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Victorian Aboriginal Child Care Agency (VACCA) submission in response to questions on notice:

Joint Select Committee Inquiry on Implementation of the National Redress Scheme Response Public hearing

November 2020

More Information:

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Victorian Aboriginal Child Care Agency submission:

Joint Select Committee Inquiry on Implementation of the National Redress Scheme

18 November 2020

The Joint Select Committee submitted the following questions on notice as a follow up to the hearing Hanina Rind, Senior Program Manager of Ngarra Jarra Noun, attended on 25 September 2020. Ngarra Jarra Noun's responses to each question are provided below.

1) Your submission states 'a need for better co-ordination between the state and commonwealth' in respect of counselling and psychological care. Could you please expand on this?

Unlike delivery of most components of the National Redress Scheme, the counselling and psychological care component differs substantially across jurisdictions. It is our experience that the survivors we support have not been provided with the required specific information about accessing counselling and psychological care in Victoria. The Victorian government response to providing counselling and psychological care is a consortium model called 'Restore' and includes Ngarra Jarra Noun; <https://restore.casa.org.au/> The agreed protocol is that the National Redress Scheme provides a hardcopy of the brochure (copy attached for reference) to survivors with their determination letter. Importantly this brochure describes Restore as the 'Victorian Redress counselling and cultural healing service'. This is important as many Aboriginal survivors are not interested in accessing counselling if it is limited to a mainstream counselling approach but are eager to access a cultural healing approach. Unfortunately, it is the experience of Ngarra Jarra Noun and other Restore consortium members that this agreed protocol has not been followed. This is still occurring as of the most recent client determination, where the determination letter did not make mention of Restore nor include the Restore brochure and the determination phone call made no mention about the survivor's options to access counselling and psychological care. If survivors are not informed about accessing counselling and psychological care they will miss out on accessing this critical component of redress.

2) What is your experience of survivors being able to access specialised financial counselling services?

Ngarra Jarra Noun has had no experience in this area. None of the survivors we have supported to apply to the National Redress Scheme have accessed specialised financial counselling services as far as we are aware.

As we have stated in our written submission, we think it is very important that financial counselling be provided by Aboriginal Community Controlled Organisations for Aboriginal survivors to access, similar to the funding of specific Aboriginal Redress Support Services in each jurisdiction. knowmore have been

funded to provide financial counselling, however this is only available to survivors who are already clients of knowmore. Aboriginal survivors should not have to forgo accessing culturally-based support provided by Ngarra Jarra Noun and instead use knowmore for support to complete their application, simply so they can then access financially counselling.

3) What resources has the Scheme provided you with specifically for First Nation's people? Do you feel that these are meeting the needs of survivors?

The Scheme has not provided Ngarra Jarra Noun with any resources specifically for First Nation's people so we have developed our own culturally-relevant resources including a brochure and information booklet (attached for reference). We have also held community forums to inform Aboriginal communities, Aboriginal community organisations, and mainstream organisations working with Aboriginal communities.

The only resources specifically for First Nations people, is funding of The Healing Foundation to provide support to the Aboriginal Redress Support Services. This has not been a benefit to Ngarra Jarra Noun and our recommendation is that the funding is instead provided directly to the Aboriginal Support Services. Ngarra Jarra Noun would use this funding to provide 'healing for the healers', a critical area to minimise the risk of vicarious trauma and burnout for our staff.

As already mentioned in response to question 2 above, additional First Nations specific funding should be provided to fund Aboriginal organisations to provide financial counselling. Aboriginal legal services should also be funded as an alternative to knowmore, so that Aboriginal survivors can access a culturally-based legal service.

There is also more funding needed for Aboriginal Redress Support Services. Given Aboriginal survivors represent 38% of applicants (p. 112, Department of Social Services Annual Report 2019–20), the need for additional funding and resources for Aboriginal Redress Support Services is clearly much needed. It is important that all Aboriginal survivors have the option of accessing an Aboriginal Redress Support Service regardless of where in the country they live.

4) As you know, prior to the Scheme commencing, it was expected that up to 60,000 people might apply for redress. Actual applicant numbers are tracking at far lower rates. What suggestions would you offer in relation to how the Scheme can better engage with survivors, particularly First Nation survivors, with the aim of encouraging them to apply for the Scheme?

Before understanding how the Scheme can better engage with First Nations survivors, it is important to understand the current barriers to engagement. Ngarra Jarra Noun's experience of why Aboriginal survivors may not engage with the scheme are multiple and include:

- **Lack of awareness of the existence of the Scheme and lack of awareness of the breadth of who is eligible to apply to the Scheme.** There is a misunderstanding that the Scheme is for historical institutional child sexual abuse only (and not aware that it is inclusive of abuse perpetrated as recently as June 2018). There is also misunderstanding that the Scheme is for survivors who grew

up in out-of-home care and were abused in out-of-home care (and not aware it is inclusive of survivors who lived with their parents and were abused within a wide range of institutions including schools, community groups, sporting clubs and other organisations that have signed up to the Scheme).

