

15 February 2021

Senator Dean Smith
Joint Select Committee on Implementation of the National Redress Scheme
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Relationships Australia National Office welcomes the opportunity to make a submission to the Committee's inquiry into implementation of the National Redress Scheme (the Scheme) established in response to the recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse. This submission complements submissions made to this Committee, and to the mid-Scheme review, by Relationships Australia organisations, and is also informed by feedback from our clients, as relayed through practitioners who deliver services to survivors of institutional child sexual abuse. The intent of this submission is to inform the development of this Committee's ongoing work by identifying and amplifying common themes and experiences relevant to the five priority focus areas.

The work of Relationships Australia

Relationships Australia is a federation of community-based, not-for-profit organisations with no religious affiliations. Our services are for all members of the community, regardless of religious belief, age, gender, sexual orientation, lifestyle choice, living arrangements, cultural background or economic circumstances.

Relationships Australia has, for over 70 years, provided a range of relationship services to Australian families, including individual, couple and family group counselling, dispute resolution, services to older people, children's services, services for victims and perpetrators of family violence, and relationship and professional education. We aim to support all people in Australia to live with positive and respectful relationships, and believe that people have the capacity to change how they relate to others and develop better health and wellbeing.

Relationships Australia State and Territory organisations, along with our consortium partners, operate around one third of the 66 Family Relationship Centres across the country. In addition, Relationships Australia Queensland operates the national Family Relationships Advice Line and the Telephone Dispute Resolution Service.

The core of our work is relationships – through our programs we work with people to enhance relationships in the family (whether or not the family is together), with friends and colleagues, and within communities. Relationships Australia believes that violence, coercion, control and inequality are unacceptable.

We respect the rights of all people, in all their diversity, to live life fully and meaningfully within their families and communities with dignity and safety, and to enjoy healthy relationships. A

commitment to fundamental human rights, to be recognised universally and without discrimination, underpins our work. Relationships Australia is committed to:

- Working in regional, rural and remote areas, recognising that there are fewer resources available to people in these areas, and that they live with pressures, complexities and uncertainties not experienced by those living in cities and regional centres.
- Collaboration. We work collectively with local and peak body organisations to deliver a spectrum of prevention, early and tertiary intervention programs with older people, men, women, young people and children. We recognise that often a complex suite of supports (for example, family support programs, mental health services, gambling services, drug and alcohol services, and housing) is needed by people affected by family violence and other complexities in relationships.
- Enriching family relationships, and encouraging clear and respectful communication.
- Ensuring that social and financial disadvantage is no barrier to accessing services.
- Contributing our practice evidence and skills to research projects, to the development of public policy, and to the provision of effective and compassionate supports to families.

This submission draws upon our experience in delivering, and continually refining, evidence-based programs in a range of family and community settings with diverse identities, including:

- people affected by complex grief and trauma, intersecting disadvantage and polyvictimisation
- people affected by intergenerational trauma
- Aboriginal and Torres Strait Islander people
- people who come from culturally and linguistically diverse backgrounds
- people who identify as members of the LGBTIQ+ communities, and
- younger and older people.

Most important, it draws upon our experience in delivering services to survivors of institutional child sexual abuse who are engaging, who have engaged, or who are considering engaging, with the Scheme.

Relationships Australia acknowledges the hard work and commitment of Australian Government officials who have been charged with the implementation of the Scheme. Those of our clients who have thus far received outcomes are generally very happy to have done so. In particular, direct personal responses, when done well, have been powerfully healing. Lives have been transformed for the better.

One survivor, for example, simply could not bring himself to disclose the details of his abuse, but received a Redress payment in excess of \$100,000. The outcome letter observed that it was clear to the independent decision-maker that there was much more to the story than was

traversed in the application, and that the client just could not tell that story in its fullest form. The validation that our client experienced on receiving this letter has provided a foundation on which he has reconciled with his spouse, children and grandchildren, become drug and alcohol free, and has embarked on a suite of new, healthy pursuits.

Relationships Australia Victoria has undertaken client surveys completed by 63 clients. The findings were encouraging:

- 93% reported that they felt listened to and understood by the RAV Redress Support Service (RSS)
- 90% felt that they were now better able to deal issues on which they sought support, because of the RSS intervention
- 93% felt that the service afforded opportunities to talk about and work on issues that they wanted to, and
- 95% felt satisfied with the service.

