



Sensitive Claims: Claim Review Guidelines

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Contents

Claim Review Guidelines	4
Background	4
What are Sensitive Claims?	4
Crown Resolution Strategy	4
Sensitive Claims Process	5
Sensitive Claims team roles	5
Process summary	6
Claim Reviews	7
Purpose	7
Roles and responsibilities.....	7
Purpose of the Claim Review Report.....	7
Claim Review overview	7
Claim Review Steps	8
Allocation of Claim Review.....	8
Meeting preferences.....	9
Meeting	10
Writing the Claim Review Report	11
Claim Review table of allegations.....	11
Indicators: Records and/or other supporting information.....	11
Analysis and findings.....	12
Recommendations.....	12
Referencing supporting information	12
Consistency with settled claims	12
Sensitive Claims: Appendices to the Claim Review Guidelines	14
Last updated: February 2026	14
Appendix 1: Frequently Asked Questions	15
What is the relationship between the Claim Reviewer and the Ministry of Education?.....	15
Can the Ministry change what findings the Claim Reviewers have made?	15
Can the Claim Reviewer talk to third parties?.....	15
Can Claimants receive Claim Review Reports?	15
What if the Claimant has questions around timeline or specific parts of the process?.....	15
What allegations can be reviewed as part of the claim review?	16

How many Claim Reviews will be given to the Claim Reviewer? 16
Do Claim Reviewers have to book travel themselves? 16
Appendix 2: Indicators..... 17
Appendix 3: Claim Review Report Template..... 29

Claim Review Guidelines

This document outlines the Ministry of Education's process to review Sensitive Claims. It provides some wider context on the Sensitive Claims process followed by a guide to the **Claim Review** stage.

These Guidelines relate to individually reviewed claims under the full review process. Information regarding the Rapid and Prioritised Payments processes are not included in this document. (Information on those processes is available on the Ministry's website: [Rapid payment options](#))

Background

What are Sensitive Claims?

A sensitive claim is where a person believes they were abused or neglected in a New Zealand state school and would like some form of redress from the Ministry of Education. Eligible claimants must have attended:

- A specialist school before 1 October 1989 (including residential schools)
- A primary school before 1 October 1989
- Any state school that is now closed.

The allegations the Ministry receives can be wide ranging. The [Common Payment Framework](#) that applies to all Crown abuse in care redress agencies defines categories of abuse and neglect that can be considered by these agencies. The categories are physical abuse, sexual abuse, emotional / psychological abuse, and neglect.

Crown Resolution Strategy

The Crown has a Strategy for resolving historic abuse claims arising from abuse in state care. The [Crown Resolution Strategy](#) (2019) guides the Ministry's approach to resolving sensitive claims under its sensitive claims process.

The principles of the Strategy that guide the Crown are:

- Manaakitanga
- Openness
- Transparency
- Learning
- Being joined up
- Meeting obligations under Te Tiriti o Waitangi.

More information about the Crown Resolution Strategy can be found in the Sensitive Claims Business Process and Guidelines here: [Sensitive claims of abuse in state schools - Ministry of Education](#)

Sensitive Claims Process

The Sensitive Claims team is responsible for managing the Ministry's sensitive claims process. There are multiple roles that support the delivery of the function. The key roles relevant to the Claim Reviewer role are outlined below.

Sensitive Claims team roles

Role	Description
Manager	Manages the Sensitive Claims team , including responsibility for planning and allocating work, quality assurance of work, overseeing business improvement activities and ensuring the process runs as it should. Works with other relevant Ministry teams to support the timely resolution of claims.
Principal Advisor	Leads the work review and quality assurance processes , alongside more strategic, long term workstreams that seek to improve the efficacy of the process and manage issues that emerge through the process.
Triage	Leads the early stages of the process, including the lodgement of new claims and ensuring they are eligible for our process. Provides new claimants with information about the process. Leads our staff check and referrals process. Speaks to claimants about what records we have about them and ensures they receive any such records, if requested. Manages the Sensitive Claims mailbox and 0800 number and responds to any general queries we receive about the process. Manages claims up to the Claim Review stage of the process.
Senior Advisor Claims	Manages claims from the Claim Review stage of the process onwards. Provides information on the process and responds to queries and other correspondence from Claimants throughout this part of the process. Supports Claim Reviewers to review claims, which includes organising meetings. Receives and reviews draft Claim Review Reports to ensure the Claim Reviewer has covered all claim allegations that are in scope, and their findings are complete, clear and logical, and connected to supporting information required by the Indicators. Prepares advice to Ministry decision-makers about how to respond to claims and drafts the written responses to claims.
Senior Advisor Privacy	Leads the preparation of responses to Privacy Act requests received by the Sensitive Claims team. Includes searching for and collating records to be released.
Advisor Claims	Searches for records and information, including records about claimants and any other information to support Claim Reviews. Collates the information and prepares it for the Claim Review stage.

Process summary



• **Receipt:** Claim lodged. May be direct by the Claimant (in writing or over the phone) or through their legal representative.



• **Triage:** Eligibility considered. Claim researched and relevant information collated (may include requesting records from a school).



• **Claim Review:** Allegations considered against relevant information to make findings about whether allegations are supported. Claim Reviewer prepares report of recommendations for the Ministry to consider.



• **Response:** Ministry provides its response to the Claimant, in writing. May include offer of settlement.

Claim Reviews

Purpose

The Claim Review process offers an opportunity for a Claimant to be heard and for their allegations to be carefully understood and considered by a Claim Reviewer.

Roles and responsibilities

The Claim Reviewer's role is to review the claim based on available information. It is an opportunity for the Claimant to share their experience with the Claim Reviewer.

