

Common Payment Framework Operational Guidance

This guidance is to support redress agency staff to apply the common payment framework when determining payment for abuse in state care claims that are individually assessed.

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1. Introduction

The common payment framework (the Framework) is the tool to guide decision making about what payment is offered to survivors of abuse in care who are accessing redress from government agencies under their alternative dispute resolution processes. Its purpose is to provide comparable settlement payments for comparable experiences of abuse and neglect in state care.

There are two sections to the framework:

1. **Payment categories** - The categories set out what payment will be offered for what kind of abuse and neglect.
2. **Definitions of abuse and neglect** - The definitions explain key terms used in the payment categories.

It will be applied by agencies to determine a payment offer for abuse in care redress, following the assessment of a claim in accordance with the agency's individualised assessment process.

This guidance sets out how redress agencies will apply the Framework. It ensures consistency, transparency, and survivor-centred decision-making across all agencies. It first discusses some key aspects of the definitions and then provides a step-by-step guide on how to apply the Framework.

2. Definitions and interpretation

This section explains how the definitions and interpretations for different parts of the Framework have been classified. It should be read next to the *Common Payment Framework*.

Types of abuse and severity level

The Framework outlines the types of abuse (Physical abuse, sexual abuse, emotional/psychological abuse, neglect) and examples of where instances may be placed in a table indicating a scale of severity.

Frequency of abuse or neglect

The frequency table is used by agencies to consider how often and for how long abuse was experienced, which is one of the criteria used in the payment categories.

How often?					
Once	Infrequent	N/A			
Sometimes (eg "occasionally", "at times")	Infrequent	Infrequent	Infrequent	Infrequent	Frequent
Often (eg "a lot", "every week", "regularly")	Infrequent	Infrequent	Frequent	Frequent	Chronic
All the time (eg "every day", "always")	Infrequent	Frequent	Frequent	Chronic	Chronic
	0 to 6 months	More than 6 months and up to 1 year	More than 1 year and up to 2 years	More than 2 years and up to 4 years	More than 4 years
	How long? (Duration of abusive period ¹⁴)				

Practical notes:

- The assessment of the claim will need to consider frequency. Agencies may need to clarify (through steps relevant and reflective of each agency's process) frequency as a measurement in order to apply it to the table.
- The terms under 'how often' are examples of regularity, noting that survivors may use other terms to describe how often their abuse occurred. A level of judgement may be needed as to whether it falls into 'sometimes', 'often' or 'all the time'. If you are unsure, please seek advice from whoever you would normally seek advice from in your agency such as your Team Leader.
- The duration of the abusive period may be for the entire length of a placement, or it may be a period within the placement.

Example

For example, the survivor may have been in a care placement or at a school for three years but alleged that the abuse began 18 months into the care placement or after they started at the school. When determining duration, the 18-month period is considered, rather than the full three years.

Carers and non-state carers or other young people

Carers

For the purpose of applying the Payment categories, carers are agents of the State who have care and protection responsibilities for the survivor. They include:

- Caregivers approved and appointed by the agency which has legal responsibility for the survivor
- Staff of the agency which has legal and/or care responsibilities for the survivor (for example, social workers, teachers, other school staff, hospital staff)
- Staff or caregivers of a non-government agency (NGO) or Iwi Social Service contracted to provide care services on behalf of the State agency which has legal

responsibility for the survivor will generally also fall into this category, where the relevant State agency would otherwise have that responsibility.

While the above roles are easily identifiable as ‘carers’ for the purposes of the Framework, some relationships are less clear and exceptions can exist. While not possible to outline all possible exceptions, the following factors may be relevant in supporting a redress agency to determine responsibility:

- Legal status of the person – Did the State have formal responsibility for the person such as having a custody order in its favour?
- Funding of the placement – Did the State fund the placement?
- The role of the alleged perpetrator
- The State’s role with the person in making the placement, and/or monitoring it
- Did the State have a contractual relationship with the alleged abuser?

Example relating to medical professionals working in a care residence

With the exception of cases where the medical professional was an employee of the agency (e.g. the Department of Social Welfare) who ran the care residence where the alleged abuse occurred or contracted to that agency to provide medical services in, medical practitioners will not generally be considered as carers as defined above even when the survivor was under the care, custody or guardianship of the State and placed in a care residence. For example, a doctor providing health services to children in a residence through a Ministry of Health contract or arrangement would not meet the carer definition outlined above.

