

Senate Community Affairs Legislation Committee

Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and related bill

The work of Relationships Australia

This submission is written on behalf of Relationships Australia's eight member organisations.

We are a community-based, not-for-profit Australian organisation with no religious affiliations. Our services are for all members of the community, regardless of religious belief, age, gender, sexual orientation, lifestyle choice, cultural background or economic circumstances.

Relationships Australia provides a range of support services to Australian families, including counselling, dispute resolution, mental health support, children's services and relationship and professional education. We aim to support all people in Australia to achieve positive and respectful relationships. We also believe that people have the capacity to change their behaviour and how they relate to others.

Relationships Australia has been a provider of family relationships support services for 70 years. Relationships Australia State and Territory organisations, along with our consortium partners, operate one third of the 65 Family Relationship Centres across the country. In addition, Relationships Australia Queensland is funded to operate the Family Relationships Advice Line.

Relationships Australia organisations each provide a range of support services to people whose lives have been, or are being, affected by change, challenge, crisis and/or trauma. Each of our organisations has been contracted to provide a range of supports to people who are affected by investigations undertaken by the Royal Commission into child sexual abuse. We have worked closely with the Commission since its inception to ensure that our services dovetail with Royal Commission operations. A number of our organisations have also worked with State and Territory Inquiries to support people affected by child sexual abuse and to inform policy outcomes. We have also provided support services to Forgotten Australians for many years in most Australian jurisdictions.

The information in this submission reflects our experience. Our comments are informed by listening to the experiences of clients, discussion with practitioners and service providers, research and reports produced by the Royal Commission and other Inquiries.

Introduction

Relationships Australia supports many of the overarching principles captured in the *Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017* and related bills (the Bills), including the Government's commitment to elements of redress that provide more than monetary compensation—redress payments, direct personal response and ongoing support of survivors. We also support the general principles, including those that recognise the need to minimise re-traumatisation of claimants, but would like more guidance and strengthened wording to make the meaning of other principles more explicit.

Concerns around the limitations of the proposed Commonwealth Redress Scheme (the Scheme) proposed in the Bills can be grouped around particular themes, including the:

- types of services to be funded;
- level of payments to be made to recipients;
- limits on who can receive payments, even though they are eligible;
- potential infringements on human rights;
- inequity in application;
- inequity in outcomes for clients exposed to the same damage and abuse; and
- independence of administration.

Further, as was recommended by the Royal Commission, we continue to maintain that a national scheme administered by an independent body offers the best support for survivors. The Scheme proposed in the Bills will only be a national scheme if all states, territories and past providers chose to opt in, and at this time no States have indicated they will do so.

A national scheme would provide:

- fairness, equity, and consistency across institutions;
- ease of access and administration, including broad and visible Australia-wide promotion;
- less complexity for survivors and consistency in procedures and support services;
- better access for survivors who no longer reside in the State or Territory in which they were abused or where they experienced abuse in more than one jurisdiction; and
- a single body that could develop a national framework and policy for acceptable standards.

A national scheme could describe an institution's responsibilities in relation to alleged child sexual abuse; how they train their staff in understanding the dynamics of child sexual abuse, including disclosures and reporting; and appropriate organisational responses to this, including accountability. National standards could also inform and provide value to other important social policy, including for children who experience child abuse in a family context.

State-based or institutional schemes lead to fragmented responses and invariably make it more difficult for survivors to access redress. A fragmented scheme would also make it more difficult to develop policy for non-government institutions that may have national or state-based jurisdiction. Relationships Australia has assisted a number of survivors to navigate services interstate as it can be difficult to access information, and understand eligibility criteria and referral pathways. Our experience in assisting people across states shows that this adds to the cost of service delivery and the traumatisation of victims.

While we understand the inherent challenges in negotiating the agreement of all jurisdictions, and note that it is likely to extend the establishment phase, our firm view is that a single national scheme is a goal worth striving for.

