

# 1. Introduction to the Royal Commission of Inquiry into Abuse in Care



Te Kōmihana Karauna mō ngā Tūkino o Mua  
ki te Hunga i Tiakina e te Kāwanatanga  
i Tiakina hoki e ngā Whare o te Whakapono

Royal Commission of Inquiry into Historical Abuse  
in State Care and in the Care of Faith-based Institutions

## What is a Royal Commission of Inquiry?

A Royal Commission of Inquiry is set up by the Government to look at an issue or event that is very important. It is the highest level of Inquiry in New Zealand.

The Government sets the Terms of Reference (what is going to be included in the Inquiry) and selects the Commissioners (the people leading the investigation). After that, the Government are no longer able to direct or be involved in the running of the Inquiry.

## Why is there a Royal Commission of Inquiry into Abuse in Care?

For a long time many survivors have been calling for an Inquiry into the abuse of children and vulnerable adults in the State care.

In July 2017 a petition asking for an Inquiry, signed by many survivors and supporters, was delivered by to Parliament.

In February 2018 the Government announced there would be a Royal Commission of Inquiry into Abuse in State care.

On November 12<sup>th</sup> 2018 the Government selected the four Commissioners to join Sir Anand: Paul Gibson, Ali'imuamua Sandra Alofivae, Dr Andrew Erueti and Judge Coral Shaw. They also gave the Royal Commission its Terms of Reference.

The Terms of Reference expanded the investigation to include survivors of abuse in the care of faith-based institutions also.

## Shortened Version of the Terms of Reference

### Why the Inquiry was set up

The Government set up this Inquiry in response to public calls for a broad-based inquiry into abuse and neglect, both in State care and in the care of faith-based institutions.

### What we can investigate

We will investigate the abuse and neglect of children, young people and vulnerable adults who were in the care of State and faith-based institutions in New Zealand between 1950 and 1999. We may also consider abuse and neglect that happened before 1950, or after 1999, including people who are still in care now.

## **What questions we will look at**

These include:

- Why people were taken into care – including if there was bias, discrimination or bad decision-making by agencies.
- What abuse and neglect occurred - what took place and to what extent?
- Why it happened – what made it possible for abuse and neglect to happen to people?
- What effects this had – on the person abused, their family, whānau and others. This includes long-term effects and effects on future generations.
- What was learned – what changes were made over the years in response to abuse and neglect, including to laws, rules, and efforts to monitor places where care is provided?
- How well the systems are working now – including current redress and rehabilitation processes.
- How things can be done better in the future.

## **How we will work**

We will receive information in many ways: by listening to people, holding public hearings, receiving submissions in writing and by obtaining documents and records. We will also conduct research. We have powers to require people and institutions, including Government agencies, to give us information and documents.

## **How we will hear from people**

We will have several ways to hear from people:

- in private sessions;
- in public hearings;
- in round table discussions;
- by submissions.

## **Our principles**

We recognise Te Tiriti o Waitangi. We are also guided by a set of principles including:

- doing no harm;
- focusing on victims and survivors;
- taking a whānau-centred view;
- working in partnership with iwi and Māori;
- working inclusively with Pacific people;
- facilitating the meaningful participation of people with disabilities or mental illness;
- responding to differential impacts on any particular individuals or groups;

- being sensitive to the different types of vulnerability that arise for people in care;
- ensuring fair and reasonable processes for individuals and organisations associated with providing care; and
- avoiding being too legal.

## **Our independence**

The Royal Commission is independent of the Government and faith-based institutions. We will reach our own conclusions and recommendations in our own way.

## **How we will report**

We will prepare at least two reports:

1. **Before the end of 2020.** This will cover what we have learned by then, the main themes, and how many people have come forward so we can estimate the resources needed to complete the work. We can make recommendations for change at this stage, rather than wait until the end of the Inquiry.
2. **Before January 2023.** This is our final report. We will report on what we found out about the nature of the abuse, the extent of it, what impact it had on people, what has improved, and what may still need to be done.

