****

**INVESTIGATION INTO ABUSE IN FOSTER CARE**

**SCOPE OF INVESTIGATION**

1. The inquiry will investigate the abuse of children[[1]](#footnote-1) in foster care via an examination of care experiences in foster care and family homes. This will identify what survivors have told us about the abuse and neglect experienced as well as what worked well in foster care settings.
2. Fundamental to the inquiry is the extent to which the State has honoured the principles of Te Tiriti o Waitangi/the Treaty of Waitangi in respect to children placed in its care.

1. The inquiry’s terms of reference do not define “foster care”.
2. The inquiry views “foster care” as meaning those children who were placed in alternative placements with a family and / or family homes.[[2]](#footnote-2)  Both are where the State assumed responsibility, directly or indirectly, for the provision of the care, protection and control of children and includes foster care provided by service providers (NGOs).
3. The main period of investigation is 1950 to 1999, however, the inquiry has the discretion to consider issues and experiences of people in foster care prior to 1950, and after 1999 in order to inform its recommendations.
4. Abuse is defined in the inquiry’s terms of reference as meaning physical, sexual, emotional or psychological abuse, and neglect, and necessarily involves cultural abuse where that has been the survivor experience. It includes inadequate or improper treatment that resulted in serious mental or physical harm to a person in care.
5. Neglect is not defined in the terms of reference, but the inquiry considers neglect may include physical, emotional and psychological, medical, educational, spiritual and cultural neglect, this being the alienation from language and culture; displacement and disconnection of children from whanau, hapū, iwi, family and community.
6. During the course of the investigation, the inquiry will select issues, themes or kaupapa and may conduct research and examine relevant matters in public hearings, wānanga, hui and fono.
7. The Inquiry will consider the principles of Te Tiriti O Waitangi/the Treaty of Waitangi and the voices and experiences of victims and survivors of abuse in foster care. It will investigate and make findings on what happened and why by examining:

* 1. The circumstances of children being taken into or placed into foster care through the exercise of coercive and/or covert[[3]](#footnote-3) State power, and the appropriateness of those placements;[[4]](#footnote-4)
  2. The nature and extent of abuse of children in foster care;
  3. The impact, including any differential impact, of abuse on victims and survivors of abuse in foster care, and on their families, whānau, hapū, iwi and communities. This will include consideration of:
     1. Tikanga Māori when considering the impacts of abuse on Māori victims and survivors and their whānau, hapū and iwi
     2. Pacific cultural norms and values when considering the impact of abuse on victims and survivors among Pacific peoples.
     3. Particular impacts related to disability and mental health status, including additional barriers to understanding and recognising abuse, disclosing abuse, accessing specialist wellbeing support to respond to trauma, and receiving redress.
     4. Multiple placements of variable lengths experienced by children in their journey through the care system, including moving in and out of foster and residences.

* 1. Whether individuals experienced abuse in foster care because of nationality, race, ethnicity, religious belief, age, gender, gender identity, sexual orientation, physical or intellectual disability or mental health status;
  2. Any structural, systemic, practical or other factors that caused or contributed to the abuse of individuals in foster care, and including lessons learnt.
  3. What lessons were learned by the State and what changes were made to prevent and respond to abuse in foster care;
  4. The applicable principles and obligations under Te Tiriti o Waitangi/the Treaty of Waitangi;
  5. The State’s Obligations under domestic and international law, including human rights law;
  6. The adequacy of redress and rehabilitation processes for victims and survivors of abuse in foster care.

1. The inquiry will also make recommendations on:

* 1. Any changes required to redress processes for survivors and victims of abuse in foster care;
  2. Any other steps the State and faith-based institutions should take to address the harm caused by the abuse in foster care.

1. The inquiry may make recommendations for changes to be made in the future to ensure that the factors that allowed abuse to occur during the relevant period do not persist.

1. Where relevant, the inquiry may make findings of fault or that relevant standards have been breached, or both.
2. The inquiry does not have the power to determine the civil, criminal or disciplinary liability of any person but may make recommendations that further steps be taken to determine liability.

1. “Child” or “children” means a person who may have been defined as being a child or young person under legislation in force at the time. “Vulnerable adult” is defined as in paragraph 17.2(a) of the terms of reference of the Royal Commission.  During the period of investigation young adults aged between 18-23 years were also detained in State youth justice care settings which could include placement in Foster homes. The Inquiry considers that these individuals were vulnerable adults as so defined in clause 17.2 of the terms of reference and will also examine their experiences of abuse in care.  [↑](#footnote-ref-1)
2. A family home is one which sees a number of children who may or may not be related placed and looked after by carers who are employed/contracted for that purpose by the State or an NGO. [↑](#footnote-ref-2)
3. This is the distinction between the “overt” and “covert” exercise of powers by statutory social workers. The former is intervention by application to the court because of allegations of abuse and neglect – for example, when without notice applications made to the court and orders then made which see children removed. The overt exercise power involves, for example, the use of section 11 agreements under 1974 Act & later under 1989 Act and the use of the family group conference where there is an inherent power imbalance, with power resting with social workers. [↑](#footnote-ref-3)
4. And with regard to applicable administrative practices /policy and legislation in place at the time. [↑](#footnote-ref-4)