To address these barriers, community awareness needs to be prioritised. This needs to be specifically targeted to Aboriginal communities and Aboriginal Redress Support Services in each jurisdiction should be funded to undertake this much needed work.

- **Complications in the Scheme which include the difficulty of applying, the intrusiveness of the questions asked, the legalistic process, the distress and re-traumatisation** that can be induced from completing the form and interacting with the Scheme; and the lengthy timelines involved in applying for redress. Furthermore, the payments available are less than what was expected based on the recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse. This is particularly true if the abuse is contact abuse where the maximum payment available is \$50,000 and may be as small as \$30,000 (and this is before any prior payments are indexed and subtracted). For exposure abuse the maximum payment is \$20,000 and may be as small as \$5000 (and again this is before any prior payments are indexed and subtracted).

To address these barriers, the Scheme needs to continue to improve how it responds to each of the barriers in engaging with the Scheme. Within the Victorian Aboriginal community, survivors negative experiences with the Scheme are readily shared and serve to put off other survivors who are considering applying. Until it is more favourable experiences that are being shared, Aboriginal survivors will be uncertain about applying. This experience was evident in Victorian Aboriginal survivors engaging with the Royal Commission. The initial uptake of Aboriginal survivors sharing their story with the Royal Commission was limited. As awareness grew survivors came forward and then these survivors shared their experience of feeling safe, supported, understood and believed. This then encouraged other survivors to come forward. This meant that over the five years of the Royal Commission, Aboriginal survivors were well represented (in contrast to the first year).

- **The increasingly favourable alternative of accessing civil litigation.**

The Scheme not living up to be what it was designed to be and not what the Royal Commission recommended, coupled with significant improvements to the civil litigation process, have made civil litigation a more favourable option for many Aboriginal survivors. The process of civil litigation has improved, at least in part due to the attention of the Royal Commission and the implementation of the National Redress Scheme. Payments have routinely increased since the National Redress Scheme has been provided, meaning the baseline payment for civil litigation is now \$150,000. Deeds of release being nullified means clients who have previously received inappropriate settlements in the tens of thousands of dollars can now be awarded a figure tenfold increased. Timelines have been seen as a barrier to civil litigation but given the longer than anticipated timelines associated with the National Redress Scheme, civil litigation actually compares favourably with the Scheme. Ngarrarra Jarra Noun believe it is a positive that civil litigation is more accessible to survivors. Having options available to survivors is critical to

providing choice and a sense of control over accessing justice. However we strongly believe that National Redress Scheme needs to be improved to make it a more favourable option.

5) Could you share any insights on how the Scheme has responded to the impact of COVID-19 in Victoria?

The most significant change has been the legislative amendment allowing redress applications to be submitted without a signed or witnessed statutory declaration. This has been an important burden removed both for survivors and support services.

This amendment expires on 31st December, 2020. Ngarra Jarra Noun believes this needs to be extended, at least in Victoria. The current requirements in Victoria require that employees who can work from home, must work from home. The entire Ngarra Jarra Noun team has been working from home since March and continues to work for home with no indication of this ending. In addition to the Victorian State government's timelines for removing restrictions on working from home, VACCA is clear that Ngarra Jarra Noun's work will not return to normal until a vaccine is available (if a vaccine becomes available). This is due to the multiple vulnerabilities of our client group as well as clients being spread throughout the state. A further challenge is that half of the Ngarra Jarra Noun workforce is deemed a high risk population. Without an extension to the removal of the requirement of a signed and witnessed statutory declaration to accompany an application, Aboriginal survivors in Victoria will be discriminated against by being subjected to further delays in having their applications processed. In all likelihood this will mean an increase in survivors who die before a determination is made. This would be an unacceptable outcome and can be avoided by extending the date the legislative amendment expires.

Ngarra Jarra Noun's experience is that the COVID-19 pandemic and associated restrictions and work challenges has impacted our service in terms of accessing clients' records within the expected timeframes and we are experiencing significant delays. We are concerned that the National Redress Scheme is also experiencing similar delays in accessing records on their part to and therefore extending timelines and ultimately leading to further delays in client determinations.

Ngarra Jarra Noun has also been informed by the National Redress Scheme that the much improved case management model that was introduced is no longer in place as staff were working from home. This has resulted in our staff receiving a number of phone calls from different National Redress Scheme workers enquiring about the same client and it seems that there was no communication between workers within the scheme. This is frustrating for our staff and clients and means that the improvements evident with the introduction of the NRS case management model are no longer evident. Ngarra Jarra Noun strongly advocates that the case management model be reintroduced to assist with a survivor-lead approach.