

Briefing



Listening, learning, changing Mā Whakarongo me Ako ka huri te tai Crown Response to the Abuse in Care Inquiry

Actions to acknowledge some survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit experienced torture

Date:	29 February 2024	Security level:	In Confidence
Priority:	High	Report number:	CRACI 24/009

Information for the Minister

Hon Erica Stanford
Minister Responsible for the
Crown Response to the Abuse
in Care Inquiry

- The Lake Alice Psychiatric Hospital Child and Adolescent Unit (the Lake Alice Unit) operated 1972–1978 and was the site of significant abuse and cruel treatment of children and young people.
- The Abuse in Care Royal Commission of Inquiry found that some of the experiences at the Lake Alice Unit meet the definition of torture under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention).
- Formal Government acknowledgement that torture occurred would support Ministerial responses to the findings and help avoid further criticism of New Zealand under the Convention. Initial options for consideration of an acknowledgement process are provided.
- It is proposed, subject to your agreement, that detailed analysis is provided in April 2024 on potential redress options for Lake Alice Unit survivors that experienced torture.

Contact for discussion

Name	Position	Telephone	1 st contact
Isaac Carlson	Director, Crown Response Unit	s9(2)(a)	
Rebecca Martin	Head of Strategy and Policy, Crown Response Unit	s9(2)(a)	✓

Agencies consulted

Crown Law, Ministry of Health, Ministry of Justice

Minister's office to complete

- ☐ Noted
- ☐ Seen
- ☐ See Minister's notes
- ☐ Needs change
- ☐ Overtaken by events
- ☐ Declined
- ☐ Referred to (specify)

Comments



Briefing

Actions to acknowledge some survivors of the Lake Alice Psychiatric Hospital Child and Adolescent Unit experienced torture

For: Hon Erica Stanford, Minister Responsible for the Crown Response to the Abuse in Care Inquiry

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Purpose

1. This briefing sets out findings of torture related to the Lake Alice Psychiatric Hospital Child and Adolescent Unit (the Lake Alice Unit), and proposed actions arising from those findings.
2. We recommend a copy of this briefing is shared with the Minister of Health, Minister of Justice, and Attorney-General who respectively hold responsibilities for: the existing Lake Alice Unit abuse claims process; New Zealand's international obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) and domestic obligations under the New Zealand Bill of Rights Act 1990; and, New Zealand's domestic obligations on torture.

Recommendations

3. It is recommended that you:
 - a. **note** the Abuse in Care Royal Commission of Inquiry (the Royal Commission) found that some of the experiences of children and young people at the Lake Alice Unit meet the definition of torture under the Convention. Noted
 - b. **note** the United Nations Committee Against Torture (CAT) has made findings in response to claims lodged by two Lake Alice Unit survivors that found New Zealand in breach of three articles under the Convention and urged New Zealand to provide appropriate redress; Noted
 - c. **note** that initial work responding to the CAT findings was the responsibility of the Ministry of Health, Ministry of Justice, and New Zealand Police but the work has been taken up by the Crown Response Unit given the work being coordinated by the Unit on the development of a potential new redress system for survivors of abuse in care; Noted
 - d. **note** that to date the Government has not explicitly acknowledged that torture occurred at the Lake Alice Unit, but that formal acknowledgement would allow Ministers and officials to respond to survivor and media questions more fully, demonstrate that the

Government is committed to addressing historic abuse, and avoid criticism from the Royal Commission or the CAT of the Crown denying what occurred at the Lake Alice Unit;