The Claim Reviewer is responsible for:

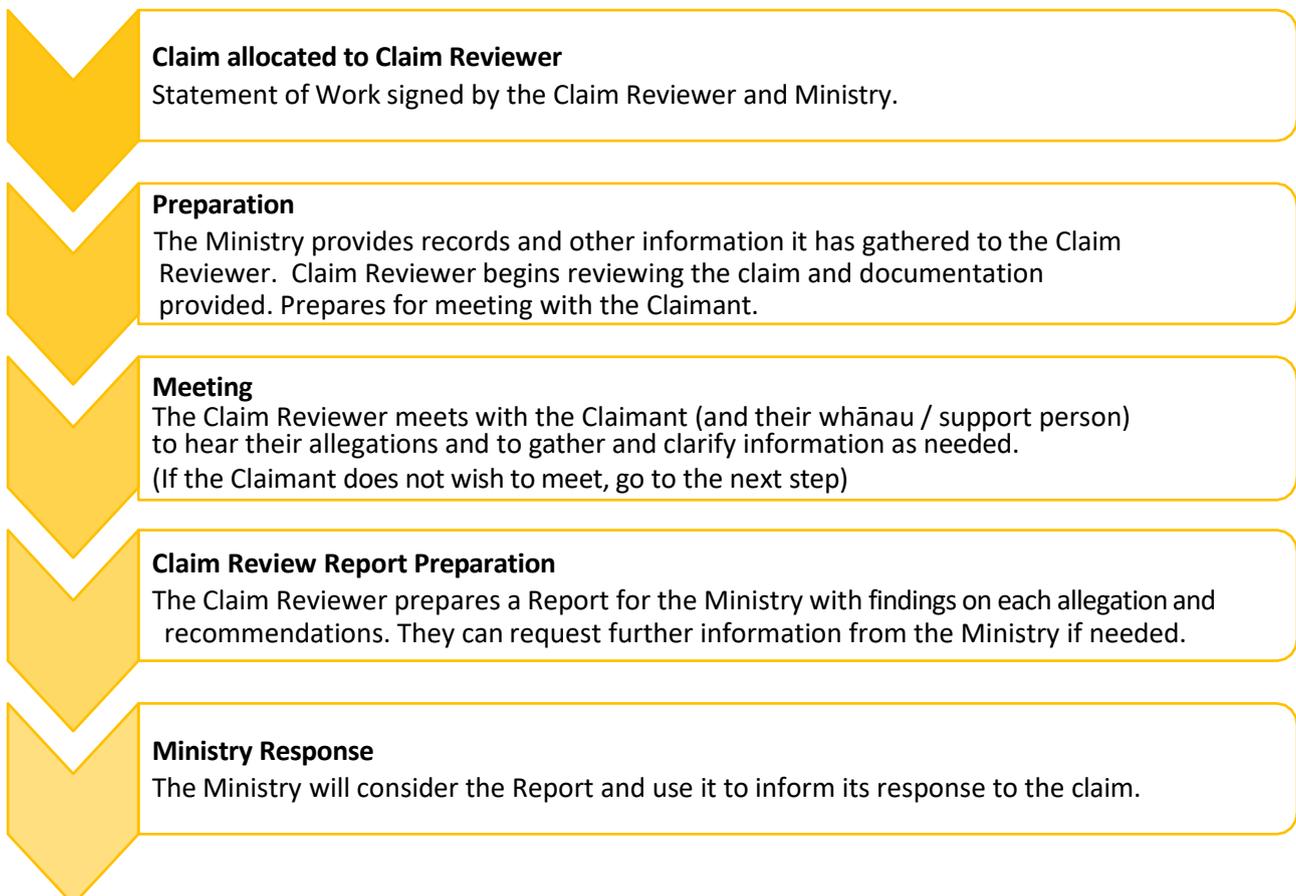
- Meeting the Claimant and hearing their experience - this is voluntary for the Claimant.
- Reviewing all available information and carefully considering the allegations made.
- Preparing a Claim Review report for the Ministry.

Purpose of the Claim Review Report

The Claim Review Report contributes to the Ministry's decision on the outcome of the claim. The information, findings and recommendations in the Report inform the Ministry's response to the Claimant's allegations. The Report does not consider the amount of any financial redress offer where that is an outcome.

Claim Review overview

The steps of the Claim Review process are outlined below:



Claim Review Steps

Prior to the claim being allocated for review, the Senior Advisor will confirm whether the Claimant would like to meet with a Claim Reviewer.

Some Claimants do not want to or cannot have a meeting with the Claim Reviewer.

This means that the Claim Reviewer completes their report based on the available information provided by the Ministry.

In this case, the Claim Reviewer can skip the Meeting section below and continue at the Report section.

Allocation of Claim Review

- The Ministry will contact the Claim Reviewer to arrange allocating a Claim Review. This is where the Claim Reviewer confirms their availability to undertake the Claim Review.
- The Claim Reviewer should immediately notify the Ministry if they may have a conflict of interest¹.
- The Ministry will prepare a Statement of Work,² which will be signed by a Ministry representative and the Claim Reviewer.
- A Senior Advisor in the Sensitive Claims team will be the Claim Reviewer's contact person. Where the Claimant wishes to meet with the Claim Reviewer, the Senior Advisor arranges timing, travel for both the Claim Reviewer and the Claimant, and the meeting venue.

The Senior Advisor is responsible for arranging the meeting and can provide information about the Sensitive Claims process.

However, it is up to the Claimant whether:

- They would like the Senior Advisor to attend the hui, or
- They would like the Senior Advisor to be at the location of the hui but not in the room while the meeting takes place, or
- They would not like the Senior Advisor to attend in any capacity.

¹ A conflict of interest might include having a personal association or contact with the claimant or with someone who worked at the school named in the claim or having had a past working relationship with the school. The Claim Reviewer should contact the Ministry if they are uncertain about a conflict of interest.

² The Statement of Work is the document used to commission a Claim Review under the contract between the Ministry and the Claim Reviewer.

Meeting preferences

The Ministry will make all efforts to accommodate a Claimant's preferences for the meeting including:

- Flexibility around timing and location that will suit the Claimant,
- Who should attend the meeting,
- Ensuring the Claimant's needs and support requirements are met, and
- Accommodating cultural and spiritual practices.

Cultural and spiritual practices, attendees, and recording

The Ministry aims to accommodate any cultural and spiritual practices a Claimant would like recognised at the meeting.

For Claimants who identify as Māori and seek a Kaupapa Māori approach, the Ministry will consider: the availability of a Māori Claim Reviewer, whether a translator is required, arranging the hui at a marae, and understanding and adhering to the tikanga as outlined by the Claimant.

Where a support person attends the meeting with the Claimant, the Senior Advisor should make sure the Claimant is comfortable with the support person hearing about their experiences.

The Senior Advisor will confirm the Claimant is comfortable having the meeting recorded and will organise transcripts to be sent to the Claim Reviewer afterwards.

Who attends the meeting?	
Attendee	Role during the meeting
Claimant	To share their experience with the Claim Reviewer to support their claim.
Claim Reviewer	To listen to the Claimant's experience and ask questions to clarify their understanding of the issues. The Claim Reviewer leads the meeting and introduces others in attendance.
Senior Advisor	To attend the meeting with the Claim Reviewer unless the Claimant asks that they not attend. The Senior Advisor may answer any questions regarding the process if requested by the Claimant and may take notes for the Claim Reviewer.
Claimant's Support person / whānau	To support them through sharing their experience, the Claimant can bring a whānau member or other support person to the meeting. A support person may also respond to further questions. The Claimant can bring more than one support person with them.
Claimant's Legal Representative	To organise the meeting on the Claimant's behalf and usually attend the meeting. The legal representative may take notes for their client.