Specific comments relating to elements of the Bill

Consultation

We would encourage the Bills to mandate consultation of local Aboriginal and Torres Strait Islander organisations and Elders, and bodies representing survivors of institutional child sexual abuse in the policy development phase and period leading up to the implementation of the Scheme.

Administration

- The Bills give power to the Minister to delegate powers as operator to the Secretary of a Commonwealth Department. Therefore the operator is not independent and in our opinion should not be determining eligibility for redress.
- Section 35(3) prescribes the timeframes for review and acceptance of offers. We consider this timeframe to be exceptionally short, particularly when a number of people who will be applying for redress need the support of services to understand the processes.

The Long-term Outcomes of Forgotten Australians Study report outlines the poorer educational outcomes for Forgotten Australians and ensuing low levels of literacy. It is also likely that bureaucratic processes could be triggering on many levels. This means that the person may disengage from the application process one or more times for different periods of time. Similarly, even if offers and other administrative processes are in plain language; additional support ensures people understand offers made under the Scheme.

The time needed for the personal journeys of applicants must be accommodated by the Scheme processes. We would encourage the government to extend the window for review and make significant investment in support services to help survivors understand processes and their rights.

- We recognise the challenge in gathering information as is described in section 69. Rightly, the ethos of the scheme must be to do no further harm, and when the Scheme seeks information there is a risk that further harm may be inflicted. We urge the Operator to be very cautious in seeking information from applicants and support should be given to the applicant through all parts of this process.

Eligibility

Definition of abuse

- Relationships Australia prefers a broader definition that captures other types of abuse that are linked to sexual abuse that include physical abuse and torture, emotional abuse that involves grooming, intimidation and coercion; and neglect. In addition we see it as important that there is recognition of the context of a child's life, for example, in cases where a highly disadvantaged environment led to more severe impacts, and poorer outcomes, for survivors.
- We suggest the wording under Objects of this Act, section (1)(a) '*recognise and alleviate the impact of past institutional child sexual abuse and related abuse*' be changed to '*recognise and alleviate the impact of past institutional abuses that include sexual abuse*' to avoid ambiguity that the scheme can provide redress for abuse that is not linked to sexual abuse.
- Similarly section 2(c) '*to implement the Commonwealth's response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*' requires rewording to avoid it appearing that this is the only response the Commonwealth will consider in response to alleviating the impact of institutional child sexual abuse and responding to the recommendations of the Royal Commission.

Exclusion of survivors with a history of sexual offending

- While exclusion of sexual offenders is not explicit in the Bills, indications are that some survivors may be excluded from the Scheme, with the rules of the Scheme set out in the Bills as being determined by the Minister. We note that the government has publically stated these rules will exclude those victims who have a significant or criminal history of more than 5 years. A further group to be excluded would be those who have themselves having been victims then gone on to become child sex offenders. This creates a two-tiered system that would only compound the marginalisation of these individuals, and ambiguity around definitions of 'significant' that may arbitrarily allow some victims access to redress while others are excluded. At a minimum, former offenders should be able to access psychological services and direct personal response parts of the scheme.
- Our clinical experience provides many insights into the interaction of survivors and the criminal justice system. We have amassed a great deal of research evidence which points to an almost inevitable path for some to a life of non-sex based crime, arrest and incarceration for many abused as children in institutions. A much smaller number go on to themselves become sex offenders. In Western Australia, for example, the Royal Commission Support Services of Relationships Australia (WA) have taken up a large caseload of more than 100 prisoners who are also survivors of institutional child sexual abuse.

We have observed four main groups of survivors who are, or have been, in prison:

1. Those who have had specific incidents of child sexual assault or assaults due to neglect by child protection agencies or while in juvenile facilities – often made up of crimes related to feeding addictions.

2. Those who have had a lifetime of child sexual abuse perpetrated by an institution, or by both an institution and family members or family friends – often marked by crimes of violence.
3. Persons abused or assaulted who were then raped in adult prisons – ongoing child to adult vulnerable victims.
4. Persons abused or assaulted who were then went on to commit rape or sexual assault of other children or adults – ongoing cycle of sexual abuse.