- e. **note** that there is no prescribed process for the Government to accept torture occurred at Lake Alice and that Crown Law advises that since the matters have been clearly set out and are not disputed, acceptance would simply require the agreement of appropriate Ministers Noted
- f. **note** there are two high-level options for an acknowledgement for consideration: Noted
- i. a paper taken to Cabinet outlining the matters and seeking agreement that Ministers and officials can publicly acknowledge that some of the experiences children and young people had at the Lake Alice Unit were torture; or
 - ii. a group of relevant Ministers agree the same matters via a joint briefing – with potential Ministers being yourself, the Prime Minister, the Minister of Health, the Minister of Justice, and the Attorney-General reflecting different responsibilities related to the Royal Commission, the Lake Alice Unit, and New Zealand’s obligations under the Convention;
- g. **agree** to receive further information, to assist in considering the potential approach for a formal acknowledgement of torture, through a:
- i. meeting with Crown Response officials, Yes / No
AND/OR
 - ii. proposed April 2024 briefing set out in recommendation i; Yes / No
- h. **note** that in response to the CAT’s findings the Crown Response is preparing detailed analysis on potential options for redress for Lake Alice Unit survivors that had experiences constituting torture, with the potential options including an apology, payment, access to support services, and payment of legal fees for a specific group of Lake Alice Unit survivors; and Noted
- i. **agree** the Crown Response provides in April 2024, for your consideration, the detailed analysis on potential redress options for Lake Alice Unit survivors Yes / No
- j. **agree** to share a copy of this briefing with the Minister of Health, Minister of Justice, and Attorney-General who hold responsibilities for the existing Lake Alice Unit abuse claims process Yes / No

Isaac Carlson
Director, Crown Response Unit
Crown Response to the Abuse in Care Inquiry

29 / 02 / 2024

Hon Erica Stanford
Minister Responsible for the Crown
Response to the Abuse in Care Inquiry

/ /

[REDACTED]

The Abuse in Care Royal Commission of Inquiry has set out the significant abuse children and young people experienced at the Lake Alice Unit, including some experiences that were torture

4. The Lake Alice Unit operated from 1972 until 1978 (although it was not formally closed until 1980) and was the site of significant abuse and cruel treatment of children and young people, under the operation of its head Dr Selwyn Leeks. The Lake Alice Unit has been the focus of sustained significant survivor and advocate efforts seeking accountability and redress.
5. There have been two settlement rounds for groups of Lake Alice Unit survivors and the Ministry of Health operates an ongoing abuse claims process. Details are set out in Appendix One, but the settlements for the groups and ongoing individual claims consist of a written apology from the Prime Minister and Minister of Health and a payment calculated using an approach developed in 2000 by retired High Court judge Sir Rodney Gallen. These apologies were made prior to subsequent findings of torture at the Lake Alice Unit and the apology did not, therefore, specifically acknowledge torture.
6. The Royal Commission held a case study hearing in June 2021 into the Lake Alice Unit as part of its State psychiatric care investigation. The Royal Commission then produced a report on the Lake Alice Unit, *Beautiful Children: Inquiry into the Lake Alice Child and Adolescent Unit*, in December 2022. A summary of the report's findings is set out in Appendix Two.
7. The Royal Commission found that some of the experiences at the Lake Alice Unit, specifically the way electroconvulsive therapy and paraldehyde injections were used to punish children and young people, meet the definition of torture under the Convention.
8. The three elements of torture, as set out in the Convention, are:
 - a. any act causing severe pain or suffering, whether physical or mental;
 - b. intentionally inflicted for such purposes as:
 - i. obtaining from the victim or a third person information or a confession;
 - ii. punishing them for an act they or a third person has committed or is suspected of having committed;
 - iii. intimidating or coercing them or a third person; or
 - iv. for any reason based on discrimination of any kind; and
 - c. the pain or suffering is inflicted by or at the instigation of or with the acquiescence of a public official or person acting in an official capacity.
9. The Royal Commission has identified 362 children and young people who spent time at the Lake Alice Unit. It is not known which of the children and young people received electroconvulsive therapy or paraldehyde injections as punishment. The Royal Commission is also yet to make any findings or set out similar events at other psychopedic institutions. The Royal Commission's final report may include information on additional institutions or recommend further investigation be undertaken by the Crown.

