

Presbyterian Support Otago (PSO)

Response to the Royal Commission Recommendations on Abuse in Care

2. Recommendations specific to Establishment of a new Puretumu Torowhanui Scheme

Our responses were based on understanding that puretumu torowhānui scheme is not a definite entity, but a title used the best to describe future way of supporting survivors, that being a review of the existing systems or establishment of a new system that Crown would resource.

Recommendation	Response	Comments	Action Plan
<p>ESTABLISHMENT OF A PURETUMU TOROWHĀNUI SYSTEM</p> <p>Recommendations 1-4</p> <p>Purposes of system</p> <p>Our first recommendation proposes the establishment of a puretumu torowhānui system to address tūkino, or abuse, harm and trauma. The system should have three primary purposes: to apologise for the tūkino suffered by survivors, to heal or restore the mana, tapu and mauri of people, and to take steps towards preventing abuse.</p> <p>Recommendation 1</p> <p>The Crown should establish a puretumu torowhānui system to respond to abuse in State care, indirect State care and faith-based care that:</p> <ul style="list-style-type: none"> acknowledges and apologises for tūkino, or abuse, harm and trauma, done to, and experienced by, survivors, their whānau, hapū, iwi, and hāpori or communities 		<p>We agree a scheme will bring some resolution to many survivors and their families.</p> <p>For the scheme to be successful it has to have an input from survivors and all other stakeholders that will be supporting the scheme, eg. service providers that will be making steps to prevent further abuse.</p> <p>Service providers should have consistent standards to demonstrate to survivors the opposite of what they experienced as children, building trust, working with their trauma and</p>	<p>Monitor developments and engage with establishment of puretumu torowhānui scheme.</p>

<ul style="list-style-type: none"> • aims to heal and restore individuals' mana, tapu and mauri • takes decisive and effective steps to prevent further abuse. 		<p>assisting on their journey of healing, avoid re-traumatization. The scheme will need to be financially sustainable for all contributors.</p> <p>Ideally we would like to learn more about the scheme and other options for survivors support until we state our response, eg. review of the existing support under ACC infrastructure to avoid additional bureaucratic process.</p> <p>We will engage with development of the scheme.</p>	
<p>Giving effect to te Tiriti o Waitangi There should be an explicit requirement that the puretumu torowhānui system itself, and those designing and operating it, give effect to te Tiriti o Waitangi and its principles. We consider this strongly worded obligation is appropriate given the disproportionate number of Māori in State care and affected by abuse. Our work has uncovered the many ways in which the obligations of te Tiriti have been ignored or not fulfilled by those responsible for the care of children, young people and vulnerable adults. The general requirement to give effect to te Tiriti in addressing matters relating to abuse in care should be specifically included in legislation and policy including the legislation establishing the puretumu torowhānui scheme.</p>	Accept	In agreement that any support scheme for survivors should give an effect to te Tiriti o Waitangi.	Learn and engage with the designing of the puretumu torowhānui scheme.

<p>Recommendation 2</p> <p>The puretumu torowhānui system, and those designing and operating it, should give effect to te Tiriti o Waitangi and its principles and, in particular, to the right to tino rangatiratanga, or self-determination and authority, which includes the right to organise and live as Māori and to make decisions to advance the oranga of survivors through the provision of care to whānau, hapū and iwi by whānau, hapū and iwi. The requirement to give effect to te Tiriti should be expressly stated in any legislation and policy relating to abuse in care.</p>			
<p>Consistency with international law</p> <p>The puretumu torowhānui system should be consistent with the commitments Aotearoa New Zealand has under international human rights law. These commitments are summarised in part 1.4. They include that effective redress must be available for human rights violations, and that this may include compensation, rehabilitation, public apologies, memorials, law and policy changes as appropriate, and accountability for perpetrators.</p> <p>Recommendation 3</p> <p>The puretumu torowhānui system should be consistent with the commitments Aotearoa New Zealand has under international human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Convention on the Rights of Persons with Disabilities.</p>	Accept	In agreement that any support scheme for survivors should be consistent under international human rights laws.	