Against this background, the feedback, suggestions and recommendations made in this submission are aimed at working constructively with the Commonwealth, State and Territory Governments to ensure that more survivors receive the full potential benefits of the Scheme.

Survivor experience

Implementation of the Scheme has been variable. Some aspects of implementation have been welcomed by clients, including:

- end to end case management with a single Redress staff member dealing with the application throughout – this is reassuring to survivors, who are more comfortable knowing that their information is being seen by very few people, and
- sound clinical governance practices, including access to a clinical support team.

We are concerned that these aspects have not always endured, or have been curtailed.

What we hear from our clients

Application form

Relationships Australia is aware that the Commonwealth's intentions were to make the application process as approachable as possible. However, the application form remains problematic, traumatising and confusing:

- the application form is very lengthy and complex
- the application form is premised on applicants discharging an onus of proof that echoes the widespread disbelief with which their earlier disclosures of abuse were too often met; the degree of particularisation urged on applicants seems excessive having regard to the threshold of 'reasonable likelihood' legislated by Parliament

- clients report that they did not anticipate the psychological and psychosomatic burden of completing an application; some have reported significant negative psychological and physical impacts
- the degree of particularisation demanded violates the precept that the Scheme not inflict further harm - the potential for harm arising from completion of the application for redress places support workers in a difficult, potentially unethical position in assisting them to complete application forms with the requisite details
- survivors of institutional abuse are distressed by the focus of the Scheme on one type of abuse – sexual abuse – on which access to a Redress Payment is contingent

Recommendations

1. All forms should conform to applicable disability access standards.
2. All forms should include ample room to include information.
3. Move the content on 'Things to think about before you apply' from page 6 to the beginning of the form, to ensure that survivors have the earliest possible warning about the level of detail that is sought, and the potential impact of recalling and relaying that detail.
4. The Serious Criminal Convictions form, and the Applying from Gaol form, should be available in a fillable format with ample space to include the required information.

Lack of continuity in personnel handling applications

Clients are aware that their application may be seen by multiple individuals (both through design and because of staff turnover). This is a cause for concern because:

- it compromises our clients' sense of agency and control over the privacy and confidentiality of their accounts of abuse; this can inflict fresh trauma on survivors
- survivors are put in the position of having to tell their stories (or otherwise provide details¹) multiple times – this is blatantly at odds with trauma-informed practice, and
- it compounds the sense of being subjected to scrutiny and judgement by authority figures – often an element in the original abuse and trauma

Recommendations

5. Promote trauma-informed, relational practice by allocating each survivor a single case worker end-to-end for each application.
6. Ensure that queries and requests for clarification are responded to quickly, with one call, and afforded an accurate and timely response.

¹ For example, being required to repeatedly verify the identity of their nominee.

7. Promote trauma-informed practice and ensure robust administration of the Scheme by providing Scheme workers with ongoing training and refreshers to ensure consistency, including geographic consistency, in implementation

Shortfalls in trauma-informed practice

The Scheme, by definition, exists to serve a cohort of strong and resilient individuals, who are nevertheless deeply traumatised and characteristically present to RSS with multiple complex needs. Staff and contractors should be at the leading edge of trauma-informed practice, but clients have reported to us that:

- personnel employed to engage with survivors and their assistance nominees seem to have only minimal training in trauma-informed principles and practice
- personnel engaging with survivors (including independent decision makers) are perceived as 'hiding behind' anonymity and impersonal systems² - reinforcing power imbalances between officials who can avail themselves of the privilege of anonymity and applicants who are forced to expose intimate, highly personal matters
- personnel not adequately trained in, or understanding, confidentiality and privacy legislation (which differs between States and Territories (eg Western Australia does not have dedicated privacy legislation and South Australia has Information Privacy Principles that bind its public sector); similarly, some personnel seem not to understand that breaches of privacy and confidentiality have a particularly negative connotation for a cohort who experience breaches as attacks on their hard-won agency over their lives
- clients whose earlier complaints of abuse were dismissed, minimised or otherwise silenced find safety and hope in finally being believed, which can be a critical element in recovery; some Scheme staff, though, divert from trauma-informed practice by expressing scepticism or disbelief, or taking an 'inquisitorial' or 'investigative' approach to handling applications (for example, clients who were surrendered or relinquished by their parents may experience difficulties demonstrating a nexus between the state and the perpetrating institution; in one instance, a staff member allegedly said that they did not believe a survivor's account of their abuse)
- clients whose abuse profoundly damaged their sense of agency and autonomy can be further traumatised if personnel seek to substitute their version of what 'is good for' an applicant; for example, some workers have questioned applicants' wishes about the form that a Direct Personal Response should take, and sought to persuade/coerce applicants to choose a DPR that the worker considers to be more appropriate
- at least in some states, applicants are required to approach the perpetrating institution themselves to seek a DPR; this is not trauma-informed and may be a reason why take up of DPR is low

² Officials have previously undertaken to recast the outcome letter in a more personal and sensitive way; this has not yet been done.