10. The Royal Commission found that past investigations into events at the Lake Alice Unit and processes for providing settlements in response to survivor claims were flawed on a variety of grounds, as outlined in Appendix Two.

Following cases brought by two Lake Alice Unit survivors, the United Nations Committee Against Torture has urged appropriate redress be made available

11. Separate to the Royal Commission, two survivors of the Lake Alice Unit, Paul Zentveld and Malcolm Richards, submitted cases to the CAT regarding their experiences, investigations into the Lake Alice Unit, and the settlements they had received in the early 2000s (under the processes set out in Appendix One).
12. The CAT determined that in each case New Zealand had breached Articles 12, 13 and 14 of the Convention for each survivor. Articles 12 and 13 of the Convention require states to have complaint processes and to conduct prompt and impartial investigations by competent authorities. Article 14 of the Convention requires states to provide redress with a right to fair and adequate compensation.
13. The CAT decision report on Mr Zentveld's claim, issued in 2019, urged New Zealand to:
- conduct a prompt, impartial and independent investigation into all allegations of torture and ill-treatment made by Mr Zentveld, including considering filing charges against the perpetrators;
 - provide Mr Zentveld with access to appropriate redress, including fair compensation and access to the truth, in line with the outcome of the investigation; and
 - make the decision publicly and widely known, to help prevent similar violations of the Convention in the future.
14. The CAT decision report on Mr Richards' claim, issued in 2022, had similar recommendations and urged New Zealand to:
- proceed with a timely consideration by the courts of all allegations of torture made by Mr Richards including, where appropriate, the application on perpetrators of the corresponding penalties under domestic law;
 - provide Mr Richards with access to appropriate redress, including fair compensation and access to the truth, in line with the outcome of the trial; and
 - make the decision publicly and widely known, to help prevent similar violations of the Convention in the future.
15. The New Zealand Police completed a new investigation into allegations of ill treatment of children at Lake Alice in 2021, resulting in charges being filed against a former nurse. The proceedings against the former nurse were halted in June 2023 as the High Court was not satisfied that the defendant's physical and mental impairments could be accommodated to enable a fair trial (in part due to the individual having advanced terminal cancer). The Police investigation identified that all former Lake Alice senior staff and most other former staff are deceased. Investigatory options have therefore been exhausted.
16. The Crown Response Unit and New Zealand Police have published the CAT reports on their websites to help make the decisions widely known. The intended public apology, to be

[REDACTED]

delivered after the Royal Commission's final report, can include references to the Lake Alice Unit. Separate briefings are being provided on the public apology.

17. New Zealand had its seventh periodic review by the CAT in July 2023. In the CAT's concluding observations, it re-emphasised its previous decisions on the two Lake Alice Unit survivors and recommended the Government urgently implement its previous recommendations including providing the survivors with access to redress. Within the context of the CAT's processes, urgently would be expected to be within a year's time (that is, by July 2024), when New Zealand must provide an update report (coordinated by the Ministry of Justice) on actions taken in response to the periodic review.

18. s9(2)(h)
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Agencies involved in responding to the CAT decisions have previously advised the Lake Alice Unit survivors that redress would be provided through the new redress system

19. The Ministry of Health, Ministry of Justice, and New Zealand Police were responsible for the original response to the CAT reports on the two cases. In the responses and replies to subsequent correspondence from Mr Zentveld and Mr Richards in 2022 and 2023, the agencies noted that any additional redress would be provided through a new redress system for survivors of abuse in care. The position was reinforced by the previous Minister of Health and Attorney-General in responses to letters from the Citizens Campaign for Human Rights on behalf of the two survivors.

20. Mr Zentveld and Mr Richards then began regular contact with the Crown Response Unit and the Minister for the Public Service, as Minister responsible for the Crown Response, to press for some form of immediate redress in response to the CAT findings.