While the above groups overlap to some extent, what is evident is that there is no simple picture of “good” or “deserving” survivors versus those that are not so. We do not condone any victim-perpetrator behaviour in making this case, but simply point out the inherent unfairness of any dividing line being drawn for the prison or ex-criminal survivor groups. To try and determine any limits on the rights of these two groups to redress would appear to be an infringement of their human rights as current or ex-prisoners and Australia’s obligations under UN Conventions.

We are open to the mediating argument that any prisoner who has made others a victim due to crimes related to property or person should make good on their debts related to criminal injuries from any redress payments. Such people also may have family responsibilities to their children that could be met through the Scheme that could specify arrangements to be made for redress to be provided to these persons ahead of the survivor in some instances.

Responsibility of institutions

- Section 21(3)(c) We suggest that this provision be reworded to include reference to the institution’s responsibility for the child’s care **and** well-being. The institution whether through fault or lack of care and due diligence is responsible for the abuse when they hold responsibility for the child’s welfare, for example, day release from an institution without supervision or sub-contracting care arrangements to a foster carer does not abdicate the institutions responsibility.

Multiple instances of abuse

- Section 28. In their current form, the Bills prescribe that a person can only make one application for redress under the scheme. Whether the application is successful or unsuccessful, the person will not be able to make another application. To limit the survivor to one claim denies the magnitude of issues. At Wattle Place (Relationships Australia NSW) for example, there is a survivor account of abuse across 54 institutions. Another survivor account of abuse relates to multiple institutions, including medical experimentation and transfer across 3 state jurisdictions. Perhaps a more equitable approach could be to cap the maximum of all applications at the Scheme limit so that persons who later decide to make a further application, where they have not reached the cap, are able to make further claims.

Family members

- There should be scope for family members of deceased survivors to apply to the Scheme. In its present form there is inequity between family members of a deceased victim who has received an

offer and died before acceptance and the families of other victims who may have suffered the same abuse, but passed away before an offer could be made.

Citizenship issues

- We suggest that the Bills include provisions for current residents who were abused as children by Australian institutions to avoid deportation laws that would normally apply due to later crime. As stated above, research supports the strong link between child abuse and later crime. If deported, these survivors would be unable to access elements of the Scheme open to other survivors who have suffered the same abuse by the same institution.
- While working with survivors without residency we have also observed past trauma that has translated into a life of crime which then results in failure of the character test within the *Immigration Act*. Under Australian law, persons who endured sexual abuse as minors do have to accept culpability for their later adult crimes. It seems that being deported because they did not take out Australian citizenship, after having served their time, is unduly punitive.

Eligibility for non-citizen residents who were abused as children by Australian institutions

- A number of our clients are non-citizen residents who have not ever given consideration to becoming Australian citizens because of the chaos created in their lives by past child sexual abuse within an Australian institution or in an institutional context.

Given the current topicality of the problems of dual citizenship in the Australian Parliament it is incumbent to consider this. Under the proposed Scheme eligibility rules, it is quite likely that a survivor who has lived here all of their lives can be excluded from claiming against a participating non-government institution simply because of their citizenship status—even though the body accepts liability for the abuse committed. A number of our clients have already received payments of this nature as non-citizens. This means that inequity would also be created between pre-2018 and post-2018 survivors hoping to gain financial redress from a participating non-government institution.

Duration

- Relationships Australia does not support a scheme duration of 10 years, instead preferring the view of the Royal Commission that any redress scheme should not have a fixed closing date. While some people are able to speak out when the abuse occurs, for others it can take decades before they feel able to discuss their experiences. The latter is the case for many of people we have seen through our support services. Clients are understandably frustrated and angry when advised they are outside the dates for compensation eligibility and this amplifies their trauma and interferes with healing.

