who have directly been abused.

Selective provision of redress does not help victims of violence

20. Te Pai Ora SSPA acknowledges and stands with everyone who has experienced violence. This includes survivors of abuse in care as well as those who are harmed by people who have themselves experienced abuse and neglect. The provision of redress to survivors of abuse in care does not detract from or minimise any pain that they themselves may have caused.
21. Individuals with a criminal history have already received punishment for their crimes. To further punish survivors by withholding redress goes against its intended purpose, especially with the creation of new offences under proposed Clauses 23 and 24 that would result in another punishment and add to cycles of violence and victimisation.
22. We want to see a redress scheme that takes responsibility for the harm that has been caused. A meaningful scheme would be closer to the one recommended by *He Purapura Ora*: one that aims 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”.
23. Redress should provide fair and meaningful compensation for all direct and indirect losses flowing from abuse and neglect. Redress is due regardless of what happens after harm is inflicted.

The solutions offered by the Bill do not honour Te Tiriti o Waitangi

24. The Crown has obligations under Te Tiriti o Waitangi to actively protect Māori tino rangatiratanga (Article 2) and to guarantee Māori the same rights and protections of other citizens (Article 3). With Māori comprising the majority of survivors and those in care, any restrictions placed on redress would have implications for Te Tiriti.
25. Giving effect to Te Tiriti o Waitangi is cited as one of the main purposes of *He Purapura Ora* and recommendation 14 of *Whanaketia*. Recommendation 39 of *Whanaketia* also lays out a number of Care Safety Principles for preventing and responding to abuse and neglect in care with Principle 4 aimed at giving effect to Te Tiriti o Waitangi.
26. *He Purapura Ora* further draws out the links between care, incarceration and the over-representation of Māori in both:

...we consider there should continue to be no exclusion for serious offenders or any extra criteria for them to meet. A large number of those in prison have been in care and the tūkino they suffered may have contributed to their offending. Most are Māori, and they and their whānau are likely to be among those most in need of help through the scheme.

² <https://www.abuseincare.org.nz/reports/tawharautia-interim-report/impact-of-abuse>

³ <https://www.abuseincare.org.nz/reports/whanaketia/preliminaries/summary-of-key-findings>

⁴ <https://www.abuseincare.org.nz/our-progress/library/v/500/care-to-custody-incarceration-rates-research-report>

27. *Whanaketia* is unequivocal about the fact that the disproportionate number of Māori affected by abuse in care was an abject failure of the Crown to honour its Tiriti obligations:
The failure to address the broader underlying issues that create the circumstances in which Māori are disproportionately taken into the care of State and faith-based institutions was a breach of the Crown duties to recognise rangatiratanga and actively protect Māori.
28. For these past failures to influence who receives redress in the future, the Crown is only compounding its breaches of Te Tiriti. Māori have not received the same rights and protections as other citizens because other citizens were less likely to be placed in care and less likely to be convicted of crimes following care, a clear breach of Article 2.
29. To do justice to its obligations, the Crown should recognise and restore tino rangatiratanga for Māori alongside fair and reasonable redress for harm, provided without discrimination. This requires the Government to acknowledge the harm caused, the breaches of Te Tiriti and support the involvement of Māori and survivors in a way that recognises the mana and tino rangatiratanga of the hapū, iwi and whānau impacted.

Legislative protections will not make apologies more meaningful.

30. Te Pai Ora SSPA opposes the proposed Clause 25 which sets out the effect on liability of an apology under a redress scheme.
31. While an apology on its own is insufficient to determine the extent or nature of a wrongdoing, agencies that apologise do so to demonstrate accountability, at an organisational level, for the harm that they caused.
32. We reject the notion that legislative protections are needed to allow for fulsome apologies by core State agencies. An apology without liability is not a meaningful or fulsome apology and is unlikely to meet the needs and expectations of survivors.
33. Apologies are an essential part of the process of recognising and correcting the harm that has been done but they are not the only part. For the Crown to take full accountability and the reconciliation and redress process to be meaningful, it should not seek further legislative protections alongside these apologies.

Recommendation

34. Te Pai Ora SSPA recommends that the committee abandons this Bill. The Government has a long way to go towards implementing the recommendations from *Whanaketia* and *He Purapura Ora* and listening to survivor voices.
35. The Inquiry's recommendations have already provided a clear path towards addressing the needs of survivors and their whānau. Te Pai Ora SSPA implores the Government to implement these in full. This includes making redress available to all survivors without exclusion, honouring Te Tiriti and not limiting the effect of an apology on liability.
36. Thank you for considering Te Pai Ora SSPA's submission.