<p>Founding principles, values and concepts We consider the following principles, values and concepts should guide the design and functioning of the new puretumu torowhānui system. We have been primarily guided by tikanga Māori concepts because we see such an approach as necessary to give effect to te Tiriti o Waitangi and because Māori have been disproportionately affected by abuse in care. In addition, we consider these principles, values and concepts capture ideas that we have heard from many survivors and will resonate with more broadly. The Pacific principle of teu le vā / tauhi vā has been included too. Pacific peoples are also disproportionately affected by abuse in care, and achieving utua kia ea, or restoration and balance, needs to be done in culturally appropriate ways and this unique concept was not quite captured in the other tikanga Māori concepts. We have also given particular consideration to the importance of valuing diversity and challenging ableism, principles that we think are captured in the phrase “he mana tō tēnā, tō tēnā, ahakoa ko wai”. These principles should be given prominence in the design and operation of the new system.</p> <p>Recommendation 4 The puretumu torowhānui system should be founded on the following principles, values and concepts:</p> <p>Tūkino: is, in this context, abuse, harm and trauma. It includes past, present or future abuse, whether physical, sexual, emotional, psychological, cultural or racial abuse; or neglect, which may also include medical,</p>	<p>Accept</p>		
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<p>spiritual or educational neglect, experienced by individuals and their whānau, hapū, iwi and hāpori or communities in the care of State and faith-based institutions.</p> <p>Purapura ora: in this context, refers to survivors and their potential to heal and regenerate in spite of the tūkino they experienced.</p> <p>Te mana tāngata: is, in this context, the restoration of and respect for the inherent mana (power, dignity and standing) of people affected by tūkino.</p> <p>Utua kia ea: is a process that must be undertaken to account for tūkino and restore mana to achieve a state of restoration and balance. In this context, pathways of utua kia ea should include scope for survivors, both as individuals and collectively, to chart their own unique course.</p> <p>Manaakitia kia tipu: is, in this context, the nurturing of the oranga or wellbeing of survivors and their whānau so that they can prosper and grow. This includes treating survivors and their whānau with atawhai, humanity, compassion, fairness, respect and generosity in a manner that upholds their mana (this includes being survivor-focused and trauma-informed) and nurtures all dimensions of oranga including physical, spiritual, mental, cultural, social, economic and whānau, in ways that are tailored to, culturally safe for, and attuned to, survivors.</p> <p>Mahia kia tika: is to be fair, equitable, honest, impartial and transparent. In this context it includes a puretumu torowhānui scheme that has clear, publicly available rules and other information about how it works, and regular reviews of its performance.</p>			
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<p>Whakaahuru: in this context, refers to processes to protect and safeguard people including actively seeking out, empowering and protecting those who have been, or are being, abused in care as well as implementing systemic changes to stop and safeguard against abuse in care.</p> <p>Whanaungatanga: refers to the whakapapa, or kinship, connections that exist between people. In this context, it reflects that the impact of tūkino can be intergenerational and can also go beyond the individual and affect whānau, hapū, iwi and hapori or communities. Therefore, puretumu torowhānui should facilitate individual and collective oranga and mana, connection or reconnection to whakapapa, and cultural restoration.</p> <p>Teu le vā / tauhi vā: is the tending to and nurturing of vā, or interconnected relationships between people and places, to maintain individual and societal oranga. Where there has been abuse, harm or trauma steps must be taken to heal or re-build the vā and re-establish connection and reciprocity.</p> <p>He mana tō tēnā, tō tēnā – ahakoa ko wai: refers to each and every person having their own mana and associated rights, no matter who they are. In this context, it means that a new puretumu torowhānui system and scheme, and their underlying processes must value disabled people and diversity, accept difference, and strive for equality and equity. This includes challenging ableism – the assumptions and omissions that can make disabled people, the tūkino and neglect they experience and their needs for restoration of mana and oranga, invisible.</p>			
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SYSTEM DESIGN AND DELIVERY – Recommendations 5-9

Working in partnership with Māori

We consider it essential the Crown works in partnership with Māori when designing and operating the puretumu torowhānui system because of its te Tiriti obligations, because Māori are disproportionately affected by abuse in care, because Māori should be able to exercise tino rangatiratanga over a kaupapa that is central to their communities, and because tikanga Māori principles are sound ideas on which to base a system uniquely designed for survivors in Aotearoa New Zealand.

