



Senator Dean Smith
Chair
Joint Select Committee on the Implementation of the National Redress Scheme
By email: redress@aph.gov.au

21 October 2020

Dear Senator Smith

UCA Redress Ltd is pleased to present a second submission to the Joint Select Committee on the Implementation of the National Redress Scheme. This submission includes those issues we have raised with the reviewer undertaking the two year legislated review of the Scheme.

We again emphasise the Uniting Church's commitment to redress for survivors of institutional child sexual abuse, and the safety of children continues to be at the forefront of our Church's work with children and families. We are strongly supportive of the Scheme and actively participate to support survivors of abuse.

Following our submission in April 2020, we have observed an increase in outcomes for applicants. However, we have also observed inconsistencies in decision making and process which impact on survivors and institutions.

The **attached** table is a copy of what we have provided to the reviewer. This goes into some of the issues that have arisen in the course of our participation in the Scheme.

Where we raise concerns about decisions made, we are not challenging the veracity of survivors' experiences. Rather, we query the application and interpretation of legislation, and set out the issues raised for us due to the lack of transparency in decision making.

As raised with the reviewer, one of our key concerns is the survivor experience of the Scheme, particularly the length of time taken for decisions to be made and, from the accounts from survivors and their advocates given to the Parliamentary Committee and in discussions with our staff across the Church who deal with survivors, the stress caused by lack of visibility on the progress of applications through the Scheme. As we do not have extensive connections with survivors going through the Scheme, it is difficult for us to know where the delays occur in the processing of applications, and to advocate for change. We know that our longest standing applications have taken over 17 months with no outcome. While some of this could be attributed to a survivor's wish to pause an application process, it is concerning to us that people are waiting such a long time. We note that there has been considerable increase in the flow-through of applications in the last six months. While this is welcomed, it has also impacted on consistency in decision-making and processes. We have identified some possible delay issues in the attached table.

We also note that staff of the Scheme and the Department of Social Services are extremely helpful and work collaboratively. In the first 6-12 months of our participation, staff were very responsive to



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queries. We have noted that there are now delays of weeks or sometimes months in responding to our queries. There have inevitably been changes of staff over time, along with restructuring of teams and responsibilities within the department. Unfortunately, this has resulted in changing advice and delays as new staff get across ongoing issues. Staff remain helpful and collaborative, and share information where they can, but the delays are frustrating for our participating institutions, and are likely to be impacting on survivors.

We remain supportive of the Scheme and appreciate the complexity of its establishment and administration. We hope to have the opportunity to speak with you throughout the inquiry.

Yours sincerely



Sarah Lim
National Director

Attachment 1: Table of issues – examples removed





Att 1 – UCARL Submission to JSC October 2020

Issues for two year anniversary review of the National Redress Scheme

	Issue	Concern/Impact	Options
	Understanding decisions		
1	Inconsistencies in outcomes letters	Difficult for institutions to understand decisions	Consistency would eliminate some difficulties in understanding decisions
2	Lack of information about decisions make it difficult to understand and consider possibility of error, including: <ul style="list-style-type: none"> • how decision reached (no rationale provided) • understanding “equal” and “primary” responsibility • where multiple sets of abuse, understanding for which set “primary” and “equal” applies to • impact of prior payments not always clear, especially where adjustments are made 	<ul style="list-style-type: none"> • Difficult for institutions to project and plan for financial impacts unless there is an understanding of terminology, methodology and consistency of decision making • Difficult to compare like instances of abuse (and therefore consider the possibility of error or predict for future planning purposes) • Lack of visibility can make it difficult to claim from insurers 	<p>More information to be given to institutions, including:</p> <ul style="list-style-type: none"> • total redress payment to applicant • each institution’s liability (deidentified) • where multiple sets of abuse, identify the relevant quantum/responsibility for each • rationale for decision (including application of relevant sections of legislative instruments) • set out calculation relating to prior payments
3	Lack of options for institutions if decision is problematic (erroneous, inequitable, unfair)	Institutions accept restricted review options as part of the Scheme but finality of IDM decision, coupled with lack of information above could undermine the integrity of the NRS	Increased information as per above will assist in understanding decisions. Formalise processes for “review” where an error has been made





