

ROYAL COMMISSION OF INQUIRY INTO HISTORICAL ABUSE IN STATE CARE

Report on public consultation
on the draft Terms of Reference

29 May 2018



**Te Kōmihana Karauna mō ngā
Tūkinō o Mua ki te Hunga i
Tiakina e te Kāwanatanga**

**Historical Abuse in State Care
Royal Commission**

1. INTRODUCTION

The Government appointed Sir Anand Satyanand Chair of the Royal Commission into Historical Abuse in State care on 31 January 2018. In the letter of appointment, the Minister of Internal Affairs asked the Chair to lead public consultation on the draft Terms of Reference and to report to her on the results of that consultation along with any advice that the Chair may have on the matters discussed.

This is the first time a Chair of a Royal Commission has consulted on and recommended refinements to its own Terms of Reference. The decision to have the Chair conduct the consultation reflected the need to build trust and confidence among survivors, their whānau and the wider community that the Terms of Reference be developed independently of the state agencies under whose care people suffered abuse and neglect.

THE CHAIR CONSULTED IN TWO STAGES:

1. Survivor and stakeholder consultation from early February until 16 May. This face-to-face consultation took place with individual survivors, hard to reach groups such as gangs, Iwi representatives, Urban Māori Authorities, Māori welfare organisations, representatives of the judiciary, former Royal Commissioners, the government sector and human rights and social sector agencies and faith-based care providers. The time span for this part of the consultation process reflected the availability of those groups.
2. The second stage was public consultation conducted between 31 March and 30 April. The Chair extended an open invitation to all New Zealanders to comment on the draft Terms of Reference through a variety of phone, online and written channels. During the public consultation phase the Chair welcomed comments on any aspect of the draft Terms of Reference and particularly sought views on:
 - the scope and purpose of the Inquiry;
 - a suitable reference to the Treaty of Waitangi;
 - the dates within which the Inquiry shall consider the experiences of any individual; and
 - what constitutes “State care”.

Public consultation closed on 30 April with extensions granted to a small number of submitters where they were asked for.



2. APPROACH TO CONSULTATION

Consultation was by way of written and oral submissions and face-to-face meetings, which took place between 1 February 2018 and 16 May 2018.

Public Submissions were sought from 31 March until 30 April 2018 with a small number of extensions granted by request.

A public awareness programme was launched on 31 March. It was designed to reach at least 1.7 million New Zealanders on one, or more, occasion including harder-to-reach communities. Post-campaign analysis of the coverage shows that this was achieved, with advertising reaching between 65% and 70% of the adult population (source: Nielsen) and unpaid media reaching about 2.8 million people (source: Isentia).

An 0800 service was established to take oral submissions and to provide support to survivors.

CONSULTATION COMPRISED:

a. Public Awareness Programme

- Advertising in all major metro, regional and community newspapers; Neighbourly; and Iwi and mainstream radio
- Poster campaign in prisons
- News Media coverage in print, radio and television and across social media channels. This included interviews with the Chair on: Radio New Zealand, Radio Live, NewsTalkZB, Radio Waatea, 531PI, TV3 and Maori Television
- Royal Commission Website

b. Meetings in Response to Invitation

- Hui Arranged by Human Rights Commission, Law Schools and Interested Parties
- Hui with gang members at Wainuiomata marae