- some clients are deterred from engaging with the Scheme because information about them will be shared with an abusing institution (eg the applicant's experience of sexual abuse and its impact across their life)
- they can get caught in the '1800 loop' of having to listen to lengthy voicemail instructions, leaving their details, and waiting for long periods to receive a call back at the convenience of Scheme administrators
- their contacts with Scheme staff (whether to provide information or to seek it) appear not to be adequately recorded, requiring clients to repeatedly re-tell their stories to multiple individuals
- they often want to continue counselling, post-outcome, with the practitioners with whom they have built trust and rapport during the course of their application. Some of our services are at capacity, but are ethically unable to discharge clients to free up capacity for new claimants. This has a flow on effect for wait times for all clients. Sometimes, clients want to at least continue while they weigh up the option of seeking a direct personal response. Some of our workers are carrying up to 100 clients each, at differing stages of progress through the application process. There is, in any event, nowhere for them to go after discharge.

Recommendations

8. Fund Redress Support Services to provide continuous post-outcome counselling.
9. Consider alternatives to statutory declaration arrangements, which are especially problematic in small communities.
10. Ensure that, in all jurisdictions, assistance nominees can – at the election of the survivor – have the authority to approach the perpetrating institution for a Direct Personal Response, and make this clear at the outset.

Delays

Our clients express anxiety, disappointment and frustration when it takes a long time for Scheme personnel to complete steps in the process. For example, after receiving a telephone call advising of an offer of a redress payment, one client waited for three and a half months to receive a written offer. That waiting period exhausted the bulk of the applicant's six month timeframe to respond to an offer. Individuals who already have little reason to trust institutions, including governments, can come to believe that the process has been designed to wait applicants out (until they die).

Lengthy periods of apparent inaction compound trauma and inhibit therapeutic progress as people are held in an ongoing hypervigilant state. Further, some of our clients are in palliative care or otherwise have life-limiting conditions. The emergence of COVID-19 is a further complicating factor for clients already dealing with precarious health. It is unclear whether the applications of such clients are accorded any priority.

We would welcome incorporation of an early payments scheme, noting the recent proposal from the ALP along these lines. This would enhance the equity of the Scheme as a whole, by

removing the incentive for institutions to conduct a 'war of attrition', cynically exploiting the age and frailty of many survivors who have waited for far too long for recognition of the harms inflicted upon them.

Lack of cultural safety

First Nations survivors are currently under-represented in applications to the Scheme. Crucially, many Aboriginal and Torres Strait Islander clients do not regard the Scheme, and those who administer it, as culturally safe. Relationships Australia Northern Territory has noted that the proportion of client survivors who identify as Aboriginal or Torres Strait Islander does not correlate with the historic (and current) rate of institutional involvement in the Territory which, in recent decades, has seen the Intervention and the Royal Commission into the Detention and Protection of Children. This lack of correlation is so marked as to raise, in itself, significant questions about the failure of the Scheme to engage with Aboriginal or Torres Strait Islander communities. Relationships Australia Northern Territory is working hard to raise awareness and engagement, but would like greater involvement by the Scheme and the Department of Social Services.

Relationships Australia Northern Territory has also noted a serious breach of confidentiality, in which a survivor's complete application was sent to another survivor in a different jurisdiction, due to human error. The fact of the breach, and delays in advising our client of the data breach, further erodes community (and practitioner) faith in the Scheme.

Barriers against disclosure (to the degree of particularity required by the application process) include cultural prohibitions against talking – in particular, disclosing sexual abuse – to people:

- who are not First Nations people
- of the same or other genders
- from certain family groups
- of certain ages (eg a person who is younger than you).

Sometimes, clients are able to discuss other kinds of abuse, but not sexual abuse, with a particular worker.

In some instances, elders or care workers have been the perpetrators, and our clients are afraid to name their abuser, and afraid of retribution (including removal of their own children from their care).

However, Relationships Australia Northern Territory has welcomed the recognition of traditional healers (Nungkarris), enabling Aboriginal and Torres Strait Islander clients to access their counselling post-outcome with a mix of traditional healing and 'white' methods.