		We have sought review of several matters as set out in “concerning decisions” below.	
4	S 156 Application for waiver under s 156	No known criteria for where a waiver will be considered	Clarification required
5	S 157 Application for review of decision to waiver under s 156	No known criteria for where a review of a decision waiver will be considered	Clarification required
Concerning decisions			
6	Definition of “sexual abuse”	Out of home care example – application of the definition in some circumstances could be beyond the intention of the Scheme	
7	Limited connection to institution but liability found	Some decisions have found institutional responsibility where the connection to the institution was tenuous	
8	Role of state in ad hoc foster care	Out of home care example Ad hoc holiday placements were part of the out of home care system but the state’s role appears to have been disregarded in these circumstances	
9	Relationship outside of institution	Out of home care example Abuse occurred in the context of family visits approved by the state but the institution was found to have equal responsibility	





Reporting to authorities			
10	NRS reports only in limited circumstances	Institutions do not have access to the full amount of information that Scheme has so may be more useful for Scheme to make reports	Consideration should be given to Scheme reporting to authorities in broader circumstances
11	It is difficult to find the correct team within police services willing to take reports of historical abuse. Responses have included "we can't progress any investigation without a complaint from a victim". In addition, institutions have very little information to provide in a report.	Responses from police include: <ul style="list-style-type: none"> • report can only be taken from victim • have not heard of the National Redress Scheme and can't understand why a third party is making a report 	Governments could support institutions by ensuring police are aware of reporting obligations and that institutions have appropriate contacts to make a report
12	Concern by applicants about reporting to authorities	Anecdotal information that, upon learning that reports would be made to police, applicants have withdrawn the names of alleged perpetrators from application	Build in systemic requirement for reporting which de-identifies the applicant, at their election
Administrative issues			
13	Inconsistencies in all communications/process steps	Note there is a huge staffing and bureaucracy but processes are inconsistent, templates not always used and there are often mistakes in simple things (like due dates, material not being uploaded in PRODA but secure email sent or vice versa, material missing in PRODA, inconsistent use of secure email) making it a significant administrative burden on the institution to clarify, delays to	Greater quality control/consistency of process at every step of the process





		progressing RFIs and therefore impacting on survivors	
	Survivor experience		
14	DPR – only 50% (approx.) take up and low follow up. DPR can only commence when contact made by survivor.	Institutions wish to act in the best interests of survivors and ensure there are no barriers to taking up a DPR. Acknowledge the need for choice and control to rest with survivors but options should be considered to make sure there are no barriers to accessing DPRs.	<ul style="list-style-type: none"> • Implement an ‘opt out’ tick box for DPRs • Survivors offered a tick box option when selecting DPR for the survivor to make contact as currently, or for the institution to contact them • allow information about the institution’s DPR process to be provided with final correspondence from NRS
15	Reported confusion about the impact of legal proceedings on redress applications		Clarify for survivors
16	Confusion re post offer processes - accessing counselling and DPR - different people	Barriers to survivors accessing DPRs and counselling	Clarify for survivors
17	Length of time for applications to be processed through scheme	Note improvements in timeliness in recent months but note concerns that NRS process can be retraumatising because of delay and lack of information	Indicative timeframes would be useful so applicants aren't "on edge" every time the phone rings, agreed time periods for contact from scheme
	Reach of NRS		
18	No RFIs from disability services	We note from last NRS data report that over half of applicants report having a disability	Targeted marketing required





19	High proportion of Aboriginal and Torres Strait Islander applicants	Positive but indicative of many more potential applicants who are not applying?	Targeted marketing required
Scope of NRS			
20	RFIs being issued where there is physical abuse only	A number of RFIs have been issued in relation to physical abuse only, where there is sexual abuse at another institution. We have been found not liable. The process seems to add delay for the applicant without benefit and with resource implications for institutions	Clarify necessity of this practice
21	<i>Adoption of Children Act 1928 (Vic)</i>	Uncertainty over whether the NRS legislation requires/permits release of information under the <i>Adoption of Children Act 1928 (Vic)</i> – the issue may be relevant for other jurisdictions and other legislation	Clarify
Non-Government Institutions Committee			
22	The NGI Committee is established to be a key stakeholder group and interface between the Department of Social Services and institutions. The Committee met twice in 2019 and not at all so far in 2020. It includes representatives from key participating institutions, state and territory government officials and DSS staff.	The committee is an excellent forum for presentation of information by DSS to institutions and there is considerable value. However, there are further opportunities for this group.	<p>It is suggested these meetings should be held more regularly, even in the online context.</p> <p>It is also suggested that these meetings could be enhanced by providing an opportunity for the institutions to meet together, without the government officers, to discuss issues of mutual relevance. We are aware the government officers hold a</p>





	<p>However, the meetings are i. inconsistently held and ii. generally a one-way information forum</p>		<p>half day meeting themselves, prior to the full committee meeting, and we believe this would be beneficial for NGIs as well. DSS assistance in convening this would be very welcome.</p>
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