Specifically, we consider the Crown should establish a Māori Collective to lead the design of the puretumu torowhānui scheme, and also to work with survivors and their communities to develop an action plan to implement our recommendations for the puretumu torowhānui scheme and system. This includes working with a Purapura Ora Collective (see below), survivors' communities including Pacific, Deaf and disabled communities, whānau, hapū, iwi, experts, service providers, stakeholders and community leaders. Ultimately the Māori Collective will need to work with the Crown and agree on the contents of any draft legislation required to give effect to any of the recommendations set out in this report, including draft legislation giving effect to the puretumu torowhānui scheme.

<p>We would also see the Māori Collective exploring the possibility of a separate puretumu torowhānui scheme for Māori. Our sense is that one scheme guided by te ao Māori principles should be able to work for Māori and non-Māori alike. However, the question of whether a separate scheme for Māori should be established is not something we have been able to explore in detail.</p> <p>The Māori Collective’s workload is likely to be significant, so it will need to be adequately resourced. We see the Crown providing this funding until its work is done. Establishing the Māori Collective would not displace the Crown’s te Tiriti obligations to partner with Māori in the design and running of the scheme.</p> <p>Recommendation 5 The Crown should establish and fund a well-resourced independent Māori Collective made up of Māori with relevant expertise and/or personal experience and representing a mix of survivors, whānau, hapū and iwi, pan-tribal organisations and urban Māori with a fair mix of gender, LGBTQIA+, rangatahi and Deaf and disabled people to:</p> <p>lead the design of the puretumu torowhānui scheme work with survivors, the Purapura Ora Collective, survivors’ communities (including Māori, Pacific, Deaf and disabled communities) and other relevant groups to develop a plan to implement our recommendations, including: establishing a puretumu torowhānui system underpinned by tikanga Māori</p>		<p>We would like to understand more about how this would work for all survivors but acknowledge that any scheme would need to be survivor centric, tailored to support each individual. We agree this would need to be well resourced alongside all other areas proposed in the recommendations.</p>	
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<p>developing the process for applying for redress determining what support and services are needed to respond to tūkino, enhance mana and achieve utua kia ea considering proposed civil litigation reforms work with Māori survivors, whānau, hapū and iwi to: explore whether to establish a separate puretumu torowhānui scheme for Māori determine the nature, timing and content of an apology or apologies to Māori for abuse in care, as well as the nature of memorials to those abused commission any reports, reviews or expert advice on areas considered important to the design of the puretumu torowhānui system and scheme, including an expert review of oranga services (see recommendation 68) build on this inquiry's work by exploring how to respond to harm suffered by Māori in care to restore mana, tapu and mauri work with the Crown and agree on the contents of any draft legislation required to give effect to any of the recommendations set out in this report.</p>			
<p>Active involvement by survivors and consultation by Crown about changes Input from survivors is clearly absent from existing redress processes, and many survivors have rightly called for this to change. The Crown should closely consult and actively involve survivors in the design and operation of the puretumu torowhānui system and scheme. As well as being inherently right, this is also good practice. As set out in part 1.4, the United Nations Convention on the Rights of Persons with</p>		<p>We would like to understand more about how this would work.</p>	