Redress payments

- Section 45 (1)(b) states that redress does not constitute compensation or damages and yet it excludes/or requires people to forgo seeking compensation or damages. We find this wording troublesome and inflammatory and suggest it is reworded.

- While we commend the flexible approach to redress outlined in the Bills, where survivors can access any or all of the three elements of redress offered, it is disappointing that monetary payments are capped at \$150,000. We would like to see this raised the level recommended by the Royal Commission (\$200,000).

Redress paid through the scheme outlined in the Bill is likely to be accessed primarily by those survivors who choose to use it because their path to civil litigation is not available, unlikely, limited, or they would like to have redress of some form paid earlier rather than later.

Relationships Australia has been a national support service for survivors of institutional abuse over the last five years. In that time we have observed a number of situations in which non-government institutions have paid out amounts to survivors that have been determined more by the urgency of survivor's welfare and income need, and less about the merits and substance of their claim. Some non-government institutions have offered and paid out amounts much less than those paid to others with similar claims who were able to wait, due to a difference in circumstances.

Ex-gratia payments made by the SA Government under the redress scheme implemented following the Mullighan Inquiry, for example, are already causing significant confusion and inequity among our clients due to the different state and proposed federal arrangements. Average payments under the SA redress scheme are estimated at \$14,300 per recipient. Yet, these amounts contrast sharply with individual civil claims dealt with by SA Courts that have included payments of around \$750,000.

By not limiting rare and exceptional circumstance payments to \$150,000, the gap between payouts for Scheme participants and those using civil compensation law could be reduced. Rather than setting this in stone through legislation, the Bills could delegate the following powers to the Minister or set rules to guide them by:

- a) determining one-off and rare exceptions to payments;
- b) determining one-off and rare exceptions to evidence for substantiation; and
- c) setting and adjusting base, minimum, maximum and average payouts and their indexation.

- Along with the cap, we suggest the Bills provide a universal base payment for all survivors of institutionalised child sexual abuse who meet the eligibility criteria. This amount could be paid regardless of the nature of the case or damage, and to all substantiated claimants regardless of the institution involved. This payment could be paid as a top-up to welfare payments or to remove debts owed to the Commonwealth or other Australian jurisdictions for fines etc. It could be quarantined from taxation and not limited by any previous payments made under other forms of redress. A suggested starting point for this base payment would be of \$25,000, indexed to a suitable indicator as determined by the rules of the Scheme. This amount should be paid by the Commonwealth and as part of its recognition of the impact of abuse on all survivors, removing the funder of last resort limitations described in the Bills.

Potential disparities between survivors simply because of the "lottery" of where and when their abuse took place would be diminished by this provision. The two Bills draw their authority from the

voluntary participation of other Australian jurisdictions and non-government institutions. A levy could be made on other Australian jurisdictions and liable non-government institutions to meet these universal base payments.

Counselling and Psychological Services

- There is a lack of detail in these sections of the Bills compared to the redress payment sections. It is not clear if psychological support is available and ongoing, limited to the life of the Scheme, capped per annum or allocated based on assessed need. This is concerning as access to psychological support and associated services is fundamental to recovery for many survivors.

Broadening support services to include case management and related support services

- The redress scheme/process should be flexible enough to allow access to services depending on the needs and goals of survivors, and there should be equity of access across the country. It should offer flexible service responses to clients (a no wrong door approach) and innovative and tailored models for support services. For example, mental health care plans need to be expanded and broadened to cover a more holistic approach to support, including case management.

- We recommend that life-long therapeutic counselling and psychological care be provided. Non-monetary and therapeutic benefits could cover a range of present and future therapeutic needs including, but not limited to, ongoing counselling through a provider of their choice, housing, finding and reconnecting with family, medical costs, subsidised housing, health and aged care supports in the last years of their lives, funeral costs, and education for survivors, children and grandchildren. Skills building and education, for example, therapeutic parenting skills, can assist victims to break the cycles of disadvantage for themselves and their children, and holistically address experiences of the trauma.

