

Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

your ref:
our ref: IDA::2082551

31 May 2018

Dear Committee Secretary,

**Submission to Senate Standing Committee on Community Affairs regarding
Commonwealth Redress Bill**

We wish to make a submission to the Committee regarding the proposed Commonwealth redress scheme for survivors of institutional child sexual abuse (“proposed scheme”).

Ryan Carlisle Thomas is Victoria’s largest law firm representing survivors of institutional abuse. Since the late 1980s we have secured compensation for more than 2,500 survivors of abuse in government, non-government and religious institutions. We have also acted for clients appearing in public hearings of the Royal Commission into Institutional Responses to Child Sexual Abuse (“The Royal Commission”).

We made a submission to the Committee’s inquiry earlier this year, on 24 January 2018, and attach a copy of that submission. The points made in that submission remain relevant, and we note that despite our urging, the Bills have not been amended to take account of our concerns.

Our chief concerns with the Redress Scheme as it currently stands are:

Physical and Other Abuse

Ryan Carlisle Thomas is opposed to the exclusion of abuse survivors who have suffered non-sexual abuse such as physical abuse, psychological abuse and neglect. We note that the

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proposed scheme seeks to exclude such abuse unless it is “in connection with” child sexual abuse.

We have come into contact with many clients who have told us their stories of horrific physical abuse while in care. Their expectation is that they will receive redress, and they will be bitterly disappointed to be excluded from this scheme. We can see no policy reason for them to be excluded, and we urge the Committee to recommend a widening of the scheme to include physical abuse.

Criminal Convictions of 5 years or more

We note that under the proposed scheme, those who have suffered sexual abuse, but who have served more than 5 years in prison, will be ineligible for redress. In our submission this exclusion is manifestly unjust.

The Bill currently allows claimants to seek an exemption from this provision where allowing a claim to be made “would not bring the scheme into disrepute, or adversely affect public confidence in the scheme”. However, there is no guidance provided by the Bill as to how the Operator is to determine any such application. The practical reality is that applications for an exemption will rarely, if ever, be allowed.

As our submission in January this year set out in detail, a significant proportion of our clients have substantial criminal records, and this is almost always attributable to the abuse suffered by them while in care.

Preventing these clients from making a claim at all, amounts to a double punishment, as these people have served their sentences. A significant factor in the sentencing process is rehabilitation, and treating these claimants in an equal fashion to other members of society is surely the goal of a rehabilitation process.

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We submit that those abuse survivors with criminal records, whatever the period of detention, should be judged equally to other claimants and not excluded.

Conclusion

In its Final Report (at page 14), the Royal Commission stated:

The majority of survivors who were in prison when we spoke to them described entrenched disadvantage when they were growing up. From a young age, many were subjected to multiple types of sexual and other abuse. In the absence of any protective adults, they had learned to take care of themselves. Many had come to the attention of police and welfare authorities, when on the street or otherwise trying to fend for themselves. As children these survivors were frequently moved in and out of out-of-home care placements, sometimes homeless, and often spent time in youth detention. Many said youth detention centres were violent places and physical abuse of children by staff was tolerated as a means of enforcing rules. Frequently, we were told that the institutional cultures of youth detention and prison made it impossible to disclose any kind of abuse, especially to authorities and police.

We thank you for the opportunity to make this submission, and urge you to take it into account.

Yours faithfully,

Ian Dallas
Lawyer
RYAN CARLISLE THOMAS

Enc: Submission, 24 January 2018