



Office of Hon Anne Tolley

MP for East Coast

Minister for Social Development

09 FEB 2017

Mr Jason Brown

fyi-request-5173-64b11066@requests.fyi.org.nz

Dear Mr Brown

On 10 January 2017, Hon Amy Adams, Minister of Justice, transferred the following part of your request, made under the Official Information Act 1982, for information regarding a full independent inquiry into child abuse in New Zealand, to my office:

- *What evidence can government point to that child abuse is only a "historic" concern, and does not remain a contemporary issue?*
- *Why is child abuse after 1980 not a concern to your government?*
- *What discussions, briefings, submissions or other communications have you, former Justice minister Judith Collins, and her/your office and ministry provided to cabinet?*
- *Why is government attempting to limit debate around the need for a full commission of inquiry into allegedly "historic" cases between 1950 to 1980?*
- *Given evidence of widespread child abuse uncovered by a full and official inquiry by our closest neighbour, Australia, and government's long-standing promise to "catch up with Australia" why is government not responding to significant public concerns here with a similar inquiry?*

For clarity, your questions have been addressed in turn:

- *What evidence can government point to that child abuse is only a "historic" concern, and does not remain a contemporary issue?*
- *Why is child abuse after 1980 not a concern to your government?*

Child abuse is not only a "historic" concern. All claims of child abuse are taken seriously and I am well aware that child abuse of all sorts has been perpetuated for many, many decades and that it still continues. That is why I am so committed to ensuring, through the establishment of the Ministry for Vulnerable Children Orangi Tamariki, that the future care system can provide the best possible outcomes for children and young people.

The Ministry of Social Development is equally committed to working with people who have experienced abuse while in care in a way that brings some resolution for them. Nothing can change what has happened in the past, but we know that these experiences remain with people, and of utmost importance to them is that their experiences are heard, believed and acknowledged in a personal and tangible way.

- *What discussions, briefings, submissions or other communications [regarding a full independent inquiry into child abuse] have you, former Justice minister Judith Collins, and her/your office and ministry provided to cabinet?*

When the whole of government response to historic claims was being considered in 2006, the previous government declined to hold an inquiry. There has been no change of view on that since. Rather, government took steps to develop a crown historic claims litigation strategy which focuses on early and direct resolution of claims with claimants.

Neither me, my office, nor the former Minister for Social Development, Hon Paula Bennett, have provided any discussions, briefings, submissions or other communications to Cabinet relating to the establishment of an independent inquiry into historic abuse claims. Your request for this information is refused under section 18(e) of the Official Information Act as no such consideration was undertaken.

- *Why is government attempting to limit debate around the need for a full commission of inquiry into allegedly "historic" cases between 1950 to 1980?*
- *Given evidence of widespread child abuse uncovered by a full and official inquiry by our closest neighbour, Australia, and government's long-standing promise to "catch up with Australia" why is government not responding to significant public concerns here with a similar inquiry?*

I have never sought to limit debate and there has been open debate about the issue you raise. I believe that it is important to understand what a full independent inquiry can and cannot achieve, learning from those examples in other countries. An inquiry would confirm that some children were abused and neglected, and were further harmed as a result of failures in practice in a variety of different types of care over many years. Given the passage of time and the fact that many victims, other people who were in care, staff and social workers have since passed away, it is unlikely that it could determine the exact number of children who were abused and failed, or the number of perpetrators. Nor can an inquiry determine the facts in any particular individual claim. An inquiry would not resolve claims and it certainly could not give individual and personal acknowledgements, apologies and payments.

I personally, along with this Government and previous governments, have not denied the fact that some children were abused and harmed while in state care. That is a known fact. The important thing is to have a process that will, in as many cases as possible, resolve the individual claims that people have, and to have current practices that do not allow for it to happen today.

For more than a decade the Government has recognised the importance of resolving claims and for people to tell their story.

The Crown's litigation strategy for historic claims of abuse provides government agencies with the three broad principles to address such claims. Firstly, agencies will seek to resolve grievances early and directly with an individual where practicable, secondly, settlement will be considered for any meritorious claim and thirdly, claims that do proceed to court because they cannot be resolved will be defended (access to legal representation).