- The Bills should create an additional suite of services related to therapeutic case management. We would encourage the Government to think more broadly about what supports recovery and include options such as: allied health, complimentary therapies, cultural healing programs, retreats and residential rehabilitation programs. These could be funded through brokerage to ensure greater choice and self-determination. Intensive case management services includes not only ongoing psychology, counselling, and psychotherapy but also covers the following:

- Welfare advocacy – work done by a tertiary qualified and skilled case manager to obtain welfare services to survivors of institutional child sexual abuse related to housing, income, disability, health, medical, psychology, personal and archive records searching;
- Family advocacy – work done by a tertiary qualified and skilled case manager to assist individuals and their families affected by the trauma of historical and institutional child sexual abuse gain access to support services, family therapy, family archive records searching, family reunion, family reconciliation;
- Legal link-up support and advocacy – work done by a tertiary qualified and skilled case manager for survivors of institutional child sexual abuse related to helping such persons

navigate through the process of redress or civil litigation and deal with the trauma of the legal or quasi-legal process related to recollecting past abuse history;

- Prisoner welfare support – work done by tertiary qualified and skilled case managers to provide services to incarcerated survivors of institutional child sexual abuse related to their disability, health, medical, psychology, family welfare and resettlement after prison.

The above set of case management services have been provided through Commonwealth funding for the entire period of the Royal Commission into Institutional Response to Child Sexual Abuse. To not include this set of services would create discontinuity between pre-2018 and post-2018 services for survivors.

- As mentioned briefly above, we would also like targeted support services extended to survivors who are in prison. It is important to note from our clinical experience the dire lack of appropriate and counselling services in prisons, and a focus on group therapy which limits disclosure of abuse. The ability for survivors to access the full suite of redress services including intensive case management could promote their rehabilitation within prisons. For ex-prisoners it may also prevent relapses into crime related to their prior experience of abuse, such as substances abuse in order to cope with past and current trauma.
- There should also be culturally appropriate healing, support and counselling for Aboriginal and Torres Strait Islander survivors, with confidentiality of prime importance. Policy frameworks need the flexibility to provide assistance, for example, culture camps and yarning circles for families to reconnect, share, explain and work out ways of family healing. These services also need sufficient lead time, including six to twelve month's forward planning in the consulting, listening and designing. The Scheme should also provide whole of community healing responses, particularly for Aboriginal and Torres Strait Islander survivors on community who have extraordinary geographical, cultural and language considerations.

For the Northern Territory Aboriginal and Torres Strait Islander population, for example, both remote and urban, a clearly identified service gap exists in the provision of adequate and realistic resources for long term (before, during and after), local, culturally appropriate counselling, support and whole of community healing. What is currently funded underservices the area and does not make provision for the resources needed to service regional and remote areas in culturally appropriate ways. Despite this, Relationships Australia NT has supported numerous communities and Aboriginal and Torres Strait Islander clients throughout the Territory. This included significant engagement with clients on the Tiwi Islands in 2015, supporting clients during the Retta Dixon Private Hearings in 2016, and community engagement and support in Alice Springs, including Alice Springs Town Camps.

- In our experience many survivors' educational, social and employment opportunities have been negatively affected by their abuse and therefore, literacy, among other things, is an important factor. Particular note and consideration needs to be made for clients (including Aboriginal and Torres Strait Islander) where English is not their primary language.