Meeting

The table below sets out an overview of the meeting process. The overview assumes the Senior Advisor is attending.

Opening

- Opens with the requested cultural or spiritual practice. The Senior Advisor will have relayed the preference to the Claim Reviewer beforehand.
- Claim Reviewer and Senior Advisor introduce themselves - other attendees to do the same.
- Senior Advisor confirms with the Claimant again that they are happy for their meeting to be recorded. If not recorded, the Senior Advisor will take notes during the meeting.
- Claim Reviewer outlines the purpose of meeting.
- Claimant is advised they can take breaks as needed.

During

- Claim Reviewer listens to the Claimant's story and gathers details of their allegations - what happened, who was involved, when and where.
- Claim Reviewer asks questions to clarify and gather information (but not to directly challenge a Claimant's story).
- Claim Reviewer confirms the issues the Claimant wants resolved and what outcomes they seek under this process.
- Claim Reviewer notes any allegations that may need to be referred outside the Ministry – for later discussion with the Senior Advisor.
- Claim Reviewer should ask the Claimant if they have any additional supporting documentation to share.

Ending

- Before ending the meeting, the Claim Reviewer confirms whether there is any other information the Claimant thinks is important to consider in the Claim Review.
- Claim Reviewer checks whether the support person has any questions.
- Claim Reviewer explains what happens after the meeting/the next steps in the process.
- With the endorsement of the Claimant, the Claim Reviewer closes the meeting, adhering to the same cultural or spiritual practice as the opening.

Afterwards

- Claim Reviewer may have further conversations with the Claimant, if more information is required for the Claim Review (and the Claimant agrees to that).

Writing the Claim Review Report

The Claim Review Report provides the Ministry with the Claim Reviewer's findings on each of the allegations made and their recommendations on whether allegations should be included in a settlement offer to a Claimant. This section guides Claim Reviewers on writing the Report.

A reminder that:

- The Ministry's approach is that an allegation alone will not be sufficient to support it for the purpose of inclusion in a settlement offer and additional information is required.
- Individual claims are reviewed on a case-by-case basis and each allegation in the claim is reviewed separately.
- Claim Reviewers use the Claim Review Report template to write their report and must complete the table of allegations (**Appendix 3**). This report is subject to legal privilege.
- The Claim Reviewer should ensure that they only review allegations that relate to the Ministry. Any allegations related to other redress agencies cannot be included in the Claim Review and must be referred to the relevant agency.

Claim Review table of allegations

- The Report template (**Appendix 3**) provides guidance on how to complete it and what to include. A short summary follows.
- Claim Reviewer must set out a brief description of each **allegation** from the Claimant. Where the information is available, this should include:
 - References in the allegation (or from the meeting with the Claimant) that relate to how often and over what timeframe the issue may have occurred.
 - Who was responsible (e.g. a teacher, students, or residential workers).
- Claim Reviewer must list the relevant **records and/or other information** they consider and provide references to the required Indicators (**Appendix 2**).
- Claim Reviewer provides their **analysis** of the information and **findings** on the allegation, followed by their **recommendation** on whether the allegation should be included or not included in a settlement offer.

Indicators: Records and/or other supporting information

- Claim Reviewers must use the Indicators (**Appendix 2**) to identify the information required to consider supporting an allegation.
- Information required by the Indicators must be identified to enable consideration of whether an allegation should be supported for settlement. If the information required is not identified, the Ministry will not be able to consider including the allegation in a settlement offer.
- Indicator information includes Ministry records and other information the Ministry holds or was otherwise provided with relating to the time period of the allegations. Claimants may also provide documented information for consideration.
- Often the Indicators will require information relating to both the school / staff and the Claimant. Sometimes, for allegations about staff (rather than other students), information relating to the Claimant may be sufficient to consider supporting the allegation (as noted in the Indicator footnotes). Claim Reviewers should, however, consider all available information and include it in their report as relevant.

Similar allegation indicator

One indicator is a similar allegation by another claimant (or claimants) who: attended the same school as the Claimant at the same time, or a similar time; or, they attended another school and their allegation is about the same identified staff member.

A similar allegation by another claimant can be considered supporting information for the current Claimant's allegation **provided that** the similar allegation was or will be included for settlement on the basis of documented supporting information (not another similar allegation), and that information does not clearly point against it supporting the current Claimant's allegation.

The Ministry will provide Claim Reviewers with information on similar allegations.

Analysis and findings

- The Claim Reviewer considers whether, taking the available information into account and the Indicator requirements, the allegation is reasonably supported or not.
- Claim Reviewers should consider what the information shows in relation to the allegation. For example:
 - Is it directly relevant or more contextual?
 - How detailed is it?
 - What is its source?
 - When and why was it created?
 - How strong or definitive is the information?
- Claim Reviewers consider information on its own and together with other information available relating to the allegation.
- If a Claim Reviewer considers the available information does not reasonably support a serious allegation, but it does support less serious or a different degree of abuse or neglect, the Claim Reviewer should include that finding. The reverse also applies. This is provided the required Indicators are still met.

Recommendations

- Claim Reviewers must note any form of redress that the Claimant has discussed or requested (aside from a financial payment offer and an apology from the Secretary of Education) and, if considered appropriate, can recommend the Ministry consider it.
- Claim Reviewers must not provide recommendations on redress payment amounts. The Ministry determines any payment amount using the Common Payment Framework.

Referencing supporting information

- Claim Reviewers must reference all information relied on in their report, via footnotes.
- In the Claim Review table of allegations, the Claim Reviewer should identify the records relating to each allegation.

Consistency with settled claims

The Ministry provides the Claim Reviewer with information about previously settled claims that are similar to the claim being reviewed.

While each claim is reviewed individually on a case-by-case basis, reviewing findings on similar allegations made in prior claims helps support reasonable consistency between claims where this is appropriate.

If the Claim Reviewer considers a different finding for a similar claim is appropriate, they should clearly explain why in their report. This may be the case, for example, if different supporting information is available for different claims (e.g., personal records).

