



## Western NSW Community Legal Centre Inc

19<sup>th</sup> December 2023

### JOINT STANDING COMMITTEE ON IMPLEMENTATION OF THE NATIONAL REDRESS SCHEME

Inquiry into the operation of the National Redress Scheme

To whom it may concern,

We refer to the evidence given by Larissa Connolly at the hearing on 23<sup>rd</sup> November 2023 on behalf of our organisation. At that hearing, questions were taken on notice and we provide the below responses:

1. CHAIR: What else can you tell us about that, besides the fact that some people have apparently paid tens of thousands of dollars in legal costs? What other information have you got for the committee?
  - Our organisation conducts prison outreaches to Wellington and Macquarie Correctional Centres. A previous solicitor of the organisation had commented that, upon assisting clients with unrelated matters, they also talked about the redress scheme. They referenced getting \$100,000 but losing tens of thousands of dollars from that in legal fees. Our centre is also part of a broader community legal centre network. Through that network we conduct various meetings, one of which is the prisoner rights group. It was raised within that network that various centres conducting prison outreaches had engaged with clients who disclosed they had been approached and represented by private law firms, to whom they paid substantial sums of money upon making successful redress scheme claims.
2. Thank you very much for your evidence thus far. Do you have any comments on the decision to remove the statutory declaration requirement? And do you have any observations about how that may have positively or negatively impacted the willingness

of potential applicants to come forward? Do you have any general observations in regard to that particular initiative that's been taken?

- We have not specifically dealt with this issue in our work. However, from an accessibility perspective, we consider removing this formality a positive step: given the nature of abuse the scheme deals with, including its historical perspective and trauma causing impact which can significantly affect memory recall, it is beneficial to remove the legal impediments that come with signing a statutory declaration. It is also consistent with the beneficial perspective of the scheme.
3. The Scheme set a universal limit and award that sum to all successful applicants. That way, the process and the compensation can allow for a better healing experience. Could you explain the rationale behind that, because that obviously assumes everyone should get the same amount?
- The answer was substantially covered by Ms Connolly's response in the hearing. The purpose of our submission suggesting setting a universal limit is in context of the nature of the Redress scheme, the circumstances in which the abuse happened, and the type of abuse experienced: anyone who qualifies has been through a horrific and life changing experience as children whereby their trust in those empowered to keep them safe has been broken. Whilst we wholly accept the types of violence can vary greatly, clients have expressed feeling invalidated despite getting \$100,000, because they believe their abuse constituted extreme circumstances (irrespective of the legal definition applied). The fundamental purpose of the scheme should be to acknowledge what happened to successful applicants, to believe them, to apologise on behalf of governments and organisations that the abuse occurred, to acknowledge the devastating impact the abuse had on their lives, and to provide compensation as a genuine act of good faith. This ensures all successful applicants feel heard, believed and validated. The step of setting a test for "extreme circumstances" then undermines this good work because the focus is taken away from what should be the above objectives, and places the details of the violence under a microscope whereby decision makers have often told successful applicants that what happened to them wasn't extreme/particularly severe. Applicants are not interested in, and nor should they have to be, what the legal definition is for "extreme circumstances". Every successful applicant is entitled to feel that what happened to them was extreme/particularly severe: no one has

the right to undermine that by telling them otherwise. Therefore, this component of the scheme should be removed.

To extrapolate on the “extreme circumstances” test further, and we appreciate this was not in our submission, but if it is to remain part of the scheme, the test applied should focus more on the impact and life outcomes for successful applicants, as opposed to the level of violence experienced. Human nature, resilience, support and personality make-up suggest that, while some people objectively experienced more serious abuse than others, they were able to make a better recovery, progress through life and relationships more healthily, and have better financial outcomes than others whose abuse was objectively less serious, but have worse life and financial outcomes as a result of it (the scheme should accept the abuse underpinned the making of unhealthy life choices thereafter, eg drug/alcohol abuse, criminal behaviour etc). This would help ensure the extra \$50,000 is directed to those who have been most negatively impacted by the abuse in their life journey.

Yours Faithfully

**Western NSW Community Legal Centre**

Per:

Patrick O’Callaghan

Principal Solicitor