<p>Disabilities requires this for disabled survivors, and we think the Crown should adopt this standard for all other survivors.</p> <p>We consider the Crown should mainly do this consultation through a group whose main purpose would be to advocate for survivors during the Crown's decision-making on our recommendations and provide the Crown with expert advice. This group, which we refer to in this report as the Purapura Ora Collective, would consult survivors about our recommendations and the Crown's proposed actions in response, and co-ordinate feedback to the Crown on how to implement them. The Purapura Ora Collective could carry out this frequently time-consuming and demanding work on behalf of the many survivors who are not in a position to get involved in this way.</p> <p>Sometimes the collective may relay responses that have broad consensus and other times it may communicate a diverse range of views. Through its work, it would provide the Crown with informed, insightful commentary about what is needed to bring about the puretumu torowhānui system and scheme we recommend. If views differ, the collective may present the Crown with options. It may also look to overseas experiences for guidance but should not lose sight of the unique context here at home. It should work closely with the Māori Collective, including to commission the expert review of oranga services.</p>			
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<p>The Purapura Ora Collective is likely to have a sizeable workload and will need adequate resourcing. The Crown should fund it until its work is done. It should be supported by staff with the necessary expertise to work with survivors and provide productive, solutions-focused commentary and advocacy to the Crown. Some staff should have lived experience of disability.</p> <p>The Crown should also consult survivors, experts and other interested people on the new system and scheme. As part of this, it should work with Pacific peoples to understand how both the new puretumu torowhānui system and scheme can be designed and run in ways that are consistent with the values of Pacific cultures and practices, such as ifoga, fakalelei and ho’oponopono.</p> <p>The Crown should also consult Deaf and disabled people to ensure the scheme complies with the United Nations Convention on the Rights of Persons with Disabilities, including the rights of disabled people and the corresponding obligations for New Zealand set out in articles 4(3), 9, 12, 13, 16(2) and 16(4) of the convention, and the New Zealand Disability Strategy. The Crown should also take an inclusive approach to ensure the many voices of survivors including youth and LGBTQIA+ are also heard.</p> <p>We expect faith-based institutions and indirect State care providers to contribute to the funding and effective running of the scheme, and the Crown should consult them, too, on our recommendations.</p>			
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<p>Finally, we draw attention to the need for the Crown and the two collectives to co-ordinate their consultation activities in a kaupapa-focused way to avoid duplicating effort and overburdening survivors and their whānau and communities.</p> <p>Recommendation 6 The Crown should closely consult and actively involve survivors in the design and running of the puretumu torowhānui system and scheme and the implementation of recommendations in this report and other reports this inquiry may produce. This should include establishing and funding an independent Purapura Ora Collective employing people with relevant expertise and lived experience of disability to:</p> <p>advocate for survivors during Crown decision-making on our recommendations ensure the puretumu torowhānui system and scheme are designed from the perspective of survivors commission, together with the Māori Collective, the expert review of oranga services.</p>			
<p>7. The Crown should consult survivors, experts and other interested people, including:</p> <p>Pacific peoples: on how the puretumu torowhānui scheme should be designed and run in a way that is consistent with Pacific cultures, including how the scheme and broader system can incorporate principles from Pacific restorative processes such as ifoga, fakalelei, isorosoro and ho’oponopono</p>	Accept		

<p>Deaf and disabled people: on how the design and running of the scheme will give effect to New Zealand's obligations in the United Nations Convention on the Rights of Persons with Disabilities, and the New Zealand Disability Strategy</p> <p>A cross-section of survivors and experts: on how the scheme can be inclusive of a range of people, including youth and LGBTQIA+.</p>			
<p>8. The Crown should also consult faith-based institutions, indirect State care providers, other interested parties and the public.</p>	Accept		
<p>All-of-system approach</p> <p>The effectiveness of the changes we recommended will depend, in part, on a well-coordinated response by the government agencies, and other agencies (including faith-based institutions and non-government organisations) involved in or responsible for a host of matters relating to survivors, ranging from the provision of oranga services and the release of survivor records through to the prosecution of perpetrators. Government agencies include ACC, the New Zealand Police, the Ministry of Social Development, Ministry of Justice, Ministry of Health, Oranga Tamariki, Ministry of Education and organisations such as WorkSafe New Zealand. These government agencies also have relationships with faith-based organisations, non-government institutions and community groups that are integral to the provision of survivor care and will also be crucial to the effectiveness of our recommendations.</p>			

<p>Recommendation 9 The Crown should take an all-of-system approach to responding to abuse in care.</p>	Accept		
<p>PUBLIC ACKNOWLEDGEMENT AND APOLOGIES Recommendations 10&11 Many survivors emphasised the importance of a public apology – whether instead of or in addition to a personal apology – from the organisation concerned. They saw a public apology as validation of the abuse they had suffered and as an element of ensuring accountability for that organisation. Survivors expressed a wish for the most senior figures of the Crown to issue apologies, and for similarly senior figures of faith-based institutions to do the same. The same should also apply to the heads of indirect State care providers, that is, private, public or non-governmental organisations to which the State passed on its authority or care functions.</p> <p>At our faith-based redress hearing, The Salvation Army, the Anglican Church and the Catholic Church made public apologies. By contrast, neither the Prime Minister nor any State institution has made any public apology (unlike leaders in other countries, such as Scotland and Ireland). Such an apology from the Crown, and the heads of relevant faith-based institutions and indirect State care providers, would be a symbolic counterweight to the years of denial of any systemic problem in care institutions. Where appropriate, we also consider particular groups, including Māori, should receive specific public</p>			