Additional guidance on report writing:

- **Type of allegations:** A claim can include a range of allegations. Claim Reviewers should confirm that the allegations come within the types of abuse and neglect defined in the Common Payment Framework.
- **Time period of the allegations:** Claim Reviewers should review allegations against the relevant policies and standards of the time. Something that would not be acceptable today may have been acceptable during the relevant time period. For example:
 - What was the policy around corporal punishment at the time?
 - Was the school's use of time out appropriate given the guidance they were operating under that year?
- **Frequency:** Claim Reviewers identify and comment on any information relating to how often, and over what time period, the allegations occurred. If there isn't any information indicating frequency, they should say that. (Note, Claim Reviewers should not categorise frequency under the Framework.)
- **Severity:** Claim Reviewers identify and comment on any information relating to the specific nature of the allegations that occurred, including severity. If there isn't any information indicating severity, they should say that. (Note, Claim Reviewers should not categorise severity under the Framework.)
- **Alleged perpetrator:** Claim Reviewers identify whether the allegation was perpetrated by staff or another student. If the allegation is about abuse by other students, the Claim Reviewer must also consider whether the school contributed to the abuse occurring or continuing. The Inadequate Supervision or Inaction indicator is required in order to consider supporting allegations about abuse by other students.

Sensitive Claims: Appendices to the Claim Review Guidelines

Last updated: February 2026

Appendix 1: Frequently Asked Questions

What is the relationship between the Claim Reviewer and the Ministry of Education?

The Claim Reviewer is an external contractor who reviews Sensitive Claims on behalf of the Ministry. Claim Reviewers are contracted because of their specific skillset.

The Claim Reviewer's Statement of Work sets out the work required. The Claim Reviewer is asked to review allegations made against available information, make findings and recommend whether to include the allegations for settlement.

The Claim Reviewer's report is an internal document about the claim, for the Ministry.

Can the Ministry change what findings the Claim Reviewers have made?

The Ministry will not change Claim Reviewer's findings in the report. The Ministry will review the findings put forward and use these to inform its response. The Ministry may discuss the findings with the Claim Reviewer before reaching its decision.

Can the Claim Reviewer talk to third parties?

From time to time, the Claim Reviewer may consider it appropriate to talk to third parties (e.g., ex- school staff) to gather information to support a Claim Review. If a Claim Reviewer would like to talk to a third party, they must discuss this with the Ministry.

The Claim Reviewer must never share any information about a claimant and their claim themselves, and all information held by the Claim Reviewer must be securely stored. If the Ministry wants to share information about a claimant and their claim (e.g., to a potential witness to assist with the claim review), the Ministry must ensure legal obligations are met, including those under the Privacy Act 2020.

Court orders prevent the Ministry (and its Claim Reviewers) from sharing information contained in filed claims with third parties unless the Ministry has received the claimant's consent or permission from the court.

Can Claimants receive Claim Review Reports?

Information from Claim Review Reports is shared with Claimants as part of the response they receive from the Ministry about the outcome of their claim.

The Claim Review Reports are internal documents for the Ministry and are not released to Claimants.

What if the Claimant has questions around timeline or specific parts of the process?

During the meeting the Claimant might ask specific questions about their claim and the review process which the Claim Reviewer may not know the answer to. If the Senior Advisor is in attendance, the Claim Reviewer can defer to the Senior Advisor.

If the Senior Advisor is not present, the Claim Reviewer should make a list of these questions and share it with the Senior Advisor later. The Claim Reviewer is not the appropriate respondent for questions relating to the sensitive claims process or wider

redress processes. The Claim Reviewer is responsible for understanding the Claimant's experience and preparing a report for the Ministry's consideration.

The Senior Advisor is the claimant's main contact person throughout the process, and providing information to claimants and responding to any questions is an important part of their role.

If the Senior Advisor is present, they may defer responding to questions until after the meeting to clarify information. A response will be conveyed via a follow-up call and via email (or otherwise in writing).

What allegations can be reviewed as part of the claim review?

The Common Payment Framework defines categories of abuse and neglect that all abuse in care Crown redress agencies must use to consider claims. They are:

- Physical Abuse
- Sexual Abuse
- Emotional/Psychological Abuse
- Neglect

For more information, including examples of abuse and neglect, you can access the Common Payment Framework on [About the Common Payment Framework - Redress New Zealand](#)

How many Claim Reviews will be given to the Claim Reviewer?

The Ministry will be guided by the Claim Reviewer's workload capacity. Depending on the size, complexity and school/s mentioned in a claim, Claim Reviewers may be allocated more than one claim for review at a time.

The Statement of Work will include a timeframe to complete the review. Some claims might take longer, and in these cases, an extension of the Statement of Work between the Claim Reviewer and the Ministry must be authorised before that work is undertaken.

Do Claim Reviewers have to book travel themselves?

The Ministry will arrange travel for Claim Reviewers directly, unless agreed otherwise.

Appendix 2: Indicators

Indicators are used when reviewing claims under the Ministry's full assessment process. They outline the type of information required to consider supporting an allegation for settlement. Claim Reviewers make findings on each allegation and recommend to the Ministry, based on the available information, whether a claimant's allegations should be supported for the purpose of settlement.

The indicators are grouped according to the types of abuse and neglect contained in the [Common Payment Framework \(CPF\)](#). There are sub-groups of indicators for some forms of abuse that are commonly alleged in Ministry claims.

Groups of Indicators

Type A: Physical abuse

- A1: Physical abuse by staff (general)
- A2: Physical abuse by staff (misuse of corporal punishment)
- A3: Physical abuse by staff (misuse of physical restraint)
- A4: Physical and/or emotional/psychological abuse by staff (harmful behaviour management practice / punishment)

Type B: Sexual abuse

- B1: Sexual by staff

Type C: Emotional / Psychological abuse

- C1: Emotional / Psychological abuse by staff (general)
- C2: Emotional / Psychological abuse by staff (misuse of timeout)
- C3: Witnessing or being forced to witness acts of serious abuse by staff
- C4: Witnessing or being forced to witness acts of serious abuse by students (due to inadequate supervision or inaction)

Type D: Neglect

Type E: Physical, sexual, or emotional/psychological abuse by students (due to inadequate supervision or inaction)

Type A: Physical abuse**A1: Physical abuse by staff (general)**

Definition (CPF): Actions that result in, or could result in, physical harm or injury to a survivor. (Refer to the CPF for severity level definitions.)