- Opening of Black Power Consultancy, Advocacy and Research Trust

- Meeting with Bishops of the Anglican and Catholic Churches

c. Meetings Arranged by Royal Commission

- Iwi Leaders
- Urban Māori Authorities and Māori Welfare organisations
- Pacific People's Panel
- Inquiries in other jurisdictions
- Minister of Internal Affairs
- Individual Submitters

d. Letters to Stakeholders and Interest Groups

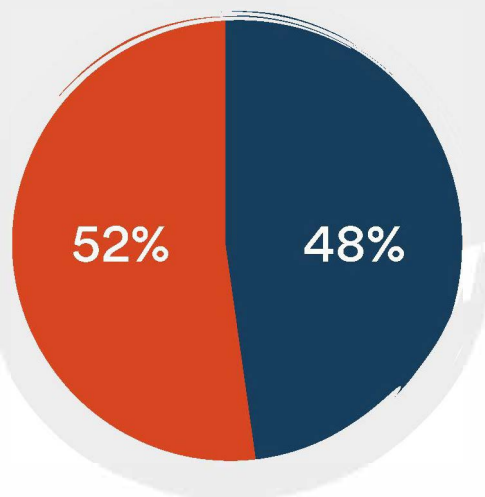


3. RESPONSE TO CONSULTATION

The Royal Commission received submissions from a broad range of individuals and organisations.

Half of the submissions received were from survivors, or on behalf of survivors.

	Total
Not a Survivor	192
Survivor or on behalf of Survivors	209
Total	401



SUBMITTERS INCLUDED:

a. Survivors

- Individuals and their Representatives
- Prisoners
- Gang members

b. Iwi and Māori Organisations

- Iwi representatives
- Urban Māori Authorities
- Māori Welfare organisations
- Te Puni Kōkiri Māori design group
- Individuals

c. Pacific Representatives

- Oranga Tamariki Pacific Panel
- Individuals

d. Civil Society Organisations

- Human rights groups
- Survivor representatives
- Social sector providers
- Recreational associations
- Employee representatives

e. Statutory and Legal Office Holders

- Children's Commissioner
- Families Commission
- Human Rights Commission
- Privacy Commissioner
- Former Royal Commissioners
- Former Children's Commissioners
- Judges
- Law Societies
- Bar Association

f. Medical and Legal Professionals

- Law School professors and research staff from:
 - University of Otago
 - University of Auckland
 - University of Waikato
 - Victoria University of Wellington
- Individual submitters

g. Government Sector

- State Services Commissioner
- State Sector Chief Executives
- State Sector Senior Managers

h. Interested People



4. MATTERS DISCUSSED IN CONSULTATION

Submissions were received from 401 people or organisations.

An analysis of the submissions was undertaken to determine the key themes. Many of the submitters wrote to share their personal stories of abuse and to ask to be registered to submit or give evidence once the Royal Commission begins.

There were also submissions that related to the future administration of the Royal Commission and were not directly relevant to the draft Terms of Reference.

THE KEY THEMES ASSESSED AS RELATING TO THE DRAFT TERMS OF REFERENCE ARE:

Purpose and Scope of Royal Commission	
Inclusion of faith-based institutions, non-State organisations and schools	129
Inclusion of people with disabilities and mental illnesses	26
Do not extend scope to include non-state organisations	5
Include reference to the Treaty of Waitangi	56
Timeframe 1950-1999	
Support for Timeframe 1950-1999	6
Request to extend Timeframe beyond 1950-1999	93
Definitions	
Definition of State care to include direct and indirect State responsibility	79
Definition of Abuse to be more clearly defined to include: physical, sexual, psychological abuse; neglect; inadequate care; and non-voluntary medical interventions	21
Suggestions for various types of redress	64
Support for Terms of Reference in its draft form	11



5. CRITIQUE OF THE DRAFT TERMS OF REFERENCE

In reviewing the document prepared by government officials prior to 31 January 2018, for consultation with the public, it was assessed as needing amendment in a number of areas including the following:

- Lack of clarity in vital definitions; namely State care and timeframe.
- Undue use of complicated footnotes e.g. no fewer than eight footnotes on page three.
- Unnecessary definition exemplified by unhelpful lists e.g. paragraph 5.22.
- Inappropriate mention of Māori and Pacific people placing Pacific people in a secondary capacity.
- Lack of specific reference to the Treaty of Waitangi.
- Insufficient mention of people with mental illness and disability.