21. s9(2)(a)
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

22. In May 2023, the then Minister for the Public Service, as responsible Minister, directed the Crown Response Unit to work with agencies to explore whether some form of early redress could be provided to the two survivors, and potentially made available to other Lake Alice survivors who had similar experiences [briefing CRACI 23/015 refers]. Initial advice provided to the responsible Minister focused on a formal acknowledgement of torture at the Lake Alice Unit, as discussed in the following section, and the redress components that could be considered, as set out from paragraph 3131 below.

[REDACTED]

Given the Royal Commission's findings and the CAT decisions, it is important for many Lake Alice Unit survivors that the Government formally acknowledges their experiences of torture

23. To date the Government has not explicitly acknowledged that torture occurred at the Lake Alice Unit. The Crown's previous settlements and statements reflect the serious nature of the events at the Lake Alice Unit, although do so in broadly worded terms that do not include reference to torture.
24. There have been queries from the Royal Commission, media, and survivors about whether the Crown accepts the Royal Commission's finding of torture. The most recent response to media in October 2023 was: 'The Royal Commission, in its report on Lake Alice, found that the use of electric shocks and paraldehyde to punish meets the definition of torture as outlined in the evidence provided by the Solicitor-General to the Royal Commission. The Crown does not dispute this finding.' The lack of a formal acknowledgement limits what Ministers and officials can state when responding to questions about the Lake Alice Unit.
25. A formal, unequivocal acknowledgement by the Government that some children and young people experienced torture at the Lake Alice Unit is seen by a number of survivors as an important part of their search for justice and healing. It would also allow Ministers and officials to respond to questions more fully, would demonstrate Government is committed to recognising historic abuse, and avoid criticism from the Royal Commission or the CAT of the Crown denying what occurred at the Lake Alice Unit.
26. s9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
27. There is no prescribed process for the Government to accept torture occurred. Given the matters have been clearly set out and are not disputed, s9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
28. If you agree to advance an acknowledgement, the primary question for consideration would be which set of Ministers would be most appropriate to agree the matter, based on the institution and circumstances involved. There are two high-level options for consideration, with a further choice involved in the second option:
- a paper taken to Cabinet outlining the matters and seeking agreement that Ministers and officials can publicly acknowledge that some of the experiences children and young people had at the Lake Alice Unit were torture; or
 - a group of relevant Ministers agree the same matters via a joint briefing, with Ministers that could be part of such a group being:

- [REDACTED]
- i. yourself, reflecting responsibility for the Crown's overall response to the Royal Commission;
 - ii. the Prime Minister, reflecting responsibility for the Government as a whole and acknowledging the serious nature of New Zealand's first torture finding;
 - iii. the Minister of Health, reflecting responsibility for the existing Lake Alice settlements process and the Lake Alice Unit's oversight by the then Department of Health
 - iv. the Minister of Justice, reflecting responsibility for New Zealand's international obligations through representation and reporting at the CAT and responsibility for the New Zealand Bill of Rights Act 1990; and
 - v. the Attorney-General, reflecting responsibility for New Zealand's domestic obligations on torture under the Convention;
29. Having a specific group of Ministers (drawn from the potential list above) agree the matter would likely be a quicker process, since the briefing would only need to be consulted with the relevant agencies and Ministers' offices (compared to the full consultation process for a Cabinet paper). Having Cabinet consider a paper and agree the matter would be a potentially clearer signal of collective acknowledgement of the survivors' experiences.
30. Officials can provide further information to assist in your consideration of the issues related to, and potential approach for, an acknowledgement. This could be in the form of a meeting with you or via a proposed April 2024 briefing discussed in the next section.