Examples can include:	Indicators required to consider supporting allegation: records and/or other information
<ul style="list-style-type: none"> • Slapping/hitting with an open hand, shoving /pushing, hair pulling, ear pulling, tripping, kicking • A staff member/carer directing another survivor to physically assault another survivor • Inappropriate use of medical treatment (e.g. over medication in psychiatric facilities) • Striking, closed fist punching, whipping, stomping/kicking, blows to the head or body • Being slammed against a wall • Being held forcefully by the neck or throat • A loss of consciousness • Broken bones and dislocated joints • Serious burns • Internal injuries including brain damage. 	1. Incidents involving the claimant: <ol style="list-style-type: none"> a. Records of incidents (or the type of incidents) complained about by the claimant; or b. Other information in records about the claimant supporting the alleged incidents.
	AND³
	2. Concerns about identified staff during the period of the claimant attended: <ol style="list-style-type: none"> a. Complaints or concerns about identified staff members in relation to matters relevant to the claimant's allegation. These may be recorded in letters of complaint (by the claimant or other students), disciplinary records and/or investigations by the school, Police investigations and/or information about prosecutions; OR b. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. <i>(Also use the Claim Review Guidelines on this indicator.)</i>
	OR
	3. Concerns about staff practice during the period the claimant attended: Records and/or other information indicating concerns about staff physical treatment of students at the school. This may be recorded in reviews and inspection reports, letters of complaint (by the claimant or other students), disciplinary records and/or investigations by the school.

³ Noting there may be occasions where records and/or supporting information identified under part 1 are sufficient to consider supporting the allegation for settlement. Parts 2 and 3 will still be considered, however, as Claim Reviewers consider all available information.

Type A: Physical abuse

A2: Physical abuse by staff (misuse of corporal punishment)

Definition (MOE): Misuse of corporal punishment in breach of bylaws, policies, procedures and/or standard practice in place at the time.

Examples can include:	Indicators required to consider supporting allegation: records and/or other information
<p>CPF: Excessive corporal punishment that is outside of policy.</p> <p>MOE:</p> <ul style="list-style-type: none"> • Using more strokes than is authorised • Using corporal punishment for inappropriate reasons 	<p>1. Use of corporal punishment for the claimant:</p> <ul style="list-style-type: none"> a. Records of corporal punishment being used with the claimant such as punishment returns, the claimant’s school file, incident reports, daybooks; or b. Other information in records about the claimant supporting the allegation. (E.g., the nature of their recorded behaviour at the time means corporal punishment was likely used.)
	<p>AND⁴</p>
	<p>2. Concerns about identified staff during the period the claimant attended:</p> <ul style="list-style-type: none"> a. Complaints or concerns about identified staff in relation to matters relevant to corporal punishment. This may be recorded in reviews and inspection reports, letters of complaint (by the claimant or other students), disciplinary records and/or investigations by the school; OR b. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. (<i>Also use the Claim Review Guidelines on this indicator.</i>)
	<p>OR</p>
<p>3. Concerns about staff practice in relation to use of corporal punishment during the period the claimant attended:</p> <p>Records and/or other information indicating concerns about the use of corporal punishment at the school. This information may be recorded in reviews and inspection reports, letters of complaint (by the claimant or other students), disciplinary records and/or investigations by the school).</p>	

⁴ Noting there may be occasions where records and/or supporting information identified under part 1 are sufficient to consider supporting the allegation for settlement. Parts 2 and 3 will still be considered, however, as Claim Reviewers consider all available information.

Type A: Physical abuse

A3: Physical abuse by staff (misuse of physical restraint)

Definition (MOE): Misuse of physical restraint in breach of bylaws, policies, procedures and/or standard practice in place at the time.

Examples can include:	<i>Indicators required to consider supporting allegation: records and/or other information</i>
<p>CPF: Misuse of physical restraint that is outside of policy.</p> <p>MOE: Excessive use of force</p>	<p>1. Use of physical restraint for the claimant:</p> <ul style="list-style-type: none"> a. Records of physical restraint being used with the claimant, such as in the claimant’s school file, incident reports, daybooks; or b. Other information in records about the claimant supporting the allegation. (E.g., the nature of their recorded behaviour at the time means physical restraint was likely used.)
	<p>AND⁵</p>
	<p>2. Concerns about identified staff during the period the claimant attended:</p> <ul style="list-style-type: none"> a. Complaints or concerns about identified staff member/s in relation to matters relevant to physical restraint. This may be recorded in letters of complaint (by the claimant or other students), disciplinary records and investigations by the school; OR b. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. <i>(Also use the Claim Review Guidelines on this indicator.)</i>
	<p>OR</p> <p>3. Concerns about staff practice in relation to use of physical restraint during the period the claimant attended:</p> <p>Records and/or other information indicating concerns about the use of physical restraint at the school. This may be recorded in reviews and inspection reports, as well as other documents such as letters of complaint (by the claimant or other students), disciplinary records and investigations by the school.</p>

⁵ Noting there may be occasions where records and/or supporting information identified under part 1 are sufficient to consider supporting the allegation for settlement. Parts 2 and 3 will still be considered, however, as Claim Reviewers consider all available information.

Type A: Physical abuse and/or emotional/psychological abuse

A4: Physical abuse and/or emotional/psychological abuse by staff (harmful behaviour management practice / punishment)

Definition (MOE): These are punishments and behaviour management practices used by staff at the school that are harmful, or used with the claimant in a manner that is harmful.

Examples can include:	<i>Indicators required to consider supporting allegation: records and/or other information</i>
<p>CPF:</p> <ul style="list-style-type: none"> • Harsh physical punishment (e.g., being forced to eat soap) • Harsh or harmful punishment intended to shame. <p>MOE:</p> <ul style="list-style-type: none"> • Children made to wear wet bedclothes after wetting the bed • Not given sufficient food as punishment • Prevented from contacting parents • Made to wear inappropriate clothing, e.g. a nightie. 	<p>1. Incidents involving the claimant</p> <ul style="list-style-type: none"> a. Records of incidents (or the type of incidents) complained about by the claimant; or b. Other information in records to indicate the behaviour management practice complained about was likely used with the claimant.
	<p>AND⁶</p>
	<p>2. Concerns about identified staff during the period the claimant attended:</p> <ul style="list-style-type: none"> a. Complaints or concerns about the behaviour management practice of named or identified staff member/s relevant to the claimant's allegation. This could be recorded in letters of complaint (by the claimant or other students), disciplinary records and investigations by the school; OR b. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. <i>(Also use the Claim Review Guidelines on this indicator.)</i>
	<p>OR</p>
	<p>3. Concerns about the school's behaviour management practice during the period the claimant attended relevant to the allegation:</p> <ul style="list-style-type: none"> a. The school used the behaviour management practice of the type complained about; and (b or c): b. Concerns indicating unacceptable or harmful use by staff of the otherwise accepted behaviour management practice at the school (e.g., breached school policy). This may be recorded in reviews and inspection reports, other documents such as letters of complaint (by the claimant or other students), disciplinary records and investigations by the school; or c. The behaviour management practice used was not acceptable for the time. (This may be indicated in records and/or by prior Ministry responses to claims.)