We will make recommendations to the Government and faith-based institutions about:

- changes to laws, rules, and ways of working;
- what needs to happen to prevent and respond to abuse and neglect in the future;
- what needs to be done to support people who have been abused or neglected (redress, rehabilitation and compensation processes);
- how to address the harm caused; and
- apologies.

**The Commissioners prepared this summary to help people understand the Terms of Reference - it does not replace the full Terms of Reference.**

Both this shortened version (translated into six languages) and the Full Terms of Reference are available on the Royal Commission website on the 'Terms' page.

## **Further information**

For more information you can:

- contact our support team by phone on: 0800 222 727
- look at our website at: [www.abuseinstatecare.royalcommission.govt.nz](http://www.abuseinstatecare.royalcommission.govt.nz)

## 2. Survivor Kete Information for survivors



Te Kōmihana Karauna mō ngā Tūkinō o Mua  
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### What is a private session?

At a private session you can share your experiences with the Royal Commission of Inquiry.

Generally one Commissioner will meet with you at the private session. They will listen and help you talk about your experiences and memories. You can take your time and have breaks whenever you want.

A private session will usually last a couple of hours, but it could be more or less depending on how much you feel like talking.

You will be asked to sign a consent form to say that you agree to take part in the private session, that you agree to notes being taken and that you agree to the session being recorded. You can change your mind at any time.

### Can I bring a support person?

Yes, you can bring a person or people to support you at the private session. Please provide your support coordinator with the contact details of the person(s) you would like to bring so that they can make the arrangements.

A support person might be someone from your whānau, family, a friend or somebody else you trust. They should be able to help you prepare for the private session, support you on the day and be available to talk with you in the days and weeks after the private session.

If you are not sure if you need a support person, or do not know who the right person to support you is, please contact your support coordinator for advice.

You may find it helpful to talk with your support person about what you would like to say before coming to a private session.

The private sessions are not part of a legal process so lawyers are not needed. If you think that you might need a lawyer because of something you want to say please contact your support coordinator to discuss this. There is a list of lawyers who can provide free legal advice about participating in private sessions.

### What do I say?

Before the private session it may help you to think through what you would like to talk about. This will help you share your experiences, as best as you can, within the time available.

You may find it helpful to write down what you would like to say before coming to the private session. You may want to write down things that you want the Commissioner to know but do not want to talk about in person. If you want, you can give these notes to the Commissioner at the session. All information will be treated confidentially to the extent possible by law, unless disclosure is necessary to prevent a serious risk to the health and safety of any person, or to prevent a serious crime.

It helps the Inquiry if you can speak about your life before going into care, your time and experiences in care, and your life after care.

You can choose how much you want to say about any part of your experiences. Sometimes a Commissioner will ask questions to make sure they are clear about what you say.

## What happens to what I say?

A session facilitator will be at the private session to take notes of what you say. Your conversation with the Commissioner will also be recorded. Later on, this recording will be written down.

You will be asked to sign a consent form to say that you agree to being recorded and agree to notes being taken, and that the Inquiry can use the information you provide. It is OK if you do not want to be recorded, please let your support coordinator know.

## How will my information be used?

The information from your private session will be used in a number of ways. For example, it may be included in research reports or used to create themes for the Inquiry to investigate. If lots of people talk about experiences in the same institution then this institution may become a theme. Or, if many people talk about a certain type of abuse this may become a theme.

The issues raised by these themes will then be investigated and looked into at Public Hearings.

It is possible that you might be contacted to participate in a Public Hearing. You do not have to do this if you don't want to. If you have any concerns about this please contact your support coordinator to discuss.

Your private session is confidential. This means that the other people in the session must not talk to anyone about what they hear. You can talk with other people about your session if you wish.

**There is an important exception to the Royal Commission's confidentiality.**

## Disclosure to prevent harm and to prevent criminal offences

If it is necessary to prevent a serious risk to the health and safety of any person, or to prevent an anticipated or proposed serious crime from occurring,<sup>1</sup> the Royal Commission may tell the Police or other authorities about information you disclose in a private session. That could, for example, include a current suicide risk, or information that you are currently committing serious criminal offending.