Analysis on potential options for redress for Lake Alice Unit survivors who experienced torture is being prepared for your consideration

31. The Crown Response Unit briefed the then responsible Minister in May 2023 [briefing CRACI 23/015 refers] and September 2023 [briefing CRACI 23/029 refers] on the:
- a. CAT recommendations and Royal Commission findings;
 - b. ongoing calls by Lake Alice Unit survivors Mr Zentveld and Mr Richards for redress specifically acknowledging the torture findings;
 - c. need for a formal acknowledgement of torture; and
 - d. high-level information on four potential redress options:
 - i. a new apology that explicitly addresses torture;
 - ii. a new one-off payment acknowledging torture;
 - iii. access to a set of support services focused on Lake Alice Unit survivors' health and wellbeing needs; and
 - iv. payment of legal fees for a set of Lake Alice claimants who had previously received a collective settlement which then had legal fees deducted (described in Appendix One, section A).
32. The information on items a–c in the previous paragraph is summarised in the preceding sections of this briefing. In response to the September 2023 briefing, the previous Minister directed detailed analysis be prepared on the four potential redress options, with the apology and one-off payment as the priority focus. The Crown Response Unit is

coordinating the analysis with the input of the Crown Law Office, Ministry of Health, and Ministry of Justice.

33. The detailed analysis on the potential redress options alongside the counterpoint of maintaining the status quo of the current settlement process (outlined in Appendix One, section C) is intended to be provided to you in April 2024, subject to your agreement. Officials are available to meet with you to discuss the options at a high-level ahead of the detailed analysis or can meet with you once you have had the opportunity to consider the analysis.
34. Subject to your consideration of the matter, you may wish to share a copy of the analysis with the Minister of Health, Minister of Justice, and Attorney-General given their respective responsibilities as set out in paragraph 2828.
35. We can provide further background information on anything set out in this briefing ahead of the detailed analysis of the potential redress options.

Separate to the consideration of potential redress options for Lake Alice Unit survivors, efforts were made to purchase land at the site of the former Lake Alice Psychiatric Hospital for a memorial

36. The site of the former Lake Alice Psychiatric Hospital is now private property, with the majority of the land cleared and returned to farmland. The hospital's water tower is the only remaining structure and sits on its own land parcel. Late in 2022 the water tower property was listed for sale. The Crown Response Unit was approached by a small number of Lake Alice Unit survivors and survivor advocates and asked to purchase the water tower property to turn it into a memorial.
37. The then Minister for the Public Service, as responsible Minister, agreed the Crown Response Unit make an offer to purchase the water tower property. Two formal property purchase offers were made in June and September 2023, the first based on the property's rateable value and the second based on an independent valuation. The Crown Response Unit was unable to reach an agreement with the vendor on price. The property remains for sale, and some survivors of the Lake Alice Unit continue to seek support for a memorial at the site. However, views on the potential purchase vary among survivors, with some preferring any potential purchase funding be committed to redress.
38. We can discuss the potential for a memorial with you, if you wish to consider the Crown making a further purchase offer should the property remain on the market. Given previous survivor and media interest in the water tower sale, there may be continued interest in what steps the Crown is considering.

Appendix One: Previous Lake Alice Unit settlement rounds and the current claim process

The Crown has engaged in two rounds of settlements for Lake Alice Unit survivors to date, the first in 2001 and the second in 2002/3. The Ministry of Health maintains a process for assessing and settling any new claims that arise.

