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CITIZENS COMMISSION ON HUMAN RIGHTS NEW ZEALAND

United Nations Committee Against Torture
OHCHR-CAT ohchr-cat@un.org

15 May 2025

RE: CAT/Follow-up – New Zealand

Dear CAT Secretariat

This communication follows our last report sent on 27 November 2024 regarding the follow-up to the seventh periodic review of New Zealand.

The New Zealand Government is preparing its response to the Committee about the progress of the redress system it has set up for the victims of torture at the Lake Alice child and adolescent psychiatric unit in the 1970s, it is in our place to provide an independent response based upon our long association with the survivors of Lake Alice as advocates.

The New Zealand Government announced its Lake Alice redress scheme on 18 December 2024 offering survivors two pathways to access redress. The first being an immediate payment of \$150,000 to settle all matters concerning the torture at Lake Alice; the second to apply to have an arbiter assess the claim for redress which may equate to more than \$150,000.¹ The Government announced it had set aside \$22 million to address these claims with around \$3 million of this for the arbiter and administration of the process.

There are two eligibility requirements to these pathways:

1. a declaration a survivor received either unmodified ECT and/or a paraldehyde injection; and
2. confirmed admission to the Lake Alice Child and Adolescent Unit.

Both pathways have imposed time limits for access, and both are to be settled with no liability ex gratia payments that cannot be challenged in a court of law.

This offer, while welcomed by some of the survivors, was largely met with confusion and resignation to the processes offered. The take-it-or-leave-it element was certainly implied and thus there have been a number of survivors who have said they would take the \$150,000 offered because it was the path of least resistance having endured over 40 years of suffering and fighting. For several it was a solution for financial difficulty, and poverty.

¹ <https://www.abuseinquiryresponse.govt.nz/for-survivors/torture-redress/>

The second pathway allowed survivors to access a Crown-funded free lawyer to advise them on the process and to represent them before the arbiter. Several also have taken this option, but this too appears to be severely limited due to the capping of the amount available for redress and the sheer amount of work to process file data and interviews that would inform the arbiter of how to apportion the sums of money available. The Government said they want all of the Lake Alice survivors settled by the end of 2025, but this does not appear likely at this stage.

Survivors, Paul Zentveld and Malcolm Richards, who took their cases to the UNCAT in 2017 and 2019 considered what was placed in front of them:

Paul Zentveld

Paul Zentveld elected to take the \$150,000 offered, not because he was happy with the limited offer, but because of the drawn out time it took the Government to act following the Royal Commission's reports on redress (December 2021) and Lake Alice (December 2022).

Paul had made several submissions to the Crown Response Unit who were working on the redress proposals. These included several of the UNCAT recommendations and the Istanbul Protocol. It was very clear in the redress offer none of this material had been considered.

Paul took the immediate payment offer instead of waiting. He was aware that the arbiter process was going to take a lot longer than the Government were saying and he wanted to move on and consider his daughter and her child and to connect with them. Paul won his case at the UN in 2020 and five years later, faced with still more uncertainty he decided to accept the payment of \$150,000. Paul considers he was under the duress of stress and the drawn out timing as well as all of the limitations imposed by this redress scheme.

It is the Government's actions Paul objects to and he wants attached to this submission the arbiter's 19-page minute on the redress process and the Government's terms of reference so as the Committee can read just how limiting and wrong their process is.

Malcolm Richards

Malcolm Richards, who laid his complaint with the Committee in 2019 was not happy with the proposed redress system. He elected to challenge the Government's process through legal action and engaged barrister, Christopher Griggs, to represent him. On May 5 they filed for a judicial review of the Government's redress system for Lake Alice survivors.

Malcolm's reasoning was that after he and Paul Zentveld won their cases at the United Nations the New Zealand Government finally recognised it was torture but now it was still not abiding by Article 14 by not providing comprehensive redress, including fair compensation and rehabilitation. He sees that the well defined principles on torture redress have not been followed despite his efforts to make them known to Government officials. The redress does not provide any rehabilitation measures for survivors, nor does it provide measures for non-repetition. He sees the Government as setting their own punishment for something they did and so he wants this reviewed by the Courts.

Malcolm also made the point that setting the redress amount so low for torture in State care other survivors of ill-treatment and abuse will receive only tiny amounts. He added that if the redress isn't set high enough to make it cheaper to prevent the abuse in the first place, rather than to compensate

the abused, the Government will continue to do nothing to stop the abuse in the State care system still happening today.

The New Zealand Government will claim that because 52 survivors have accepted the rapid payment and 44 are taking the individual assessment that they are happy with the redress scheme. This is far from the truth.

Survivors we have heard from accepted the rapid payment based on the uncertainty of the process and taking the money offered was the easiest course of action. It meant for several of them, a solution to financial hardship and poverty. Some saw it as enough to provide some comfort for their remaining years, although it would never make up for the damage done to them.

One survivor said she and others don't trust the Government and so the offer was an opportunity to take something and move on, rather than continue to challenge the rights and wrongs of the process, thinking the Government could easily drag out any legal challenge to wear down survivors once again.

Another said that due to her age (68) she was taking the \$150,000 to enjoy the rest of her days.

Another said that all of the survivors are into their 60s now, and don't have time nor education to improve their lives. She took the rapid payment. She saw the Government as always making them feel like second-hand citizens and why should they have to keep repeating themselves to find some sense of justice. (She was referring to the process with the arbiter who would require the survivors to once again recount their experiences at Lake Alice.)

Some survivors are in such poor health that the \$150,000 was the only option to see out their limited days.

All of the survivors we have heard from support the legal action put forward by Malcolm Richards. They feel that the Government's process is wrong and are willing to make their support known.

Some of the Lake Alice survivors fell outside of the redress claim because they had not been given unmodified ECT nor paraldehyde injections. They suffered other forms of torturous abuse however, such as seclusion, second-hand torture (being made to watch other children being tortured), beaten by staff and in some cases raped. They too support the legal challenge.

Also supporting the legal challenge are many people from the wider survivor community who have been left out of the redress process to date. Based on feedback through various online social networks, many survivors support Malcolm Richards' claim because they can see that the Government has acted unfairly toward all survivors by not following international standards for the redress of torture.

The Government's redress scheme for Lake Alice survivors has also divided the wider survivor community of State and faith-based abuse as they saw only one part of this community getting attention when there are many others who were subjected to similar torturous abuse in other psychiatric facilities as well as care homes run by the State and faith-based organisations.

The Government is not providing a legal framework for redress for torture, nor are they providing a legal framework for the broader redress for other survivors of abuse. On May 9 the Government announced it will not be following the Royal Commission's recommendations to establish an independent survivor-led redress system. Instead they decided to bolster the current redress processes through the existing ministries.²

So rather than solving anything, the Government's redress system for Lake Alice survivors has created a lot of uncertainty and distrust. There has been no attempt to provide rehabilitation for survivors and address their ongoing medical and social needs. The rapid payment system with a quasi legal representation system does not provide for, nor compensate for the torture these people have suffered as children: locked up in a psychiatric unit and maimed with drugs and electroshocks, punished, secluded, brutalised and raped.

Yours sincerely

Mike Ferriss
Director

² <https://www.rnz.co.nz/news/national/560522/abuse-in-care-survivors-vow-to-fight-on-after-government-opts-against-new-compensation-scheme>