If you are worried about what this might mean for you, or what you want to say about your experience, please contact your support coordinator for advice. As above, there is a list of lawyers who can provide free legal advice about this.

## How can the Royal Commission support me?

Your support coordinator will provide information about the time, date and venue for the private session and can help to arrange transport.

They can also help with anything else you may need on the day. For example, you may need an interpreter, help with physical access, or you may have an electronic monitoring restriction. Please tell your support coordinator what you need before your private session so that you can feel comfortable and participate fully.

On the day, you will be met by the session facilitator who will show you around the venue and answer any questions. This person will talk with you about how the session will run, including any protocols or tikanga you may like included. Refreshments will be provided afterwards. If you have any questions about the session, please contact your support coordinator.

## Counselling and other support

There will be a counsellor available for you to speak to before and after your private session. You will have access to a private space to think or talk with your support person and/or the counsellor.

Additional counselling and other support is available following your private session if you decide you need it.

Please contact your support coordinator for more information on the counselling and other support available.

## Further information

For more information you can:

- contact our support team by phone on: 0800 222 727
- look at our website at: [www.abuseinstatecare.royalcommission.govt.nz](http://www.abuseinstatecare.royalcommission.govt.nz)

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<sup>1</sup> "Serious crime" means one punishable by 3 years imprisonment or more.

## 3. Survivor Kete Choosing a Support Person



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### What does a support person do?

A support person is someone you can bring along to support you at your Tukutuku/Private session. You can have more than one support person.

They can help you feel comfortable. You may want them to come into your session. If they do they can listen, take notes and help with anything you need. They may help you to talk about your experiences and can ask for a break if you need one.

It is OK if you want your support person/s to wait for you outside the room.

Private sessions are confidential. This means that a support person must not talk to anyone about who they are supporting or what they hear in the private session.

### What is a support person unable to do?

Although a support person can help you, they are unable to ask the Commissioner questions or speak for you. They are not an advocate.

### What is the difference between a support person and an advocate?

An advocate is allowed to speak for you. If you want an advocate to speak for you then you must tell us before the session and sign a form to say that you would like person to speak for you.

### How can your support person offer you support?

(You may want to share this list with your Support Person)

Your Support Person should:

- Ask you how you would like to be supported and what you need from them
- Support the decisions that you make
- Allow you space and an opportunity to talk about how things are going for you
- Attend the Tukutuku/Private session (if you want them to)
- Talk with you after the meeting.

### Further information

For more information you can:

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- look at our website at: [www.abuseinstatecare.royalcommission.govt.nz](http://www.abuseinstatecare.royalcommission.govt.nz)

## 4. Survivor Kete

### List of Independent Lawyers



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As part of your participation in the Tuketuku/Private sessions with the Royal Commission, you are asked to sign a consent form which:

- (a) records that the information you provide during a private session will be kept confidential to the extent permitted by law;
- (b) gives you some information about how the information you give during your private session may be used;
- (c) gives your consent to, and sets some rules around, recording of the information you provide; and
- (d) describes how, if you tell us about a serious risk to the health and safety of any person, the Royal Commission may be obliged to pass that information to the relevant authorities (usually the New Zealand Police). The Royal Commission's policy on self-incrimination will be explained to you in advance of your session.

You may feel like you want to discuss with a lawyer what signing the consent form may mean for you or what the self-incrimination policy means.

The Royal Commission has put together a short list of independent senior lawyers who:

1. do not act for the Royal Commission nor any of the institutions or Crown agencies who will likely be part of the Royal Commission's inquiry;
2. are familiar with the things the Royal Commission has been set up to look into;
3. are senior lawyers who are experienced with dealing with victims of crime or abuse;

4. have been provided with copies of the documents provided to you in the Information Pack including the consent form and the self-incrimination policy; and
5. have offered to provide independent advice to any survivor or Tukutuku/Private session participant on the consent form and the self-incrimination policy.