⁶ Noting there may be occasions where records and/or supporting information identified under part 1 are sufficient to consider supporting the allegation for settlement. Parts 2 and 3 will still be considered, however, as Claim Reviewers consider all available information.

Type B: Sexual abuse

B1: Sexual by staff

Definition (CPF): Actions that involve forcing or enticing a survivor to take part in sexual activities, whether the survivor is aware of what's happening or not. It may or may not involve direct contact. (Refer to the CPF for severity level definitions.)

Examples can include:	Indicators required to consider supporting allegation: records and/or other information
<ul style="list-style-type: none"> • Being exposed to indecent material (whether, written, spoken or visual) • Acts for the purpose of sexual gratification of the perpetrator, eg survivor sitting on their lap, being watched when undressing • Being made to watch or view genitals, inappropriate sexual talk • Encouraging a survivor to look at pornography or behave in a sexually inappropriate way • Grooming a survivor in preparation for sexual abuse (this may be done via the internet) • Kissing, fondling, rubbing, genital touching or masturbation of or by the perpetrator – may be under or over clothing • Forcing or enticing a survivor to take part in sexual activities whether the survivor is aware of what is happening or not • Sexual connection, rape and oral sex • It can involve a part of the body of the perpetrator or an object • A staff member/carer involving the survivor in the making of pornography or in prostitution. 	<p>1. Incidents involving the claimant:</p> <ul style="list-style-type: none"> a. Records of incidents (or the type of incidents) complained about by the claimant; or b. Other information in records about the claimant supporting the alleged incidents.
	<p>AND⁷</p> <p>2. Concerns about staff during the period the claimant attended:</p> <ul style="list-style-type: none"> a. Complaints or concerns about named or identified staff member/s. These are matters relevant to the claimant's allegation and could be recorded in letters of complaint (by the claimant or other students), disciplinary records and investigations, Police investigations and/or information about prosecution; OR b. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. <i>(Also use the Claim Review Guidelines on this indicator.)</i>

⁷ Noting there may be occasions where records and/or supporting information identified under part 1 are sufficient to consider supporting the allegation for settlement. Part 2 will still be considered, however, as Claim Reviewers consider all available information.

Type C: Emotional / Psychological abuse**C1: Emotional / Psychological abuse by staff (general)**

Definition: Actions (not physical or sexual) that can demean or harm a survivor emotionally. It is generally verbal but may take other forms. It is generally a pattern of behaviour over time, rather than single or isolated incidents. (Refer CPF for severity level definitions.)

Examples can include:	Indicators required to consider supporting allegation: records and/or other info
<ul style="list-style-type: none"> • Repeated name calling • Criticising, belittling, demeaning, mocking, misogynist and racist slurs • Accusing, blaming, insulting, threatening abandonment, manipulating, taking advantage, screaming, yelling • Engaging a survivor in criminal acts, making them tell lies • Strip searches that fell outside policy or legislation at the time • Threats of punishment • Harsh or harmful punishment intended to shame • Witnessing or being forced to witness acts of serious abuse • Having a rifle/gun pointed towards the survivor • Being made to dig a hole into which the survivor is threatened to be buried • Actions which induced the survivor to believe death was imminent such as firing a gun towards survivor. 	<p>1. Incidents involving the claimant:</p> <ul style="list-style-type: none"> a. Records of incidents (or the type of incidents) complained about by the claimant; or b. Other information in records about the claimant supporting the alleged incidents.
	<p>AND⁸</p> <p>2. Concerns about identified staff during the period the claimant attended:</p> <ul style="list-style-type: none"> a. Complaints or concerns about named or identified staff member/s. These are matters relevant to the concerns raised by the claimant and could be recorded in letters of complaint (by the claimant or other students), disciplinary records, Board minutes and investigations by the school; OR b. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. <i>(Also use the Claim Review Guidelines on this indicator.)</i>
	<p>OR</p> <p>3. Concerns about staff practice during the period the claimant attended:</p> <p>Records and/or other information indicating concerns regarding staff treatment of students (non-physical, non-sexual) at the school relevant to the allegation. This information may be recorded in reviews and inspection reports, as well as other documents such as letters of complaint (by the claimant or other students), disciplinary records and investigations by the school.</p>

⁸ Noting there may be occasions where records and/or supporting information identified under part 1 are sufficient to consider supporting the allegation for settlement. Parts 2 and 3 will still be considered, however, as Claim Reviewers consider all available information.

Type C: Emotional / Psychological abuse

C2: Emotional / Psychological abuse by staff (misuse of timeout)

Definition (CPF): Being placed in secure cells, seclusion, timeout, isolation or otherwise detained (such as in a shed or on 'Alcatraz' at the Whakapakari programme) may constitute emotional /psychological abuse for the purposes of these definitions.

Examples can include:	<i>Indicators required to consider supporting allegation: records and/or other information</i>
<p>CPF: Excessive use of timeout where the conditions and/or duration are outside policy or other documented standards.</p> <p>MOE:</p> <ul style="list-style-type: none"> • Kept in timeout for long (excessive) time periods outside procedure • Put in timeout for reasons not in accordance with policy (e.g., for punitive reasons). 	<p>1. The school had a timeout room or practice:</p> <ul style="list-style-type: none"> a. School had a timeout room; or b. Information shows school had a timeout practice that involved separating students from others (e.g. placing students in the hall).
	AND
	<p>2. Use of timeout for the claimant:</p> <ul style="list-style-type: none"> a. Records of timeout being used with the claimant, such as references from timeout registers, school file, incident reports, daybooks; or b. Other information in records to indicate the claimant was placed in timeout. (E.g., the nature of their recorded behaviour means timeout was likely used.)
	AND⁹
<p>3. Staff misuse of timeout while claimant attended the school:</p> <ul style="list-style-type: none"> a. Complaints or concerns about identified staff member's use of timeout during time the claimant attended (this may have resulted in investigation and/or disciplinary action for timeout policy breach); or b. Records of other students placed in timeout in breach of policy during time the claimant attended; or c. Concerns raised about staff practice concerning the use of timeout in reviews or investigations of the school (e.g., ERO Reports); or d. Statements made by staff witnesses about the use of timeout during investigations regarding the school. This could include Police investigations and statements made during court proceedings; or e. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. <i>(Also use the Claim Review Guidelines on this indicator.)</i> 	

⁹ Noting there may be occasions where records and/or supporting information identified under parts 1 and 2 are sufficient to consider supporting the allegation for settlement. Part 3 will still be considered, however, as Claim Reviewers consider all available information.

