

MEMORANDUM OF UNDERSTANDING

Department of Corrections & The Royal Commission of Inquiry into
Historical Abuse in State Care and in the Care of Faith-Based
Institutions

June 2019

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE ROYAL COMMISSION OF INQUIRY INTO HISTORICAL ABUSE IN
STATE CARE AND IN THE CARE OF FAITH-BASED INSTITUTIONS
AND
THE DEPARTMENT OF CORRECTIONS**

1. BACKGROUND AND PURPOSE

On 12 November 2018, the Government established the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-Based Institutions (the Royal Commission).¹ The Royal Commission's Terms of Reference (Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions Order 2018) are available at:

<http://www.legislation.govt.nz/regulation/public/2018/0223/latest/LMS118772.html>

- 1.1 This Memorandum of Understanding (MOU) is designed to help survivors in the care of the Department of Corrections (Corrections), who may have been historically abused in State care and Faith-based institutions, to have access to and to participate in the Royal Commission.
- 1.2 The Royal Commission and Corrections (collectively referred to as the Parties) wish to work together in a constructive manner, to achieve the aims set out in clause 1.1. The Parties therefore wish to record their agreement about how they will work with each other in this MOU.
- 1.3 This MOU is intended to record the relationship between the Parties, not to create any legally enforceable obligations. The Parties will interpret this MOU consistently with the Inquiries Act 2013, the Royal Commission into Historical Abuse in State Care and in the Care of Faith-Based Institutions Order 2018, the Corrections Act 2004, the Corrections Regulations 2005 and the Royal Commissions' Terms of Reference.
- 1.4 The Parties have decided to set up a Working Group to undertake work and facilitate a collaborative working relationship between the Parties. The overall purpose of the Working Group is to work collaboratively to develop mechanisms to support people in prison to engage with the Royal Commission.

¹ Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions Order 2018. This continued and broadened the inquiry of, and replaced, the Royal Commission of Inquiry established by the Inquiries (Royal Commission of Inquiry into Historical Abuse in State Care) Order 2018.

- 1.5 Representatives from each of the Parties will be part of the Working Group. The Terms of Reference for the Working Group, as agreed by the Parties, are detailed in **Schedule 1** of the MOU.
- 1.6 Unless the Parties agree to end it earlier, this MOU will continue to apply for the life of the Royal Commission, as required.

2. PRINCIPLES OF WORKING TOGETHER

- 2.1 The Royal Commission recognises the need to reflect the principles of transparency and accountability in the work it undertakes pursuant to the mandate set by Government. It recognises that it will operate in accordance with applicable public service standards and policies.
- 2.2 The Royal Commission recognises the need to be responsive and flexible in its dealings with Corrections. Corrections recognise that the Royal Commission is a one-off project working to tight timeframes imposed by the Terms of Reference. Corrections acknowledge that in order to deliver on its Terms of Reference, the Royal Commission may have time-sensitive and bespoke requirements that fall outside Corrections' normal business models. Corrections will take reasonable steps to facilitate these needs (as permitted by its security and operational needs at all times).
- 2.3 The Parties are committed to work together with the common goal of supporting people in prison to engage with the Royal Commission. In doing so, each Party agrees to the following principles:
- (a) **Good Faith:** to act in good faith to carry out its obligations as set out in this MOU;
 - (b) **Autonomy:** to accept and recognise that each Party is an autonomous entity or group and that it is entitled to make its own decisions on any recommendations made to it in accordance with this MOU;
 - (c) **Co-operation:** to co-operate with each other and work as a team so as to support the Royal Commission to achieve its objectives;
 - (d) **Communication:** to communicate openly and honestly with each other and to keep the communication lines open to ensure effective decision making by the Parties. The Parties will act constructively and openly to avoid conflicts or

disputes and, if any arise, will deal with them promptly and resolve them in a fair manner; and

- (e) **Timeliness:** to contribute, make decisions and communicate with the other Party in a timely manner to ensure the goals are progressed efficiently and effectively.

2.4 **Reputation:** to use its best efforts to ensure that it does not do, or permit anything to be done, which is or may be detrimental to the goodwill, name, or reputation of any other Party or the Working Group;

2.5 **Operational Implications:** to operate in accordance with **Schedule 2** of the MOU.

3. SPECIFIC OBLIGATIONS OF PARTIES

3.1 Each Party agrees to fulfil the following obligations in relation to supporting people in prison to engage with the Royal Commission:

- (a) **Support:** to provide all reasonable support, information, materials and assistance to enable it to meet its obligations under the MOU;
- (b) **Media/Publicity:** the Royal Commission will only make public comment through a designated spokesperson, whereas Corrections will take media enquiries through the media team as per standard process. Where appropriate, the parties will consult with each other prior to any media or publicity release;
- (c) **Meetings:** to meet via the Working Group at times reasonably requested by each other during the period of the MOU to plan and agree on any actions necessary to give effect to this MOU;
- (d) **Welfare:** to keep the welfare of everyone involved a priority and communicate any issues as per **Schedule 2**;
- (e) **Confidentiality:** to keep confidential and not (without the consent of the other Parties) disclose any Confidential Information except as required by law (including the Official Information Act 1982) or requirements of Ministers or Parliament. For the purpose of this MOU, 'Confidential Information' means all information or data, in any form or medium whatsoever, relating to the Parties or the work of the Commission which by its nature, or by the circumstances of

its disclosure to the holder of the information, is or could reasonably be expected to be regarded as confidential; and

- (f) **Notices:** to provide a key contact and an email address or addresses for all communications to the Parties relating to the work of the Royal Commission.

4. REVIEW OF THE MEMORANDUM OF UNDERSTANDING

- 4.1 This MOU will be reviewed every twelve months, and may be amended at any time by agreement of the Parties.

5. DISPUTE RESOLUTION AND REPRESENTATIVES

- 5.1 The Parties will promptly notify each other if they consider a dispute or difference arises under this MOU and then will promptly meet to discuss the dispute or difference that has arisen.
- 5.2 The Executive Director (ED) of the Royal Commission and the Deputy Chief Executive (DCE), Service Development, Department of Corrections, are expected to discuss and resolve any non-operational issues arising from this agreement. Operational issues will be raised through Corrections' usual escalation process.
- 5.3 If the ED and the DCE are unable to resolve any issues, the issue will be escalated to the Chair of the Royal Commission and the Chief Executive of the Department of Corrections for resolution.

6. SIGNATORIES TO THE MEMORANDUM OF UNDERSTANDING

Signed on this day, 7 June 2019



Christine Stevenson
Chief Executive
Department of Corrections



Judge Coral Shaw
Deputy Chair
**Royal Commission of Inquiry into
Historical Abuse in State Care and in
the Care of Faith-based Institutions**