Below is a list of lawyers available for you to contact to get some **free** legal advice before signing the consent form:

Name	Firm	Phone number
Ian Murray	Harbour Chambers	04 494 8149
Ataga'i (Ata) Esera	Family Law Specialists, Porirua	04 237 4063
Rohan Cochrane	Family Law Specialists, Porirua	04 237 4063
Annette Gray	Buchanan Gray, Wellington	04 472 8269

## 5. Consent Form for Tukutuku/Private Session – Explanation



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The consent form is a legal document which you will sign on the day of your private session.

It confirms you agree to take part in the Tukutuku/Private session and gives the Royal Commission permission to record and use your information.

It also lets you know when the Royal Commission may share your information with Police or other authorities.

Please ask your support coordinator if you need more information about this before you make the decision to sign the consent form.

This document provides an explanation of the consent form (which is the next document in this Information Pack). On the day of your session, you will sign the consent form – not this document.

### Consent to Participate in the Private Session

1. You have come along to this private session voluntarily and you agree to participating in the session. You may end the session whenever you want.

### Consent to Record and Use Information from the Private Session

Before you go into the session you understand:

2. Your information will be kept confidential to the extent permitted by law,<sup>2</sup> unless:
  - a. you agree to it being shared, for example in a Public Hearing; or
  - b. the Royal Commission has to provide it to authorities to prevent a serious risk to the health and safety of any person, or to prevent a serious crime.

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<sup>2</sup> For example, the Royal Commission would have to share information if a Court ordered it.

3. If it is necessary to prevent a serious risk to the health and safety of any person, or to prevent a serious crime, the Royal Commission may tell the Police or other authorities about the information you share in your session.
  
4. The private session will be recorded and the information used within the Royal Commission (e.g. for research reports or to help choose themes for the Public Hearings).
  
5. Your information will be made anonymous - unless you want your name to be used when information is shared.
  
6. Your information will not be evidence for the Public Hearings and the Royal Commission will not be able to make findings from information received at a private session.
  
7. Neither you nor your supporter(s) are allowed to record the private session because it is confidential.

If you sign the consent form you are agreeing to these things:

- A. That you have read the form, or had it read to you by a person you trust
- B. You understand the consent form
- C. You agree to participate in the private session
- D. You agree that the private session will be recorded and used in the work of the Royal Commission
- E. You can withdraw your consent at any time by writing to the Royal Commission to let us know that you do not want the Royal Commission to use your information any more.

## 6. Consent Form for Tukatuku/Private Session



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Please read this consent form. You will be asked to sign it on the day of your private session (before you go into the session).

If you have any questions about the form please contact your support coordinator.

### CONSENT TO PARTICIPATE IN, RECORD AND USE INFORMATION FROM THE PRIVATE SESSION

In advance of participating in a private session with the Royal Commission of Inquiry into Abuse in State Care and in the Care of Faith-based Institutions, I acknowledge I have been informed of the following:

1. All information I provide during a private session will be kept confidential to the extent permitted by law,<sup>3</sup> unless:
  - a) I agree to it being shared, for example in a public hearing; or
  - b) the Royal Commission has to provide it to prevent a serious risk to the health and safety of any person, or to prevent serious criminal offending (see paragraph 2 below).
2. I understand that if it is necessary to prevent a serious risk to the health and safety of any person, or to prevent an anticipated or proposed serious crime,<sup>4</sup> the Royal Commission may tell the Police or other authorities about information I disclose in a private session.
3. Despite the confidentiality of the information I provide, the Royal Commission will record and use the information for the Royal Commission's internal purposes, for example to inform the Commission's research programme or topics for investigation and public hearings.
4. The Royal Commission's use of the information I provide will be anonymised unless I give express consent for my identity to be revealed to other people or organisations outside of the Royal Commission.

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<sup>3</sup> For example, Royal Commission would comply with any Court order requiring disclosure of information.