A. Round one settlement
<ul style="list-style-type: none">• In 1999, 88 former Lake Alice Unit patients, represented by Grant Cameron & Associates, filed a joint statement of claim in the High Court.• In early 2000, the Government determined it would compensate and apologise to former Lake Alice Unit patients rather than defend the claim in the High Court.• In October 2000, \$6.5 million was approved for settlement with 95 claimants (the 88 former patients that had filed and seven other former patients that had since come forward). The Crown appointed retired High Court judge Sir Rodney Gallen to determine how the settlement monies should be divided among the claimants.• Sir Rodney considered the claimants' described experiences to determine how the settlement funds might be distributed. He produced a report about his assessment, which provided general comment on the experiences and the methodology he had used to allocate the settlement monies. Grant Cameron & Associates deducted approximately 40 per cent of the settlement amount in legal costs. The amounts paid out to individuals was strictly confidential and the Crown does not have specific details of either individual amounts paid or deducted.• Following the settlement, the then Prime Minister and Minister of Health wrote to each claimant and apologised on behalf of the Government for their treatment in Lake Alice Unit.
B. Round two settlement
<ul style="list-style-type: none">• The Government decided in 2001 to take steps to settle any outstanding or potential claims by former patients of Lake Alice Unit. The process was to involve an apology and a confidential settlement process broadly similar to the round one settlement of the class action.• Sir Rodney was again instructed by the Crown to consider claimants' experiences and make a determination on the payment amount to be made in line with the principles and criteria he established for the round one process. Sir Rodney was instructed to take into account the absence of substantial legal costs to new applicants.• The round two settlement saw 98 former Lake Alice Unit patients collectively receive \$6.3 million in compensation up until 2008. The average settlement was approx. \$70k.• Mr Zentveld filed proceedings in 2005 challenging the instruction to take into account the legal costs deducted from the round one settlement when considering the payments to be made under the round two process. The District Court found for the complainant, which resulted in the reduction applied to the round two payments being reworked. Round two claimants were then being paid an additional approximately 30 per cent on their initial settlement amounts.
C. Individual claims
<ul style="list-style-type: none">• The Ministry of Health maintains an ongoing process for any new Lake Alice Unit claims that come forward. There have been 9 further settlements since round two was completed in 2008. Five new claims have been submitted to the Ministry of Health following the release of

the Royal Commission's reports. The claims will be assessed once the Ministry has received the relevant Lake Alice Unit records from Te Whatu Ora (the Lake Alice Unit records were previously the responsibility of Mid-Central District Health Board).

- Claims are assessed against the principles and criteria established for the round two settlements, with the payment determined by the Ministry of Health's Chief Legal Advisor. The average settlement is \$68k. The payment is accompanied by a written apology from the Prime Minister and Minister of Health.
- Lake Alice Unit settlement funding has been exhausted and costs for the ongoing claims process are currently met from the Ministry of Health's Legal Services budget on the estimate of two settlements per year maximum.

Example of an apology letter provided to a Lake Alice Unit survivor

Dear [survivor name]

We are writing to you personally on behalf of the Government of New Zealand to apologise for the treatment you received and may have witnessed in the Child and Adolescent Unit of Lake Alice Hospital during the 1970s. We are apologising to all those who were mistreated. We believe it is important to take this step, to enable us to move on from shameful practices in mental health care in New Zealand.

You may be aware that the events at the Child and Adolescent Unit of Lake Alice Hospital have been the subject of investigation. As a government we have been determined to acknowledge what happened and to take what steps we can to put things right. We have publicly stated that, whatever the legal rights and wrongs of the matter, and whatever the state of medical practice at the time, what happened there was unacceptable. On behalf of the Government of New Zealand we sincerely apologise to you as a person fundamentally affected by what occurred in the Lake Alice

We hope that this apology will affirm to you that the incidents and events that you experienced and may have witnessed at the Child and Adolescent Unit at Lake Alice Hospital were not only inappropriate, even if judged by the standards of the day, but were also terribly unfortunate. They should not have happened. We very much regret that they did.

We know that the apology cannot change the past, but we do hope it will go some way towards enabling you to move on from your past experiences. In the same spirit we hope that the ex gratia payment the Government has made to you will be of some tangible help.

We wish you all the very best for a positive future.

Yours sincerely

Rt Hon Helen Clark
Prime Minister of New Zealand

Hon Annette King
Minister of Health

Appendix Two: Summary of the Royal Commission's findings on the Lake Alice Unit

The Royal Commission released the report *Beautiful Children: Inquiry into the Lake Alice Child and Adolescent Unit* in December 2022. The report's summary of findings follows. The Royal Commission did not make recommendations in the report, but signalled recommendations related to the Lake Alice Unit would be likely in its final report (due March 2024).