Recommendations

11. The National Indigenous Australians Agency should commission a national Aboriginal and Torres Strait Islander engagement strategy, to be developed under Aboriginal and Torres Strait Islander leadership.

12. The Scheme should employ staff who are in a position to provide culturally safe services.
13. Provision of dedicated funding to support travel to rural and remote areas and to offer services to build the foundation for effective engagement with Aboriginal and Torres Strait Islander survivors.

Trust, transparency and accountability

Trust is difficult for applicants to the Scheme. The Scheme could do more to help build trust with clients. For example, clients have reported that, once an application is submitted, there is little transparency about what happens to it, who deals with it and for what purpose, what timeframes apply to it, and what next steps might be. Having a clear understanding of each of these facets of the Scheme would foster increased trust in the Scheme, and reinforce agency for survivors who have had to fight to reclaim that for themselves following their abuse.

More broadly, clients report having difficulty understanding how the Scheme operates across a range of areas, including:

- how the Scheme works if a perpetrating institution is defunct
- how prior payments from other schemes are treated (for example, clients who received payments under the Tasmanian state government scheme, but not in relation to sexual abuse, have reported that payments due to them under the national Scheme are being withheld as if they had received payments in relation to sexual abuse; often, our clients have not disclosed any sexual abuse until starting the process under the national Scheme), and
- how Redress payments are treated in other legislative frameworks (eg the age pension, child support, assessment of various statutory liabilities)

Recommendations

14. There is a considerable range of actions that could enhance the transparency of the Scheme and promote greater trust in it, including a national information and public awareness campaign, promoted through a variety of media and with specialised resources for discrete cohorts. Campaign materials should also include:
 - an easy to understand flow chart of the assessment pathway, and
 - information about any triaging processes that apply to applications (eg age, life-limiting health conditions etc).
15. Government should impose meaningful public sanctions on institutions that do not join the Scheme within applicable statutory timeframes, *and* on participating institutions that do not deal fairly and reasonably with applicant survivors (perhaps a 'model litigant obligation' should be imposed on institutions).
16. Publicise feedback channels through which survivors can provide comments about the Scheme, without fear of retribution.

Post-outcome lack of support

Survivors tell us that they would value more counselling support to prepare them for hearing and responding to advice about the outcome of their applications, and in supporting them to consider their next steps. In one instance, one client did not feel there was any warning about the call from the Scheme, to allow them to be prepared for this significant news. They required this preparation to be psychologically grounded and emotionally prepared to process what was being expressed. Another one of our clients felt that the gender of the person providing the offer was not considered, and the client was triggered by hearing (an unfamiliar) male voice.

Some clients tell us that they think they will need between 1-2 years of distance post-outcome advice to be ready to seek, and receive, a Direct Personal Response. Clients are often surprised to find that this kind of post-outcome support is not funded. They fear being prematurely left without counselling.

Recommendations

17. Fund providers to offer post-outcome counselling, and publicise the availability of this.

Non-participating institutions; non-responsive participating institutions

Survivors whose perpetrating institutions have not joined the Scheme report feeling silenced again; having summoned the internal resources to approach the Scheme, only then to discover that the abusing institution has not joined it, is devastating for survivors. Redress should not be dependent on recalcitrant perpetrator institutions joining the Scheme.

Some survivors have reported that they have been encouraged by Scheme staff to contact institutions themselves to advocate for participation. It is egregiously unfair –and unsafe - to cast this burden on survivors. Pressure on institutions to participate should come from Government and the community at large. Governments have within their power the ability to impose meaningful sanctions, and should not be reticent in doing so, as we urge at recommendation 15 of this submission. Currently, it is unclear to survivors, providers and the broader community what real consequences (if any) will flow to non-participating institutions.

Clients report ongoing issues with understanding the processes involved where a perpetrator institution is defunct (eg the Sunshine Home in Tasmania).

Clients continue to encounter delays in receiving records from perpetrator institutions; in some instances, they have been advised that it will take up to 12 months for the institution to provide records.

Advice on outcomes

Clients have been distressed to receive telephone calls, out of the blue, from someone with whom the applicant has never had dealings. The outcomes call itself needs to be trauma-informed and relational, and sensitive to the fact that positive outcomes can nevertheless be traumatising for applicants.