As a means of providing specific assistance and support to claimants or would be claimants, government established the Confidential Listening and Assistance

Service in 2008 as an independent agency to provide assistance for people who had suffered abuse and neglect in State care before 1992. The Service finished in June 2015. The final report of the Service and the Government response to this report, which I tabled with the Cabinet Social Policy Committee in September 2016, is available at: www.dia.govt.nz/Final-Report-of-the-Confidential-Listening-and-Assistance-Service.

The Confidential Listening and Assistance Service was chaired by Judge Carolyn Henwood, and panellists were appointed in basis of their expertise and standing in the community. Their role was to provide a forum for people with concerns regarding their treatment in State care to come forward for assistance. Many participants came to the Service because they wanted their story heard and to be taken seriously. Participants were given the opportunity to meet with the Panel, have their story recorded, and identify the assistance required. It was particularly important for the participants to be able to speak to an official body, chaired by a Judge, independently appointed and supported by a neutral Government Department.

Many of the participants who came to the panel meetings had never seen their old Social Welfare files or hospital records. The Service assisted participants who wanted to obtain a copy of their file to request the file and ensured a level of support was available to participants when reading their files. Another common outcome of a panel meeting was for the Service to fund sessions of counselling, to support a participant afterwards.

Many participants who spoke of the care and treatment they received while in the care of the State felt they wanted an investigation into their case, with a view to the State accepting some level of accountability. The Service made requests regularly to various responsible agencies for investigations, with a view to an apology and some financial settlement.

The Ministry of Social Development's claims resolution process implements the historic claims litigation strategy. It allows claimants to bring claims directly to the Ministry and does not require claimants to be legally represented or file proceedings in Court, although these options are available to any claimant. The process provided a meaningful option for claimants and manages Crown risk appropriately.

The Ministry's resolution process has been recognised as innovative and effective in achieving resolution for claimants. However, the investigation process is time consuming and a backlog of claims relating to people in care prior to 1993, has built up over time. To address this, the Government brought forward a total \$26 million in funding to implement the fast track approach to resolve claims that were received by 31 December 2014. This approach provided claimants with a meaningful alternative way to resolve their claim that still addresses underlying issues in arising from their experience of care.

The Ministry's claims resolution process is unique in that it provides, as a part of the process, the opportunity for those who want it to talk face to face with senior representatives of the Ministry to question and confront issues and decisions of the past, to have their experiences and feelings heard and acknowledged, and to receive a personal apology. This is something that only a personalised service can provide, and I have complete confidence in the Ministry's process. The Ministries of Health and Education also have resolution processes based on the same model, for people who suffered abuse historically in the care of their institutions.

Further information about the Ministry's process is available at: www.msdc.govt.nz/about-msdc-and-our-work/contact-us/complaints/cyf-historic-claims.html

Some countries have undertaken inquiries into historic abuse, generally where there has been evidence or suggestion of systemic, long-term issues. For example, the Australian Royal Commission was established following revelations of child abusers being moved between institutions rather than reporting the crimes. There were also revelations that adults failed to try to stop further acts of child abuse. Successive Governments have not called for a similar inquiry in New Zealand instead relying on the litigation strategy and the Confidential Listening and Assistance Service as a means of providing individualised response to the unique circumstances of each individual claimant.

The Government does recognise the care system has failed some of the children and young people in its care. We are working very hard to change that system. Many of the recommendations from the final report of the Confidential Listening and Assistance Service have been addressed in the proposal made by the Modernising Child, Youth and Family Expert Advisory Panel and through the establishment of the Ministry of Vulnerable Children, Oranga Tamariki. The Government is also working hard to recognise in a personal way how the abuse experienced has so seriously affected victims. We will continue to do this, but I am not convinced that an independent inquiry would be of any further benefit.

If you are not satisfied with this response regarding historic claims and a full independent inquiry into child abuse, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Anne Tolley', with a stylized flourish at the end.

Hon Anne Tolley
Minister for Social Development