Circumstances that led to individuals being placed in the unit

1. Most children and young people at the Lake Alice Hospital child and adolescent unit were admitted for behavioural reasons, often arising from tūkino - abuse, harm or trauma, rather than mental distress.
2. Social welfare involvement was a common pathway of admission to the unit, disproportionately affecting Māori. About 41 percent of those admitted from social welfare residences were Māori, and about 29 percent of those admitted from home with social welfare files were Māori. Poor quality records make precise figures impossible.
3. The Department of Health, Department of Social Welfare and staff at the unit did not have proper processes in place to ensure the lawful admission, treatment and detention of children and young people in the unit.

Nature and extent of abuse at the unit


4. Extensive tūkino - abuse, harm and trauma - at the unit included:
 - electric shocks as punishment, administered to various parts of the body, including the head, torso, legs and genitals
 - the injection of paraldehyde as punishment
 - physical and sexual abuse by staff and other patients
 - the misuse of solitary confinement
 - emotional and psychological abuse
 - exposing patients to unreasonable medical risks.
5. Survivors experienced systemic racism, ableism and homophobia in the unit.
6. The use of electric shocks and paraldehyde to punish met the definition of torture as outlined by the Solicitor-General.

Impacts of abuse

7. The abuse in the unit harmed survivors' physical and mental health, their psychological, emotional, cultural and spiritual wellbeing, and their educational and economic prospects.
8. Many survivors turned to crime and were imprisoned.
9. The harm to survivors has been transferred over generations.


Factors that caused or contributed to abuse in the unit

10. Staff at the unit held largely unchecked power over vulnerable patients.

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11. The unit's isolated physical environment separated patients from their families, culture and support networks.
 12. Staff training and resourcing were inadequate.
 13. Staff's prejudiced attitudes devalued patients.
 14. The institutional culture at the unit normalised abusive practices and contributed to a culture of impunity.
 15. The Department of Social Welfare routinely failed to evaluate whether the unit was an appropriate environment for the children and young people in its care.
 16. Internal oversight and monitoring at the unit was inadequate, including ineffective complaint and whistleblowing mechanisms.
 17. Complaints to the Department of Education and Department of Social Welfare were not adequately investigated or responded to.
 18. External monitoring and oversight mechanisms were limited: district inspectors and official visitors held part-time roles with institutional limitations that reduced their effectiveness.

Attempts to learn lessons from abuse: accountability and redress

19. Inquiries by the Ombudsman and a commission of inquiry in the late 1970s had limited scope and duration, and inadequate access to information.
20. The first New Zealand Police investigation, in 1977, was flawed.
 - The investigating officer reached a conclusion before obtaining key evidence.
 - The scope of the investigation was narrow and important witnesses were not interviewed, including most of the patients at the unit.
 - NZ Police did not recognise the deficiencies in the expert opinion they obtained.
21. The investigations and actions by medical professional bodies in 1977 were flawed.
 - The Medical Association prioritised fairness to Dr Leeks over the safety and wellbeing of patients
 - The Medical Association and the Medical Council accepted much of Dr Leeks' response to allegations without question.
 - The New Zealand branch of the Australian and New Zealand College of Psychiatrists learned of Dr Leeks' conduct in the late 1970s but did not confront Dr Leeks or forcefully advocate for change.
22. The Crown's response to civil claims by survivors in the 1990s and 2000s was flawed.
 - The information available to the Ministry of Health and Crown Law from the early stages showed the claims were meritorious, but officials were more focused on defending liability than acknowledging the merits of the claims.
 - In the late 1990s, Ministers decided to defend the claims in court, despite the merits, to establish the parameters of Crown liability.

