



JOINT STANDING COMMITTEE ON IMPLEMENTATION OF THE NATIONAL REDRESS SCHEME

DRAFT

Discussion Paper: Inquiry into the operation of the National Redress Scheme

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CONTENTS

Introduction	2
Key Themes	3
Lived Experience of First Nations people, and people with a disability	3
Availability of legal support	3
Accessibility and funding for support services.....	4
Effect of the protected information provisions in legislation.....	5
Application process in general.....	5
USEFUL WEBSITES AND DOCUMENTS	6
Terms of Reference.....	7



INTRODUCTION

The Joint Standing Committee on Implementation of the National Redress Scheme resolved to inquire into and report on the operation of the National Redress Scheme.

The Committee has called for submissions to the inquiry by **Monday 27 February 2023**.

The Committee wants to hear from a wide range of stakeholders who have had experience with the scheme. This may include:

- Persons who have considered or actively applied for redress through the Scheme
- Persons who have experienced abuse but have been deterred from applying from the scheme
- Persons with a disability
- First Nations people
- Family, friends or support workers of individuals who have applied for redress through the Scheme
- Organisations who provide support services
- Advocacy groups and legal professionals
- Institutions
- State and federal government agencies
- Community groups
- **Any other** organisation or individual who wants provide information to the committee.

The terms of reference for this inquiry can be found [here](#) and listed [below](#). The information below discusses and expands on some of the key themes in the terms of reference the Committee is asking submitters to consider.

This paper aims to provide guidance to individuals and organisations interested in this inquiry. Nothing in this discussion paper intends to limit the information a person can submit relating to the terms of reference.

To assist individuals wanting to share with the Committee their first-hand experience in accessing the Redress scheme, this paper includes suggested questions or prompts to help people address the terms of reference.

KEY THEMES

Lived Experience of First Nations people, and people with a disability

The Committee is looking to hear about the experiences of:

- First Nations people, and
- People with a disability

The Committee is aware that there are specific barriers to access experienced by some individuals and is interested to hear what strategies could be employed to raise awareness and accessibility of the scheme.

The Royal Commission into Institutional Responses to Child Sexual Abuse acknowledged that Aboriginal and Torres Strait Islander victims and survivors face additional barriers that reduce their ability to disclose or report abuse. It is important that adequate supports are in place to facilitate awareness and access to the scheme.

The Committee understands that people with a disability may not be applying to the scheme in the numbers that were anticipated. The Committee intends to look at the availability of data in this area, and reasons behind why application trends may vary from expectations.

Some questions you might want to consider:

- What extra support would have helped you access the scheme?
- Have you tried to access the scheme but been turned away or deterred by a certain aspect or requirement?
- Do you see there as being barriers to accessing the scheme?
- How could the operation of the scheme be improved?

Availability of legal support

In the past, the Committee has considered the availability and sustainability of free legal advice services. The Committee has also previously expressed concerns that the practices of some private law firms and advocacy services are designed to take advantage of a vulnerable group.

As a general principle, the Committee believes that individuals should be making informed choices about the type of legal help they receive. It is interested in hearing about individual experiences with accessing legal supports.

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended that limitation periods applying to claims for damages (civil litigation) be removed for child sexual abuse claims against institutions. Australian state and territory jurisdictions followed this recommendation.

The Committee is aware of concerns that there may now be an increase in ‘permanent stays’ of civil proceedings in child sexual abuse matters - a move away from the intent of the Commission’s recommendation. This may be resulting in an increase in applications to the Scheme by people affected by this permanent stop to their civil proceedings. The Committee is interested to hear from people who have experienced this or have knowledge of this issue.

Some questions you might want to consider:

- What was your experience seeking legal assistance with redress?
- Did you use a free legal support service (such as knowmore), or a private law firm?
- If you used a private firm, do you feel your fees were excessive?
- Did you feel pressured to make a civil claim rather than apply through the redress scheme?
- Have you made an application for redress through the Scheme where your civil proceedings for the same claim have been permanently stayed by a court?
- Were you made aware of free legal supports available?

Accessibility and funding for support services

Since the beginning of the Scheme, around 26% of all applicants were supported by a funded redress support service. There are 45 services currently funded to provide this support around Australia. Applicants supported by a redress support service generally experience better financial outcomes in a shorter period of time.

The Committee is interested to hear about the general accessibility of these support services, and whether there are certain cohorts in the community that experience unique barriers to access. Areas of consideration include:

- Effectiveness of support services
- Funding for legal and other support services
- Range of support services available and perceived gaps

- Limits or restrictions on the availability of legal and other support services (including resourcing, funding and any other factors).

Some questions you might want to consider:

- Did you feel like there were adequate support services available to you?
- Do you think there are areas where additional support should be available?

Effect of the protected information provisions in legislation

Information collected for the purposes of the National Redress Scheme may be protected information.

The Scheme has strict legislative provisions that mean protected information cannot be obtained, recorded, disclosed or used, unless the legislation allows this for the purposes of the Scheme. Penalties apply if any person or institution gains access to, uses or shares protected information without authorisation.

The Committee is interested in exploring whether these provisions meet the needs of survivors, institutions and other interested parties.

Some questions you might want to consider:

- Are current protected information provisions sufficient?
- Are these provisions too restrictive?

Application process in general

The Committee continues to be interested in hearing about the general functioning of the Scheme.

A question you might want to consider:

- Could the application process be improved?



USEFUL WEBSITES AND DOCUMENTS

Royal Commission into Institutional Responses to Child Sexual Abuse report

- <https://www.childabuseroyalcommission.gov.au/>

Second year review and interim government response

- <https://www.nationalredress.gov.au/about/second-anniversary-review>

Previous committee reports on the National Redress Scheme:

- https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Redress_Scheme_Standing/Completed_inquiries#Tabcontent-tab-1

National Redress Scheme legislation

- <https://www.legislation.gov.au/Details/C2021C00567>

Redress Scheme Annual Report 2021-22

- <https://www.transparency.gov.au/annual-reports/department-social-services/reporting-year/2021-22-42>



TERMS OF REFERENCE

1. Applications for redress from:
 - a. Persons with disability
 - b. First Nations people
2. Availability of data and information relating to applicants listed in Paragraph (1) above, including:
 - a. Total applications received compared to the number of applications expected when the Scheme commenced.
 - b. Possible reasons why current application trends could vary from expectations.
 - c. Time taken to process applications and pay compensation to applicants.
 - d. Whether applicants with disability had a disability at the time of their abuse or whether it was acquired later in life.
 - e. Other relevant trends and data.
3. Strategies that could assist applicants listed in Paragraph (1) to access the Scheme.
4. Availability of legal advice for survivors and their advocates and, in addition:
 - a. Quality of legal advice.
 - b. Opportunities for Scheme applicants to consider available legal options and to exercise their own choices.
 - c. Strategies to minimise instances of alleged claim farming or excessive fees.
5. The performance and effectiveness of support services for Scheme applicants, including:
 - a. Accessibility.
 - b. Resourcing and funding levels.
6. Whether 'Part 4-3 – Protecting information under the scheme' in the National Redress Scheme for Child Sexual Abuse Act 2018 (Cth) enables the Scheme to operate to its greatest potential.
7. Any other relevant matters.