Non-state carers and other young people

For the purposes of the Framework, **non-state carers** are those who have not been given formal legal responsibility towards the person or recognised as having that role by the State.

Non-state carers can include, but are not limited to:

- The survivor’s parents/step-parents
- The children of State approved caregivers
- Family members of state approved caregivers where the caregiver allows them access to the survivor

Other young people refers to other children and young people in state care and who are in the same care, residential, education, health or NGO setting as the survivor.

Practical notes:

- This definition is only applicable if the redress agency’s process has recognised abuse and neglect by a non-state carer or other young person that has arisen from,

or relates to, the acts or omissions of the carer and has contributed to the abuse by the non-state carer or other young person occurring or continuing.

Example relating to child protection setting

For example, where Social Welfare did not respond (or did not respond adequately) to a report that a child was being abused by their parents in line with legislation or policy of the time. Or where another young person in a residential education facility is able to sexually assault the survivor because there was no staff member available to supervise the children overnight when there should have been such supervision.

For further information about how this concept is assessed, please refer to separate agency specific guidance.

3. Applying the Framework – step-by-step

Applying the Framework involves three main steps:

1. **Classify each allegation** using the definitions.
2. **Map** to the correct payment category and step.
3. **Finalise and record** the payment with clear rationale.

Step 1: Classify allegations

For each allegation acknowledged by the agency confirm:

- **Type of abuse/neglect and severity**
Use the *Abuse and Neglect Definitions and Examples* in the Framework to determine whether the allegation would come under physical abuse, sexual abuse, emotional/psychological abuse or neglect and whether it is 'less severe', 'more severe' or 'significantly severe'.

Each type of abuse/neglect definition contains examples of abuse that would fit under the definition and the severity it would be categorised. As these are examples and are not complete lists, they are to help guide an assessment of severity. Where there is no similar example, consider seeking advice from more experienced staff within your agency or checking with other redress agencies in line with any established processes.

- **Who carried it out**
Determine whether the abuse was carried out by a Carer or non-state carer/other young person in line with the above guidance.

- **Frequency**

Determine frequency (infrequent, frequent, or chronic) using the *Frequency Matrix* and the above guidance.

Step 2: Map to payment category

- Identify the most serious allegation(s) by identifying those that fall into the highest category and step using the payment categories.
- For the most serious allegations, if there are multiple allegations that have the same severity and abuser, consider whether the frequency changes when the allegations are combined.
- Decide which payment category and step within the payment category that applies.

Example for a psychiatric setting

Three allegations of infrequent (occurred “often”) less severe abuse by hospital staff over the following periods (four months in 1971, four months in 1972 and five months in 1974), cover 13 months in total making the most serious allegation to be considered under the Framework as ‘frequent less severe abuse’.

Step 3: Finalise and record the payment and rationale

- In accordance with any relevant agency specific template or requirements, set out the rationale for recommending the payment category and step.
- Depending on your agency’s approval processes, this information may be included in your internal approval memos/briefings, and a version will also be included in your response to the claimant.

Example

The most serious abuse experienced by the survivor was more severe level physical abuse by a carer which occurred every day over a one-month period. The frequency of the abuse was infrequent (every day and within 0 – 6 months). That fits within category 2, step 1 being a \$25,000 payment.

Practical notes:

- There may be rare claims where a discretionary payment should be considered for an amount that is more than what the common payment framework has assessed the claim at. Please refer to the separate discretionary payment guidelines for further information.

Summary table

Allegations supported under agency assessment process		
All allegations relate to a 2.5 year period at a school		
<ul style="list-style-type: none"> • Sexual assault (touching over clothing) on more than one occasion by a staff member. • Regular physical assaults (including physical restraint) by staff members. No injury indicated. • Excessive timeout for extended periods of time and inconsistent with policy guidelines. 		
Step	Action	Example
1. Classify	Identify type, severity, frequency, and abuser for each allegation.	Sexual abuse = more severe, infrequent (occurred sometimes), carer; Physical abuse = less severe, frequent (often + more than 2 and up to 4 years), carer; Emotional abuse = less severe, infrequent, carer.
2. Map	Determine highest category and step.	Most serious allegation = more severe sexual abuse, infrequent, carer → Category 2, Step 1.
3. Finalise	Document rationale	“The most significant abuse was more severe sexual abuse by a carer, infrequent. Category 2, Step 1: \$25,000.”