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- A newly elected Government directed officials to settle the Lake Alice claims in 2000, but officials continued to place obstacles in the way of settlement, requiring a further direction to settle from the Prime Minister.
 - Even after proceeding with settlement, the Crown treated survivors unfairly and wrongly deducted amounts from the payments to survivors.
 - The legal process had many other flaws.
 - The legal process was slow, made worse by inexcusable delays on the part of the Crown.
 - The legal system placed many legal and practical barriers in the way of survivors which put them at a disadvantage.
 - Crown lawyers exploited every legal advantage to try to defeat the claimants, with an adversarial mindset, despite the merits of the claims.
 - Many officials and others in power had a resistant attitude to the claims and the claimants and their legal representatives.
 - The settlements did not acknowledge physical and sexual abuse.
 - The settlements were 'without prejudice'; that is, with no admission of wrongdoing.
 - The process did not lead to criminal or professional disciplinary accountability.
 - Human rights breaches were not recognised nor was the State's obligation to carry out a prompt and impartial investigation into the allegations of torture.
 - No effort was made to engage with Māori survivors in a way that recognised their culture, language and tikanga.
 - No effort was made to recognise Pacific peoples' cultures and languages.
 - No effort was made to recognise the needs of disabled people.
23. The Medical Council declined to carry out a fresh investigation into Dr Leeks' conduct in 2000, wrongly believing earlier investigations had adequately addressed the issues.
 24. The Royal Australian and New Zealand College of Psychiatrists had the power to censure, suspend and expel members, but it had no powers to investigate or require the production of information or evidence in relation to misconduct of psychiatrists.
 25. The Accident Compensation Corporation failed to refer evidence of medical misadventure by Dr Leeks to the Medical Council for investigation as it was required to do – a serious oversight.
 26. Despite a request to do so, the Crown did not provide the Children's Commissioner with material it held about former Lake Alice staff in 2002 and the Commissioner took no further action.
 27. In 2005, the Health and Disability Commissioner took no further action on a Lake Alice complaint, believing little would be gained by another investigation. The office of the Health and Disability Commissioner should have disclosed a potential perceived conflict of interest to the complainant, even though the outcome complied with internal processes.
 28. The second NZ Police investigation, from 2003 to 2006, was flawed.

- The officer in charge did not think an investigation was warranted and was not aware of the previous investigation file.
- NZ Police did not give the investigation priority or adequate resources and did not actively progress the investigation for four years (2003 to 2006).
- NZ Police obtained advice from Crown Law based on just one complainant's evidence, despite having 33 other statements.
- NZ Police did not follow Crown Law's advice to carry out further investigation into the use of electric shocks and paraldehyde as punishment.
- NZ Police did not properly manage the file, losing key evidence.
- NZ Police did not carry out basic investigative steps such as interviewing complainants or staff, seeking records or interviewing potential defendants.
- The officer in charge formed an adverse view about the credibility of complainants without interviewing them or investigating their complaints.

29. The third NZ Police investigation, in 2006 to 2010, was flawed.

- NZ Police did not afford adequate priority or resources to the investigation.
- NZ Police did not designate it a 'specialist investigation', which would have ensured specialist staff and greater resources were allocated to it.
- NZ Police reduced the investigation's scope to the misuse of the machine used to deliver electric shocks, overlooking physical and sexual abuse and the punitive use of paraldehyde.
- NZ Police did not interview relevant complainants or investigate serious sexual allegations.
- NZ Police focused on Dr Leeks, overlooking other staff.
- NZ Police obtained legal opinions based on an incomplete and inaccurate summary of the file.
- NZ Police adopted a biased attitude against those who had been admitted to the unit, treating them as unreliable and troublesome. NZ Police assumed staff were well-meaning and dedicated professionals.

30. The Crown Law Office did not consider Aotearoa New Zealand's obligations under the Convention against Torture when dealing with the Lake Alice claims in the 1990s and 2000s. The United Nations Committee against Torture found New Zealand in breach of the convention for failing to ensure a prompt and impartial investigation into the unit.