<p>apologies where those groups have suffered uniquely in some way.</p> <p>Recommendation10 The Crown and relevant faith-based institutions and indirect State care providers should publicly acknowledge and apologise for the tūkino inflicted and suffered, at an individual, community and national level, including:</p> <ul style="list-style-type: none"> • a public apology to survivors by the Governor-General, Prime Minister and heads of relevant faith-based institutions and indirect State care providers • specific public apologies, where appropriate, to specific groups harmed, including Māori, either on this inquiry’s recommendation or that of the puretumu torowhānui scheme, or as a result of direct engagement with affected communities. 	Accept		
<p>Recommendation 11 The Crown, Māori Collective, Purapura Ora Collective and relevant institutions should determine the content of public apologies and related matters, such as when and where they are made, in collaboration with survivors and in conformity with the principles of good apologies set out below in recommendation 33.</p>	Accept		
<p>ESTABLISHMENT OF A NEW PURETUMU TOROWHĀNUI SCHEME - An independent scheme Recommendations 12-27</p> <p>Recommendation 12</p>	Accept	We agree a scheme will bring consistency.	Further information is needed

<p>The Crown should set up a fair, effective, accessible and independent puretumu torowhānui scheme to help survivors and their whānau affected by abuse in State care, indirect State care and faith-based care to achieve utua kia ea or heal the vā, heal the relational space between all things, and help prevent abuse in care.</p>			
<p>Recommendation 13 The principles, values, concepts, te Tiriti obligations and international law commitments that will guide the design of the puretumu torowhānui system should guide the design and implementation of the puretumu torowhānui scheme.</p>		<p>Further information is needed</p>	
<p>Recommendation 14 The membership of the governance body for the puretumu torowhānui scheme should give effect to te Tiriti o Waitangi, and reflect the diversity of survivors, including disabled survivors, as well as including people with relevant expertise.</p>		<p>Agree in principle. Further information is needed.</p>	
<p>Recommendation 15 State and faith-based institutions should phase out their current claims processes for abuse in care, and any faith-based institution or indirect State care provider that chooses to continue its own claims process should direct survivors to the puretumu torowhānui scheme and give them information about it.</p>		<p>Crown should accommodate survivor's preferences, offer both options.</p>	
<p>16. The functions of the puretumu torowhānui scheme should be to:</p>	<p>Accept</p>		

<ul style="list-style-type: none"> • provide a safe, supportive environment, consistent with the value of manaakitia kia tipu, for survivors to talk about their abuse • consider survivors' accounts and make decisions on puretumu torowhānui, which may include: <ul style="list-style-type: none"> ○ facilitating acknowledgements and apologies by institutions for tūkino, or abuse, harm and trauma, in care ○ facilitating access to support services, financial payments and other measures that enables te mana tāngata • disseminate information about the scheme so as many eligible individuals as possible know about and can access its services • report and make recommendations on systemic issues relevant to abuse in care. 			
<p>17. The puretumu torowhānui scheme should operate independently of the institutions where tūkino or abuse, harm and trauma took place and should have no interactions with these institutions or the people within them, except where necessary to carry out its functions, and this includes individuals or institutions:</p> <ul style="list-style-type: none"> • responsible for providing care to survivors • allegedly responsible for the abuse • responsible for defending any abuse in care claims in court. 		<p>More information required to understand how to achieve independency from State institutions.</p>	
<p>18. The puretumu torowhānui scheme should:</p> <ul style="list-style-type: none"> • be open to all survivors, including those who have been through previous redress processes, 	<p>Accept</p>		

<p>those covered by accident compensation, and those in prison or with a criminal record</p> <ul style="list-style-type: none"> • enable whānau to continue a claim made by a survivor if the survivor dies, or make a claim on a survivor’s behalf if there is clear evidence that the survivor intended to apply to the scheme or had taken other steps to make a claim before their death • prioritise claims from elderly or seriously ill survivors, including making urgent interim payments to those survivors where appropriate. 			
<p>19. The puretumu torowhānui scheme should cover:</p> <ul style="list-style-type: none"> • physical, sexual, emotional, psychological, racial and cultural abuse in care, along with neglect, which may include medical, spiritual and educational neglect • historical, contemporary and future claims of abuse in care. 	Accept		
<p>20. The puretumu torowhānui scheme should, regardless of whether an institution still exists or has funds, cover abuse in:</p> <ul style="list-style-type: none"> • any State agency that assumed responsibility, either directly or indirectly, for the care of an individual when they were abused, including: <ul style="list-style-type: none"> ○ State schools ○ any individual, or any private, public or non-governmental organisation, including a service provider, to which the State passed on its authority or care 	Accept		