Type C: Emotional / Psychological abuse

C3: Witnessing or being forced to witness acts of serious abuse by staff

Examples can include:	<i>Indicators required to consider supporting allegation: records and/or other information</i>
<p>Witnessing or being forced to witness acts of serious abuse is an example of emotional / psychological abuse in the CPF.</p> <p>Examples of serious abuse:</p> <ul style="list-style-type: none"> • Serious injuries (e.g., fracture) • Sexual assault (unlawful connection). 	<p>1. Existing claim findings supported for settlement or formal records:</p> <ul style="list-style-type: none"> a. Existing findings about the student/s identified as experiencing the abuse that support the allegation; or b. Existing records of formal findings (e.g., police investigation, Court proceedings) held about the named or identified staff member that support the allegation (for example, relevant allegations in these records regarding students). <hr/> <p><i>AND</i></p> <p>2. Records indicating that the claimant may have been present.</p>

Type C: Emotional / Psychological abuse

C4: Witnessing or being forced to witness acts of serious abuse by students (due to inadequate supervision or inaction)

Examples can include:	<i>Indicators required to consider supporting allegation: records and/or other information</i>
<p>Witnessing or being forced to witness acts of serious abuse is an example of emotional / psychological abuse in the CPF</p> <p>Examples of serious abuse:</p> <ul style="list-style-type: none"> • Serious injuries (e.g., fracture) • Sexual assault (unlawful connection). 	<p>1. Existing claim findings supported for settlement:</p> <ul style="list-style-type: none"> a. Existing findings about the student/s identified as experiencing the abuse that support the allegation; or b. Existing findings about serious abuse between students at the school during the time the claimant attended that support the allegation.
	<p><i>AND</i></p>
	<p>2. Records indicating that the claimant may have been present.</p>
	<p><i>AND</i></p>
<p>3. There was inadequate staff supervision or inaction when the claimant attended:</p> <ul style="list-style-type: none"> a. The school was short staffed, shifts/periods were running with less staff as there were no relievers to cover gaps, and staffing during shifts/periods was therefore not at the required level; or b. Staff were sleeping during their shift or not completing expected supervisory duties; or c. Staff witnessed, or were aware of, incidents complained about by the claimant and/or such incidents between students and did not intervene or respond; or d. Other information supporting that supervision was inadequate and this contributed to abuse by other students occurring or continuing. 	

Type D: Neglect

Definition (CPF): Neglect is where the basic needs of a survivor are not being met. This may be physical neglect, medical neglect or supervisory neglect. It is generally a pattern of behaviour over time, rather than single or isolated incidents. The severity of neglect is determined by considering both the nature of the neglect and the period of time over which it occurred.

Examples can include:	Indicators required to consider supporting allegation: records and/or other information
<p>CPF:</p> <ul style="list-style-type: none"> • An ongoing pattern or practice of allowing or requiring a survivor to miss school unjustifiably • Failing to provide the care required to maintain adequate personal hygiene • Failure to provide sufficient food or clothing or required medical treatment • Condoning the use of drugs, alcohol, or involvement in crime • Living in an environment where for periods of time there is insufficient food, running water, power, functioning toilet • Having to complete chores/work that are inappropriate for the age and stage of the survivor • Endangering the life of the survivor by not taking them to hospital or seeking appropriate medical help for a serious illness or injury where there is confirmation of that illness or injury • Physical neglect to the extent the survivor becomes malnourished or otherwise requires medical intervention • Serious physical and/or medical neglect over a long period of time such that the life of the survivor is threatened. 	<p>1. Incidents involving the claimant:</p> <ul style="list-style-type: none"> a. Records of incidents (or the type of incidents) complained about by claimant; or b. Other information in records about the claimant supporting the alleged incidents.
	<p>AND¹⁰</p> <p>2. Concerns about identified staff during the period the claimant attended:</p> <ul style="list-style-type: none"> a. Complaints or concerns about named or identified staff member/s relevant to the claimant's allegation. This could be recorded in letters of complaint (by the claimant or other students), disciplinary records, Board minutes and investigations by the school; OR b. Similar allegation received from: other students (or student) attending at the same time, at a different time within two years of each other; or other students at different schools about staff present at the same time as the claimant. <i>(Also use the Claim Review Guidelines on this indicator.)</i>
	<p>OR</p> <p>3. Concerns about staff practice during the period the claimant attended:</p> <p>Records and/or other information show concerns relating to the school's basic care responsibilities (e.g., food provision, access to education) that are relevant to the allegation. This information may be recorded in reviews and inspection reports, as well as other documents such as letters of complaint (by the claimant or other students), disciplinary records and investigations by the school.</p>

¹⁰ Noting there may be occasions where records and/or supporting information identified under part 1 are sufficient to consider supporting the allegation for settlement. Parts 2 and 3 will still be considered, however, as Claim Reviewers consider all available information.

Type E: Physical, sexual or emotional/psychological abuse by students (due to inadequate supervision or inaction)

Definition (CPF): refer to the definitions above under staff physical (A1), sexual (B1) and emotional/psychological abuse (C3).

CPF: Alleged abuse by other students must arise from, or relate to, the acts or omissions of the State and have contributed to the abuse or neglect occurring or continuing, to be recognised.

MOE: For the purposes of claim review, the Ministry refers to this as inadequate supervision or inaction.

Examples can include:	Indicators required to consider supporting allegation: records and/or other information
<p>Refer to the CPF examples listed above under Type A1, B1 and C1.</p>	<p>1. Incidents involving the claimant:</p> <ul style="list-style-type: none"> a. Records of incidents complained about by the claimant; or b. Records of the type of incidents complained about occurring between students and records indicate such incidents occurred with the claimant; or c. Similar allegation from other students (or student) attending at the same time or within two years of each other. <i>(Also use the Claim Review Guidelines on this indicator.)</i>
	<p>AND</p> <p>2. There was inadequate staff supervision or inaction when the claimant attended:</p> <ul style="list-style-type: none"> a. The school was short staffed, shifts/periods were running with less staff as there were no relievers to cover gaps, and staffing during shifts/periods was therefore not at the required level; or b. Staff were sleeping during their shift or not completing expected supervisory duties; or c. Staff witnessed, or were aware of, incidents complained about by the claimant and/or such incidents between students and did not intervene or respond; or d. Other information supporting that supervision was inadequate and this contributed to abuse by other students occurring or continuing.