- Clients have expressed concerns over counselling/therapy being delivered within the Medicare framework. Many clients tell stories of arrogance, feeling stigmatised by 'diagnosis', and hurried to tell their story and to 'move on' from the abuse by psychologists and psychiatrists. Relationships Australia suggests a complex trauma accredited practitioners' scheme as far more helpful and healing for clients.
- Forgotten Australians are ageing and there is concern that they will be institutionalised in aged care facilities and this may result in re-traumatisation. For these people, secure and appropriate housing could form part of redress. Due to client's profoundly negative experiences whilst in institutional care, it would be an injustice to expect these people to be willing to re-enter aged care institutions for their last years. In fact many have expressed a decision to take their own lives rather than live in another institution. Therefore redress needs to provide an alternative to aged care institutions for these people. Our experience suggests that priority public housing and in-home support and care is most people's preference.
- It is our experience that clients' access to their records can be an important part of redress and funding should reflect this. This is particularly the case given there has been a reduction in Find and Connect funding and therefore potentially a reduction in record searching and family tracing services for Forgotten Australians. Redress funding could provide a facility to house records found for a client about their time in care and other histories, so that when deceased, relatives not yet contacted or discovered, as well as those that have, can access the records in due course (with clients pre-permission). Records could be kept for a 25 year period before they are destroyed.
- Due consideration also needs to be made for the impact of increased levels of distress and trauma if compensation is not granted to a victim/survivor. It is also critical to ensure that support services have no connections to institutions who have perpetrated sexual abuse.

Current services and service gaps

- There are many lessons that can be applied from the current suite of services that have supported the Royal Commission. Generalist psychological and medical services are not considered specialist services for dealing with institutional child abuse and we believe there is a need for specialist services that provide a trauma based approach – see 'A cry for help.' This report clearly indicates that these people are not well served by general mainstream services.

Well trained mainstream workers, however, can enquire into the effects of child abuse and assist in guiding people to the right services. Relationships Australia South Australia is one organisation that has led workforce development training through Respond South Australia as well as existing post care services, and has provided child support training to workers and community members (Foundation courses as well as working with survivors (both women and men) in conjunction with the website <http://www.respondsa.org.au/>). This experience and training can facilitate a 'ready' workforce specific to this population as well as geographic responses.

- As mentioned earlier, for the Northern Territory Aboriginal and Torres Strait Islander urban and remote populations, a clearly identified service gap exists in the provision of adequate and realistic resources for long term (before, during and after), local, culturally appropriate counselling,

support and whole of community healing. Child sexual abuse impacts not only on a survivor's own sense of identity but also on the community's identity. Therefore, individual healing is dependent on the community as a whole also experiencing meaningful healing. Healing is about belonging, reconnecting and restoring identity and therefore it must also be about community healing. We also know that sexual abuse perpetrated against one generation impacts on the generations that come after. Therefore, children and grandchildren also carry the trauma of their Elders before them and must also be offered services.

- The Scheme should also explicitly describe the role of counsellors in supporting survivors through legal processes. For example, Relationships Australia has been increasingly receiving requests for victim statements from the lawyers of survivors who have been accessing counselling services. These requests for reports to support legal processes from practitioners who are not trained in preparing documents for court may well be at odds with the counsellor's role in facilitating therapeutic change.

Support through the application process

- The Bills are unclear as to the nature and scope of support services that will be offered to survivors through the application process, and for survivors who are clearly victims and may have given evidence at a hearing of the Royal Commission, but decide not to make an application under the Scheme.
- The application process and documentation should be culturally and language appropriate, taking into account clients who have English as a second language. Engagement with local interpreters and Aboriginal Support Workers should be employed and encouraged throughout this process. We note that Aboriginal and Torres Strait Islander program engagement increases when local interpreters and Aboriginal Support Workers are available to clients.
- Particular focus should be given to marginalised Aboriginal and Torres Strait Islander cohorts to ensure adequate support, program involvement and safety. In the Northern Territory, for example, there was consultation with the Sistagirls on the Tiwi Islands in consultation with NAAJA and the Royal Commission while hearings were occurring. This remote engagement enabled clients to successfully engage with the Royal Commission while receiving appropriate support.

Personal Apologies

Apologies by State and Territory Government

- As a starting point, official recognition and apology to Forgotten Australians, Former Child Migrants and the Stolen Generations by the State and Territory Governments should be included in the Scheme. To emphasise the importance and significance of the Scheme, particularly to Aboriginal and Torres Strait Islanders, these governments should officially apologise to model the perspective of ownership and wrongdoing that could underpin all future apologies of institutions under the Scheme.