<p>functions, whether by delegation, contract, licence or in any other way</p> <ul style="list-style-type: none"> any faith-based institution that assumed responsibility for the care of an individual when they were abused. 			
<p>21. The Crown should give faith-based institutions and indirect State care providers a reasonable opportunity, say four to six months, to join the puretumu torowhānui scheme voluntarily before considering, if necessary, options to encourage or compel participation, including:</p> <ul style="list-style-type: none"> not offering contracts to non-participating institutions terminating or not renewing any contracts with them revoking their charitable status making participation in the scheme compulsory. 		<p>Not in agreement until we learn more details.</p>	
<p>22. The puretumu torowhānui scheme should:</p> <ul style="list-style-type: none"> extensively and proactively publicise, on an ongoing basis, what it does, how to contact it, the types and levels of redress and support available, eligibility and assessment criteria, and timeframes for making decisions on claims develop specific strategies to communicate with survivors, including running specialist education sessions for disabled people about the scheme and what constitutes abuse 	<p>Accept</p>		

<ul style="list-style-type: none"> • develop specific strategies to communicate with Māori survivors and their whānau, hapū, iwi and hāpori (communities) • actively reach out to disabled survivors including disabled survivors in long-term or life-long care • offer easy-to-read information in a variety of accessible formats about how the scheme works • ensure a supported decision-making process is available for disabled people that is consistent with the United Nations Convention on the Rights of Persons with Disabilities, including, where necessary, by providing dedicated support and communication assistance. 			
<p>23. The puretumu torowhānui scheme should:</p> <ul style="list-style-type: none"> • be trauma-informed and flexible, give survivors choices and empower them to make decisions • minimise any barriers to obtaining redress • be timely, give accurate estimates of timeframes and regularly update survivors on the progress of their claim • allow survivors to be flexible about when they start, put on hold and resume their claim • be respectful of, and responsive to, the cultures of all survivors, including Māori, Pacific peoples and Deaf people • support survivors to make their own informed decisions throughout the claims process, particularly those with decision-making impairments 	Accept		

<ul style="list-style-type: none"> • have enough suitably trained staff so that each survivor ideally needs to contact just one person about their needs • minimise the number of times survivors must recount the tūkino or abuse, harm and trauma suffered. 			
<p>24. The puretumu torowhānui scheme should have processes in place so that survivors and their whānau who interact with it receive manaakitia kia tipu.</p>	Accept		
<p>25. The puretumu torowhānui scheme should provide support services that are free, flexible, culturally appropriate and tailored to individual needs to help survivors, and where appropriate whānau, understand the tūkino and make a claim, including:</p> <ul style="list-style-type: none"> • counselling and psychological care, including when survivors receive their records, and for a reasonable period afterwards • social workers and navigators to help meet any immediate needs • free independent legal advice, irrespective of eligibility for legal aid and non-legal advocacy, including advocacy for disabled people that meets the requirements of articles 13(1) and (2) of the United Nations Convention on the Rights of Persons with Disabilities • help to obtain and understand personal records • advocates for survivors in their dealings with organisations holding their records • help to get in touch with survivor support groups 	Accept		

<ul style="list-style-type: none"> • support to make complaints about alleged abusers • interpreters, translators, supported decision-making and communication assistance • safeguards to ensure disabled survivors in care are safe from any retribution for making a claim • help, as necessary, to make complaints to the Privacy Commissioner or an ombudsman. 			
<p>26. The puretumu torowhānui scheme should offer a listening service to survivors so they can talk about their experiences of tūkino, or abuse, harm and trauma, in a private and non-judgemental setting.</p>	Accept		
<p>27. The puretumu torowhānui scheme should, if survivors wish, use information disclosed to the listening service in support of their claim for puretumu torowhānui.</p>	Accept		