Appendix 3: Claim Review Report Template

The Claim Reviewer prepares a Claim Review Report for the Ministry to consider, using the report template provided. The template includes the Claim Review table of allegations.

Claim Reviewers are reminded to:

- State allegations fully and accurately.
- Classify the allegations correctly using the Common Payment Framework definitions of abuse and neglect.
- Review documents that are relevant to the claim. If referring to information outside of the timeframe when the alleged actions occurred, the Claim Reviewer should clearly explain how and why this is applicable.
- Ensure all records relied on are identified in the Report.



Memo

To: Sensitive Claims Team, Ministry of Education
From: <Click here to enter text>
Date: <Enter a date here>
Subject: Sensitive Claim: Review Report for [Claimant] (DOB: [xx/xx/xxxx])

Purpose

The purpose of this report is to determine whether [claimant] experienced abuse and/or neglect during their time at [the school].

Example:

1. *The purpose of this report is to assess **Claimant's claim that they was/were sexually, physically and/or emotionally/psychologically abused, and/or neglected, when they was/were a student at School.***

Executive Summary

Include: Summary of claim, findings made and recommended response to allegations made.

Example:

2. *In summary this report finds that...*
3. *It is therefore recommended that you include these allegations in the settlement offer*
 - *Allegation #1*

Scope of Assessment

Include: Background information about the claim and description of the information reviewed, including:

- How was the claim received – in writing or verbally; filed / unfiled; through a representative, direct from the claimant or from another agency (i.e. MSD)?
- When did the claimant attend the school(s) that is the subject of the allegations? What age was the claimant when they started and ended their time at the relevant school(s)?¹¹
- For filed claims, consider all filed documentation including any amended versions of the filed statement of claim.
- Has a letter of offer been received?
- Any other information received from the claimant or their representative?

¹¹ Enrolment details should be footnoted

Example:

4. In *Year* (insert name of claimant's representative) wrote to the Ministry on behalf of *Claimant*. This letter set out *Claimant's* complaints about *their* time at *School* in *Year* and offered *\$amount* to settle the claim. A Statement of Claim was subsequently filed in the High Court citing particulars of the abuse and the damages claimed.¹²
5. Sources of information considered included:
 - *Filed documents [list]*
 - *Other documents / information received from claimant [list / summarise]*
 - *Claimant's personal file from School*
 - *Relevant school records including school policy and administration files*
 - *Ministry of Education files about [description]*
 - *Annual Reports for School*
 - *Education Review Office reports about School*
 - *Interview notes from meeting with Claimant on Date.*

List allegations determined to be out of scope in your review. You do not need to include these in the allegations table.

Background: *Claimant's name*

Include: Relevant background information about the claimant. This may include:

- situation at home (usually brief)
- previous schools attended
- reasons the claimant was sent to the school complained about
- education plans such as Individual Education plans (IEP) or integration plans
- information from any progress reports at the school complained about
- schools attended after the school complained about
- any information gathered from the meeting, including redress sought from the Ministry
- any other information relevant to the claim, including when there is no information available.

Background: *School name*

Include: Briefly summarise context, where relevant, relating to the school and specifically to the time when the claimant attended. Information may include:

¹² Statement of Claim High Court Wellington: Claimant v The Attorney General (date): (case number).

- establishment of the school, enrolment, classes
- governance, staffing and overall purpose
- any other information that may be relevant to the claim and the claimant's time at the school, including any documented concerns regarding the school's practice (e.g., from ERO reports).

Recommended Redress

Set out recommended redress.

Example:

6. *The Claim Review table of allegations addresses each allegation that is in scope of the Sensitive Claims review process. Findings and recommended response are summarised above (refer Executive Summary).*
7. *I recommend that the Ministry offers **Claimant** the following to resolve their claim:*
 - *A letter from the Secretary for Education apologising for **their** experiences at **School**; and*
 - *A payment.*

Signoff by Claim Reviewer

Claim review table of allegations

Type of abuse / neglect	Allegation	Records and/or other information	Indicator reference/s (e.g., 1a)
<i>Split the rows into type of abuse and experience</i>	<i>Briefly describe allegation (including, if described, who was responsible, the specific nature of the alleged abuse, how often it occurred and over what timeframe?) Cross-reference to claim document where applicable, e.g., para 1(c) statement of claim.</i>	<i>A full list of records and/or other documented information, including any applicable similar allegation, is to be included in the report. These are abbreviated references that relate to the allegation made.</i>	
1. <i>Emotional/Psychological abuse – misuse of time out</i>	<i>On multiple occasions throughout their time at the school, the claimant experienced excessive use of time out, for periods of up to several hours. (Para 1(c) statement of claim, dated XX.)</i>	<i>Day books: 1, 3, 5, 16, 17 [month], [year], Incident reports dates [x], [x], [x], student file [dates] Policies – time out policy [dated]</i>	
Analysis and finding <i>Explain concisely what documented information you have used to make the finding, your reasoning for the finding, and recommend whether to include this allegation for the purpose of settlement. Include, where possible, who was responsible for the allegation, the specific nature of the alleged abuse, how often it occurred and over what timeframe. Where information isn't available, please state this. Where available information may not support an allegation, please discuss this along with any information that does.</i>			Outcome <i>Provide your recommendation here</i>
<i>Records relating to this allegation indicate that [claimant] did experience excessive use of time out as alleged because....</i>			
<i>Policies state.... Records indicate... Other information shows... Information not available...</i>			
Type of abuse / neglect	Allegation	Records and/or other information	Indicator reference
2.			
Analysis and finding			Outcome
Type of abuse / neglect	Allegation	Records and/or other information	Indicator reference
3.			
Analysis and finding			Outcome
Type of abuse / neglect	Allegation	Records and/or other information	Indicator reference
4.			
Analysis and finding			Outcome

Appendices

Policies and Procedures Relevant to the Claim

1. Include: A brief outline of relevant policies, procedures, guidance or bylaws (i.e., any formal standard) used to make findings about whether an allegation is supported or not supported for settlement.
2. You may have a separate sub-heading for each document with a brief analysis under each. The documents included in the report must relate to the allegation. The analysis may include a summary of policy wording and specific practice that staff followed.