Direct Personal Response

- We have been told by survivors that sharing their story with someone who has significant/recognised authority to provide an apology is vital to this element of Scheme and we commend the government for including these provisions in the Bills.
- The current Bills do not outline the level of authority held by an institutional representative. We would encourage the government to clarify these provisions to ensure the integrity of the process.
- A fundamental factor in ensuring the safety and integrity of the process during a direct personal response would be to involve a neutral third party. Without the assistance of a professional practitioner such a process has a real danger of resulting in re-victimisation and re-traumatisation. We would prefer the wording of the Bill to be changed from S52(6) '**should** be delivered by people who have received training about the nature and impact of child sexual abuse and the needs of survivors' to '**must** be delivered by people who have received training about the nature and impact of child sexual abuse and the needs of survivors'.
- The Scheme should allow survivors to control what information is shared with the offending institution.
- We suggest that the Scheme does not unnecessarily commit persons when they might indicate they do not want to access one of the elements, such as an apology, at the time they accept the offer of redress. People often do not initially seek counselling and will then come to a point months / years later where they reach out for support. Will the person have the flexibility to opt in to the other redress items when / if required?

Increasing engagement

- The Scheme will need to be publicised as widely as possible and particular strategies are required for rural/remote and Aboriginal populations. In our experience, many survivors are adept at 'blocking out' or avoiding anything about sexual abuse. Others have sought assistance but not found the right support, or felt able to access what was being offered (e.g. they may have enquired about Towards Healing but were deterred by the process or response). In some of our services, even recently, we have had people present who are not aware of the work of the Royal Commission.
- As was discussed above in relation to service delivery, there should be emphasis given to delivering a culturally appropriate promotion strategy targeting potential Aboriginal and Torres Strait Islander applicants. This should include culturally appropriate resources (brochures, posters etc), community and stakeholder engagement /information meetings and advertising via local means.
- The Scheme must have regard for how difficult it will be for some survivors to make an application for redress. Relationships Australia Victoria reports that the overwhelming majority of the survivors who have come to their Reclaim service have never sought redress or compensation. Of the small number who have accessed current schemes or civil litigation most have found them unsatisfactory at best; at worst abusive and traumatic. Many survivors will require therapeutic

support in order to access redress and this should be factored into any proposed scheme. The support provided should be as flexible as possible and tailored to the needs of the client.

Review

- We support the provisions that embed a review process in the Bills. We recommend that changes to the Scheme as a result of the review should be retrospectively applied to survivors who have already accepted an offer of redress.
- At this early stage there is an opportunity to ensure sufficient data is collected to inform the review. Acknowledgement of the lack of data in the Royal Commission's Consultation Paper on Redress and Civil Litigation should inform a proper data collection and evaluation of the redress scheme. If evaluation were to be conducted from the inception of the Scheme, early results could be used in a feedback loop to inform ongoing improvements over time, rather than waiting for the legislatively defined compulsory review. Data should also be collected to monitor processes and ensure compliance with the Scheme by institutions.
- Individual survivors should be able to voice whether justice has been achieved and the Scheme review should take account of their views.

Thank you for the opportunity to provide a submission to the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and related bill. Should you require any further clarification of any aspect of this submission or need information about the services Relationships Australia provides, please contact me or Paula Mance, National Policy Manager, Relationships Australia.

Yours sincerely,



Alison Brook
National Executive Officer

2 February 2018

Attachment A – additional research evidence

Persons abused in institutional settings/contexts have a much greater chance of serving time in prison

A recent survey in NSW found 81% of young women and 57% of men had histories of abuse or neglect (Indig et al. 2006 cited by Cashmore 2011). This author highlights the disconnect between this past history and any form of response by the courts or corrective services. She goes on to state that the State must beware of not caring for the troubled once they become troublesome and offend.

