

Appendix: Terms of Reference

Confidential Listening and Assistance Service

Purpose

1. The Listening and Assistance Service (the Service) is to provide assistance to people (participants) who allege abuse or neglect or have concerns about their time in State care in the health, child welfare or residential special education sector prior to 1992.
2. The Service is to have an estimated lifespan of five years, to:
 - a. provide the opportunity for participants, supported by their families if participants wish, to talk about their concerns and/or experiences with a group of suitably qualified people (the panel), with a focus on their current needs;
 - b. provide assistance for participants to identify and get assistance to meet their needs and those of their family and with access to existing services on a non-preferential basis compared to other members of the public;
 - c. assist participants to access available information held about them by the State, in an environment where they can ask questions and seek corrections to the information held; and
 - d. assist participants to come to terms with their experience and to achieve closure, as far as is reasonable, within the context of the Service.
3. The Service is to be accessible to all eligible people. In particular, some people may have intellectual, physical or sensory impairments that will need to be accommodated.
4. The Service will accommodate, as appropriate, the cultural needs of participants.

Panels and Meetings

5. One or more panels of appropriately qualified individuals will be appointed by the Department of Internal Affairs to meet with participants who wish to take up this opportunity and to hear their stories. One panel will be appointed initially for a fixed term of 18 months. Further panels may be appointed if needed.
6. The panels will comprise members who, in addition to having the necessary skills for the role, meet some or all of the following criteria:
 - a. familiarity with at least one aspect of State care in New Zealand from a consumer's perspective;
 - b. have a significant and respected community profile;
 - c. a gender mix; and
 - d. a cultural mix to reflect the cultural background of likely participants.
7. Each panel will have a chairperson, with a member of the first panel being appointed by Cabinet as Chair of the Service. This person will be responsible for overall leadership of the Service.

8. Panels will normally comprise three members. A meeting may be held with two panel members if necessary, and in circumstances where a participant prefers to tell their story to only one individual that may be permitted if the panel agree.

Processes and Consultation

9. The Chair of the Service will:
 - a. consult with appropriate persons or groups over proposed processes, administration and accessibility, including sitting locations and assistance with travel costs for participants; and
 - b. ensure that the Service determines its own processes and operations, within the parameters of these terms of reference.

Access by Participants

10. The Service will:
 - a. publicly call for participation by eligible people once systems are in place;
 - b. make facilitators available to participants to provide them with information and support throughout the process;
 - c. arrange for meetings to be held in locations and at times determined by the Chair that are reasonable and accessible for participants;
 - d. arrange for participants to be assisted, if necessary, with actual and reasonable transport costs in attending meetings (and other necessary costs in special circumstances), all assistance to be determined at the discretion of the panel within specified parameters;
 - e. permit participants to be accompanied by support people to the meetings (but not legal representation), noting that support people will not have speaking rights except with the permission of the panel;
 - f. take into account the needs of people unable to speak for themselves; and
 - g. permit participants to bring to the meeting any documentary material that assists them.

Environment, Confidentiality and Process

11. The panel will:
 - a. arrange to hear a participant's experiences and stories in a comfortable, confidential and private setting, where the participants can be confident of being heard in an appropriate manner;
 - b. ensure adequate processes and systems are established to maintain complete confidentiality;
 - c. advise each participant that they participate on the basis that what is said at a meeting will be treated as strictly confidential to the extent possible under the law. Participants will be able to record their session with the panel if they so desire; and

- d. listen in an appropriately non-critical, non-judgmental, receptive and constructive manner.

Counselling and Support

12. The panel will:
 - a. advise the participant of any current services, such as counselling services, the ACC, the Health and Disability Commissioner or other services as may be appropriate to provide additional treatment, support, assistance or management of any claims, including, if appropriate, referral of the participant to the Police; and
 - b. in recognition that some participants may find participation in the Service traumatic, pay for an initial assessment for participants who wish to attend counselling and if that assessment indicates that counselling is required, pay for up to ten counselling sessions with a registered counsellor that is appropriate to the individual's needs.
13. The facilitator will:
 - a. ensure that counselling is available to those participants who find participation in the Service traumatic and will co-ordinate the assessment of each participant's needs, where these are related to the person's participation in the Service;
 - b. work directly with services and assessors to help people identify and access services; and
 - c. refer participants who wish to take up their concerns directly with a relevant government agency to the person or position identified within that agency.

Reporting

14. The Chair of the Service will:
 - a. report to the Ministers of Health, Justice, Education, Social Development and Internal Affairs after 12 months operation and thereafter annually for the duration of the Service on:
 - the numbers of participants seen by the Service and in which sector/s they were in care;
 - the types of services and assistance provided;
 - the level of assistance provided;
 - the level of assistance provided by agencies to the Service;
 - the estimated further uptake of the Service; and
 - what is needed to meet this demand.

Outside the Scope of the Service

15. The Service must not:
 - a. require or compel anyone to attend a meeting;
 - b. determine liability or the truth of the participants' experiences or stories;

- c. pay, or recommend the payment of, compensation;
- d. judge participants or anyone mentioned by a participant, or to reach a conclusion about what might or might not have happened, including recommending a particular course of action to address issues raised;
- e. in any way attempt to resolve differences of views;
- f. acknowledge liability or make an apology for past actions by any official;
- g. share or make public any information relating to the stories it hears or make any public comment about anything presented to it;
- h. report to Ministers (or anyone else), in aggregate or otherwise, on the stories it has heard from participants; and
- i. allow participants to have legal representation at meetings.

Administration and Support

16. The Service will be reliant on agencies including, but not restricted to, the Ministry of Social Development, the Ministry of Education, the Ministry of Health, District Health Boards, the Accident Compensation Corporation and the Department of Corrections to support its functions. Relevant agencies will ensure they have appropriate arrangements in place to provide participants with access to their records, help with assessment of eligibility for assistance, and facilitate access to services.
17. The Service will be established in the Department of Internal Affairs.
18. The Department of Internal Affairs will establish initial and on-going administrative and financial services and support that will facilitate the operation of the panel(s) and ready access by participants, including when necessary the assistance of kaumatua, kuia, disability sector and mental health experts.