<sup>4</sup> "Serious crime" means one punishable by 3 years imprisonment or more.





## 7. Aftercare Information for survivors

### Thank you

By sharing your experiences you are helping us to find out what happened to children and vulnerable adults in care. We know how hard it can be to talk about your experiences and we thank you for your courage.

### How you may be feeling now

Sharing your experiences may leave you with a feeling that you have been heard. You may feel proud, relieved or less burdened. You may also be feeling flat, angry, depressed or a mix of many different emotions.

You may already have strategies you use to cope with strong emotions, and we encourage you to take extra care of yourself.

Here are a few suggestions that you may find helpful:

- Know that these feelings are to be expected.
- Talk to someone you trust, even if you don't feel like it.
- Be kind to yourself – do things that are self-nurturing.
- Contact our support team by phone on: 0800 222 727 (Mon-Fri 10am – 4pm)
- Call any of the support services listed on the next page

### What support is available?

Your support coordinator will contact you in a few days to talk to you about how you are feeling and to discuss whether you would like further support.

If you feel like you need some additional support the Royal Commission will cover the cost of four counselling sessions which you can access up to six months after your private session.

If you already have a counsellor, or other support, please talk to your Royal Commission support coordinator who can make the necessary arrangements.

If you do not have any ongoing support in place at the moment we can provide you with a counsellor who is trained to assist people to put in place strategies to cope with strong emotions.

To organise this support you can contact:

- Your support coordinator on 0800 222 727
- Youthline on 09 361 4168 or email: [supportcentre@youthline.co.nz](mailto:supportcentre@youthline.co.nz)

If at any time you feel like you may harm yourself or others please ring 111 or your mental health provider.

Service Name	Website	Phone number	Text
<b>111 Emergency</b>	If you are worried about your safety or the safety of someone you care for, call 111 for an immediate response	111	Text 111 (if pre-registered)
<b>ACC Sensitive Claims Unit</b>	Treatment for claims related to sexual abuse or sexual assault <a href="http://www.findsupport.co.nz">www.findsupport.co.nz</a>	0800 735 566	
<b>Alcohol and Drug Helpline</b>	Phone or online chat for people dealing with an alcohol or other drug problem; also have Maori, Pacifica, and Youth lines <a href="http://www.alcoholdrughelp.org.nz">www.alcoholdrughelp.org.nz</a>	0800 787 797	8681
<b>Anxiety phone line</b>	<a href="http://www.anxiety.org.nz">www.anxiety.org.nz</a>	0800 269 4389	
<b>Depression Helpline</b>	<a href="http://www.depression.org.nz">www.depression.org.nz</a>	0800 111 757	4202
<b>Family Services 211 Helpline</b>	For help finding (and direct transfer to) community based health and social support services in your area. <a href="http://www.familyservices.govt.nz/directory">www.familyservices.govt.nz/directory</a>		
<b>Lifeline</b>	<a href="http://www.lifeline.org.nz">www.lifeline.org.nz</a>	0800 543 354 0800 lifeline	Text 'help' to 4359
<b>Male Survivors Aotearoa</b>	Support services for male survivors of sexual abuse <a href="http://www.malesurvivor.nz">www.malesurvivor.nz</a> Website/online chat: <a href="http://www.safetotalk.nz">www.safetotalk.nz</a>	0800 044 334	4334
<b>Need to Talk</b>	<a href="http://www.1737.org.nz">www.1737.org.nz</a>	Free call 1737	1737
<b>OUTline NZ</b>	Provides confidential telephone support for sexuality or gender identity issues <a href="http://www.outline.org.nz">www.outline.org.nz</a>	0800 688 5463	
<b>Safe to talk</b>	<a href="http://www.safetotalk.nz">www.safetotalk.nz</a> Website/online chat: <a href="http://www.safetotalk.nz">www.safetotalk.nz</a>	0800 044 334	4334
<b>Samaritans</b>	<a href="http://www.samaritans.org.nz">www.samaritans.org.nz</a>	0800 726 666	
<b>Skylight</b>	For trauma, loss and grief <a href="http://www.skylight.org.nz">www.skylight.org.nz</a>	0800 299 100	
<b>Suicide Crisis Helpline</b>	<a href="http://www.lifeline.org.nz">www.lifeline.org.nz</a>	0508 828 865	

