Committee Secretariat
Senate Standing Committees on Community Affairs
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27 January 2018

Dear Committee Secretary

Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and related bill

On 30 November 2017, the Senate referred 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* to the Senate Community Affairs Legislation Committee for inquiry and report.

Having studied both of the proposed bills I have grave concerns about what is proposed in terms of both process and potential impact on survivors of childhood abuse who choose to apply to the proposed redress scheme.

1. Context

I am a 47-year-old male and a long-term survivor of historic childhood sexual abuse within a non-government institution. In my case, the longitudinal impact of the abuse over the last 35 years has been far more significant than the actual incidences of abuse that occurred in my twelfth year. This is especially true for my development of mental illness in the form of anxiety, PTSD, depression, social isolation and suicidality, the confusion over my sexuality in early adulthood, and the development of alcoholism leading to liver disease and early mortality. Therefore, I make comment on the above proposed bills from the perspective of the lived experience as a survivor.

2. Opt-in Process

That the proposed scheme is built upon the premise that states and stakeholders may or may not "opt in" to the scheme serves only to 1) undermine the scheme due to only some survivors having access to the scheme and having no consistency across all states in terms of redress access and 2) provide a convenient means for those institutions that do not opt in to avoid any kind of redress and compensation for survivors.

Redress should be accessible to all survivors regardless of where they live or where they were abused. Anything less is inequitable. Furthermore, it is imperative that a National

redress scheme provides a standardised process and outcome for applicants across the nation. All government and non-government institutions where childhood sexual abuse has been proven in a court of law to have occurred should be mandated to participate in the redress scheme. **It is for these reasons that I recommend that the proposed scheme be mandatory for all states and territories and all institutions where childhood sexual abuse has been proven to occur.**

3. Operators and Officers

It is important that any person or persons appointed to the roles of operator or officer of any institution's redress scheme be an independent appointee. That is, that they not be an employee of that institution in any capacity or have any other vested interest, financial or otherwise, in that institution.

Survivors may, and often do feel intimidated and experience a renewed sense of powerlessness, guilt or anger when faced with a situation whereby a person from within the institution where the abuse occurred is managing their affairs. Many survivors such as me have had nothing to do with that institution since the abuse so it is very difficult for them to have direct involvement with anyone from that institution.

Aside from this, the administration of any redress scheme needs to remain objective and without prejudice. Only an independent operator and officers can ensure that the process remains so. **It is for these reasons that I recommend that all operators and officers for each participating institution are independent of that institution and government appointed.**

<u>Recommendation:</u>

Section 11: Division 2 - Item 12(3), be added to stipulate that all operators and officers will be independent of the institution and appointed by the government.

Section 26: Division 3 - Subdivision C, Item 24(b); Subdivision D, Item 26(1)(b), be omitted.

Section 27: Division 4 - Item 27, be omitted in its entirety.

4. Redress Payment

One of the potentially most damaging elements of the proposed bill for survivors is the $150,000 cap on redress payments. It must be noted that many survivors of sexual abuse in institutions are limited in the amounts of compensation payments that they can access due to there not being an opportunity to pursue compensation via civil litigation. One example of this is the Catholic Church not being legally recognised as an entity liable to be sued in a

court of law. Where this avenue has been available survivors have succeeded through civil action in obtaining compensation figures of up to several hundred thousand dollars. For this reason, it is essential that payments are not restricted via alternative means such as a National Redress Scheme.

The whole idea of progressing to a National Redress Scheme should be to learn, and move away from past failed attempts at redress as with the case of the Catholic Church's *'Melbourne Response'* in 1996 whereby survivors had redress payments capped at an inadequate $50,000, with each survivor receiving an average of a mere $32,000. The entire notion to many survivors that their redress payment be capped at all is insulting and implies that their abuse and lifetime of suffering is only worth so much, further rubbing salt into their wounds. **It is for these reasons that I recommend that redress payments not be capped.**

Recommendation:

Section 17: Division 2 – Item 18(1)(a), the phrase "**(of up to $150,000)**" be omitted.

5. Application Requirements

If the National Redress Scheme is to be consistent across all States, Territories and institutions, then its application process must be standardised through a centralised government-managed administration mechanism. Application forms should not be arbitrarily devised by the operators of the institutions themselves. Each applicant should expect to complete the same form with the same standardised questions regardless of place of application. Similarly, requirements pertaining to accompanying and supporting documentation should also be standardised and managed by a centralised government medium. This would safeguard against any institution-based bias or prejudice in the information sought from the applicant.

Recommendation:

Section 29: Division 2 – Item 29(2)(a), be amended to state "be in the form approved by the **relevant Government agency**".

Section 29: Division 2 – Item 29(2)(b), be amended to state "include any information, and be accompanied by any documents, required by the **relevant Government agency**".

It is not always possible or practical to access notaries for the purpose of providing statutory declarations. For survivors like me who live in remote and rural areas, often extensive travel is required to access these services. Added to this is often the abuse-related acute anxiety and social isolation that survivors endure on a daily basis resulting in support persons being

relied upon to run even the most basic of errands. That a support person cannot legally sign a statutory declaration on another's behalf renders this a potentially impossible exercise. For these reasons I recommend that a statutory declaration not be a requirement for redress application.

Recommendation:

Section 29: Division 2 – Item 29(2)(c), be omitted.

I trust that the above comments and recommendations prove useful to your inquiry.

Matt Jones