



Committee Secretary

Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse

Department of the Senate

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Submission to the Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse

Jesuit Social Services has been working for more than 40 years delivering practical support and advocating for improved policies to achieve strong, cohesive and vibrant communities where every individual can play their role and flourish.

We work with some of the most marginalised individuals and communities, often experiencing multiple and complex challenges. Jesuit Social Services works where there are gaps, where the need is greatest and where we have the capacity, experience and skills to make the most difference.

Jesuit Social Services calls for there to be no exclusions of individuals with criminal convictions from the National Redress Scheme.

We welcome the opportunity to respond to the *Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse* inquiry into Australian Government policy, program and legal response to the redress related recommendations of the Royal Commission, including the establishment and operation of the Commonwealth Redress Scheme and ongoing support of survivors.

In its current form, the National Redress Scheme can deny a victim access to redress if they have been sentenced to imprisonment for five years or longer.

By allowing for the exclusion of this vulnerable victim cohort from access to the National Redress Scheme, the current Scheme falls short of fulfilling the specific recommendations, findings, and overall ethos and intentions of a redress scheme as described in the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse.

As such, **Jesuit Social Services calls for the legislation to be amended so that individuals with criminal convictions are not excluded from the National Redress Scheme, and that individuals are permitted to apply while imprisoned.**



National Redress Scheme for Institutional Child Sexual Abuse

On 1 July, the National Redress Scheme for Institutional Child Sexual Abuse was launched.

Victims of child sexual abuse cannot apply to the National Redress Scheme if they are in jail.

Victims previously sentenced to imprisonment for five years or longer for an offence also face an additional assessment process in applying to the Scheme. Applications are reviewed by state, territory or Commonwealth Attorneys-General, who provide advice to support or deny the application. The Scheme's Operator takes this advice into account in permitting access to the Scheme, along with community expectations, the nature of the offence and the length of imprisonment it carried, the period of time since the offence was committed and rehabilitation since then.

Senate Community Affairs Legislation Committee reports

Prior to the commencement of the Scheme, past Senate Community Affairs Legislation Committee reports indicated a groundswell of support for removing clauses in the legislation which enabled the exclusion of victims with criminal convictions.

An overwhelming majority of those making submissions and witnesses to the Senate Community Affairs Legislation Committee report on the *Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017* and the *Commonwealth Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2017* recommended that survivors not be excluded from the Redress Scheme due to criminal offending or convictions. The Government accepted the Senate report's recommendation that "the Scheme has value as a tool for the rehabilitation of offenders, and that excluding this vulnerable cohort can have the unintended consequence of institutions responsible for child sexual abuse not being held liable."

The Senate Community Affairs Legislation Committee Inquiry on the *National Redress Scheme for Institutional Child Sexual Abuse Bill 2018* report noted that "the Committee received an abundance of evidence that potentially excluding some survivors from the Redress Scheme due to historical criminal offending either misunderstands, or denies, the impacts of childhood sexual abuse in later life."

The exclusion of victims with histories of criminal convictions

We know that a high proportion of individuals within the justice system have histories of childhood abuse. The *Royal Commission into Institutional Responses to Child Sexual Abuse* highlighted the stories of many survivors who found that the complex trauma and disadvantage resulting from their experience of abuse led to involvement with the justice system later in life. The status of victim and offender are often intertwined, and it is only fair that *all* people have the right to access compensation, have support to rehabilitate, and have an opportunity to heal.

The 'Impacts' section of the Final Report of the Royal Commission describes that a "number of survivors in private sessions and public hearings described how the impacts of child sexual abuse had contributed to their criminal behaviour as adolescents and adults." The Final Report revealed that of survivors interviewed in private sessions, 10 per cent were in prison. The Final Report found that "survivors described the complex pathways which led them to engage in criminal behaviour, telling



us about various social, cultural, institutional and family factors in their lives at the time of abuse and following the abuse, including disadvantage, maltreatment and trauma.” The Final Report cited an Australian study which found that “child sexual abuse victims were almost five times more likely to be charged with an offence than their peers in the general population.”

The Final Report makes it clear that victims of child sexual abuse who later intersect with the justice system are particularly vulnerable.

The vulnerability of this cohort, and their right to access compensation, is also reflected in recommendations of the Final Report and of the 2015 Redress and Civil Litigation Report.

Recommendation 49 of the Redress and Civil Litigation Report (2015) specifically calls for the Redress Scheme to be directly publicised and promoted to people in correctional or detention centres. By contrast, the National Redress Scheme currently denies access to the very same cohort.

Recommendation 4 stipulates that redress should be offered, assessed and provided with appropriate regard to what is known about the nature and impact of child sexual abuse – institutional child sexual abuse in particular – and to the cultural needs of survivors, and that redress should be offered, assessed and provided with appropriate regard to the needs of particularly vulnerable survivors.

In the case of victims with criminal convictions, the Scheme fails to give appropriate regard to what is known about the nature and impact of child sexual abuse by neglecting the reality that offending, and contact with the justice system, is often an outcome of victimisation.

Operators of the National Redress Scheme can exclude victims from access to compensation if they deem that the provision of redress would bring the Scheme into disrepute or adversely affect public confidence in, or support for, the Scheme. We believe that this is vague and discriminatory.

By failing to hold institutions liable for abuse, by failing to acknowledge the full impact of child sexual abuse on a victim, and by failing to meet the recommendations of the Royal Commission, the Scheme’s implementation is fundamentally compromised.

Jesuit Social Services calls for there to be no exclusions of individuals with criminal convictions from the National Redress Scheme.

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