<b>Supporting Families in Mental Illness</b>	<a href="http://www.supportingfamilies.org.nz">www.supportingfamilies.org.nz</a>	0800 732 825	
<b>Te Haika</b>	Do you or someone you know need help now? Te Haika is a mental health and addictions contact centre for people in crisis or experiencing moderate to severe mental health or addiction problems. Open 24/7	0800 745 477	
<b>Youthline</b>	Support services for youth, including webchat <a href="http://www.youthline.co.nz">www.youthline.co.nz</a>	0800 376 633	234

## Collecting your feedback

Your feedback is really important to the Royal Commission and will be used to make sure private sessions are survivor-focussed. When your support coordinator contacts you they will ask if you feel OK to talk about how you found your private session.

## What happens next?

Written statements from private sessions will be analysed to create reports and themes for the Inquiry. Public hearings will then be held about these themes - you may be invited to take part in a public hearing. You will be able to choose whether you would like to take part or not.

## Further information

For more information you can:

- contact our support team by phone on: 0800 222 727 (Mon-Fri 10am – 4pm)
- look at our website at: [www.abuseinstatecare.royalcommission.govt.nz](http://www.abuseinstatecare.royalcommission.govt.nz)

## 8. Tukutuku/Private Sessions: Self-incrimination policy



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### Introduction

1. The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions recognises that in order for the inquiry to fulfil its terms of reference, survivors must feel free to make full and frank disclosures of the extent of the abuse they suffered and also the ongoing consequences of that abuse. For this reason, the Inquiry's Tukutuku/ Private Sessions are intended to be an environment where survivors are able to speak freely and frankly.

### Privilege against self-incrimination

2. Because participation in Tukutuku/ Private Sessions is entirely voluntary, no person will be required to provide any information or to answer any question. In addition, all participants in the Royal Commission, including participants in Tukutuku/ Private Sessions, are entitled to the privilege against self-incrimination.<sup>5</sup> For both these reasons, no participant in Tukutuku/ Private Sessions will be required to provide any information that would be likely to incriminate them.
3. It is recognised that some participants in Tukutuku/ Private Sessions may choose to talk about criminal offending committed as a consequence of their abuse, or otherwise. Participants may also voluntarily provide documents that disclose such offending, and/or may disclose a present intention to harm themselves, or others.

### Confidentiality of information provided in Tukutuku/ Private Sessions

4. All information provided in Tukutuku/ Private Sessions will be kept confidential, unless:
  - a. the participant consents to it being released; or
  - b. the information relates to the anticipated or proposed commission of a crime that is punishable by imprisonment for 3 years or more; or
  - c. the Royal Commission reasonably believes that disclosure of the information is necessary to prevent a serious risk to the health and safety of any person; or

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<sup>5</sup> Inquiries Act 2013, s 27.

d. disclosure is required by law, or by order of a court.

5. Disclosure in accordance with paragraph [4] will be only to an appropriate agency or person, and only to the extent reasonably necessary for the required purpose.

### **Confidentiality of information about past offending**

6. The effect of this policy is that the Royal Commission will not disclose information about past criminal offending provided in a Tukatuku/ Private Sessions, unless the information falls within the exceptions listed in paragraph [4] above.
7. It is noted that a person compelled to provide information to the Royal Commission under the Inquiries Act 2013 may be able to claim the protection of s 63 of the Evidence Act 2006,<sup>6</sup> which makes any information disclosed inadmissible in a criminal proceeding. A person seeking the protection of s 63 of the Evidence Act 2006 may consider inviting the Inquiry to exercise its compulsory powers. The Inquiry will consider any such request on its merits.

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<sup>6</sup> By virtue of s 27 of the Inquiries Act 2013.