Australian researchers Cashmore and Shackel (2013) noted that prisoners by definition are a specialised population of child sexual abuse survivors. Prisons are the natural endpoint for victims of child sexual abuse who are prone to drug and alcohol abuse and violence. The Australian Institute of Family Studies (AIFS) in 2014 went further in relation to this, finding that male survivors of child sexual abuse were at great risk of substance abuse and also less likely to disclose. Their ability to disclose was especially hampered by the need for “toughness” in the male prison environment. A 2014 AIFS Fact Sheet (2014) found that criminal behaviour and violence were especially associated with neglect alongside physical, emotional and sexual child abuse – hallmarks of many of the survivors who came forward to the Royal Commission.

Widom (1995) was one of the first to determine an association between child sexual abuse victimhood and later criminality. This built on the lifetime work of David Finkelhor who more than 30 years ago (Brown and Finkelhor 1986) found strong associations between poor mental health, low-level ability to trust or operate with others, and sexual maladjustment. More recent research indicates that both female and male sexual abuse victims go on to adult lives of crime at a much greater rate than those not affected, with substance abuse a related part of this (Widom & Maxfield 2001; McGrath, Nilsen & Kerley 2011). Using an impressive study with more than 2,700 child sexual abuse victims, Ogloff, Cutajar, Mann & Mullenwere (2012) found a five times greater risk of criminal offending over 45 years for victims of child sexual abuse.

The totality of the research described above, as well as many other studies portray a strong association between being a child sexual abuse victim and a later life of crime. This can be marked by mental illness, substance abuse, and violence.

To therefore simply ascribe a limit of five years or less seems arbitrary. Or informed only by notions of crime severity and culpability rather than by principles of fair treatment for childhood damage.

Persons abused as children who then go on to become abusers

The previous studies cited point out a strong association between criminal history as an adult and earlier victimhood. However, perhaps counter-intuitively, Leach, Stewart and Smallbone (2016) found only 4% of those who were maltreated in a large cohort of over 38,000 males from one birth year in Queensland went on to become sexual offenders. However, if these males were exposed to multiple types of maltreatment (poly-victimisation) then crime rates for all forms of offending

including violent or sexual offending did increase dramatically. Such a situation has often been the unfortunate case with some survivors who came forward through the Royal Commission process.

Those abusing drugs or alcohol are often doing so to cope with not just the trauma of child sexual abuse but also the trauma of neglect or other forms of abuse by an institution.

The Adverse Childhood Experiences Study in the United States (Felitti et al., 1998 cited by AIFS 2014) found that adults with four or more adverse experiences in childhood compared to adults with no adverse experiences had:

- 7 times more chance of thinking of themselves as an alcoholic;
- 5 times greater chance of use of illegal drugs; and
- were 10 times more likely to have injected drugs.

High rates of substance abuse problems among adult survivors of child abuse and neglect are attempts to self-medicate and deal with trauma symptoms of depression, anxiety, and intrusive memories caused by an abusive history (Whiting et al. 2009 cited by AIFS 2014).

[The need for case management services for survivors of child sexual abuse](#)

Child sexual abuse is not evenly distributed in Australia. It is concentrated among those who are socially deprived with disorganized families (Mullen & Fleming 1998). As adults these survivors of child sexual abuse are prone to poor life skills and diminished ability to function in society, often having related passive tendencies (Mullen & Fleming 1998) amplified by institutionalisation. The ability of such persons as adults to apply for and gain redress, legal representation, or Australian citizenship is diminished. The ability of survivors to act on their own behalf may not be only unrealistic but also psychologically onerous.

[In Conclusion](#)

The Commonwealth Redress process may become another form of trauma. To deny some survivors the chance of having some positive experience to counterweigh their long history of adverse childhood experiences simply because of the lottery of where and when they were abused seems perverse and an indirect betrayal of the faith they showed in the Royal Commission process.

To expect survivors to navigate the welfare, legal, support, and psychology service options open to them without guidance by a case manager could be asking too much of some.

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See also:

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