The Offer of Redress letter is also very long and impersonal. Relationships Australia Western Australia has advocated for it to be made more personal, less overwhelming, and easier to understand. Independent decision-makers are not identified in the letter, which provides no name and no signature thus, in the view of survivors, apparently coming from yet another faceless official making decisions about intimate matters in the applicant's life.

Recommendation

18. Modify the Offer of Redress letter to be personalised, and require independent decision-makers to sign letters personally.
19. Ensure that survivors know where they can go to for help in understanding and acting on their Offers (or refusals to make offers).

Review processes

While there have been significant delays in reviews, Relationships Australia New South Wales has drawn to our attention a review that only took six weeks. This is very helpful from a therapeutic perspective, as well as being good administrative law practice.

Recommendation

20. Modify the review process so that reviews do not carry the risk of downgrading the original offer.
21. Amend the Act to require reviews to take into account whether the applicant was assisted in completing their application and, where the applicant was not assisted, to seek the survivor's consent to refer them to a Redress Support Service for assistance in rectifying any defects in the application, without penalty.

What we hear from our staff

Relationships Australia staff have also expressed concerns emerging from their practice experience with redress clients. Some of these reinforce those we have described above as having been expressed by clients; others are identified through a practitioner's lens.

Widespread lack of knowledge about the Scheme

Our practitioners advise that knowledge of the Scheme, among both redress clients and other clients (who approach us for other kinds of services, such as family violence or elder abuse services), is very low. Misinformation persists even among service providers who encounter potential applicants. In this climate, urban myths and misinformation expand to fill the vacuum. Commonly encountered misconceptions include:

- that Redress is only available for survivors 50 years and over
- that you need a lawyer's help to seek Redress, and
- that you cannot seek Redress if the perpetrating institution is defunct.

Applicants are not always aware that they can get help in completing the application, and hence submit applications that are non-compliant, or that overlook circumstances relevant to assessment of a survivor's full potential entitlements under the Scheme. Further, Relationships Australia staff express concern that some survivors are unknowingly waiving their rights to access counselling and legal advice, and are not aware of the availability of an assistance nominee and their functions. The consequences of submitting a non-compliant application, or a deficient application, are potentially very grave indeed, because of the prohibition against making more than one application to the Scheme.

Our practitioners also report clients who are unwilling to make a Redress application, or pursue elements of Redress (in particular, a Direct Personal Response) because of uncertainty, confusion and lack of what they see as trustworthy information about these processes and the options which they may afford, leading to fear and a sense of being overwhelmed. These feelings may be compounded for survivors who are also socially isolated.

Applicants assume that assistance nominee arrangements continue until they have exhausted all aspects, including payment, counselling and direct personal response, and some of our clients have been distressed to find that this is not the case, and they must re-engage with the Scheme and the abusing institution without support from practitioners with whom they have built a trusting relationship.

Awareness and information campaigns that have been run to date have focused on media that is accessed by older, but not younger, people (which reinforces the misconception that the Scheme is only accessible for older survivors of abuse that occurred a long time ago).

Recommendations

22. Allow assistance nominees to continue in their function until all aspects of the redress process are completed (and, in particular, remove from survivors the onus of approaching perpetrating institutions to arrange a direct personal response).³
23. Verify the identity of assistance nominees once (and not through a cold call to the applicant; applicants are often extremely wary of contact with government – in one instance, the Scheme rang an applicant's husband, which caused such distress that they sold their house and moved).

Lack of knowledge further compounds with the complex nature of the application process, which starts with the application form itself. Our clients are frequently confused about the circumstances in which the Scheme will contact them directly, and when the Scheme will contact the assistance nominee.

Recommendations

24. Re-phrase Questions 4, 19 and 20, for example, to provide greater clarity as to when the survivor will be contacted and when the assistance nominee will be contacted.

³ Nominee Form, Question 22 ('Until I have finished with the Scheme) suggests that this includes post-determination and DPR contact.

An inherently traumatising process

Our practitioners have echoed, and amplified, the concerns of survivors that the application form itself is redolent with traumatising elements. Of particular concern is the level of detail required to particularise the nature and impact of abuse to which they were subjected, which has been described as 'inhumane' and 'repugnant'.

We recognise that the degree of information currently demanded in the process is driven by the parameters negotiated between the Commonwealth, States and Territories and reflected in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the Act). However, we concur with other advocates who have put the position, over several years, that providing remedy only for sexual abuse, or for other abuse only when it is accompanied by sexual abuse, is morally and clinically indefensible. Linking funding for counselling with the type of abuse is misconceived. It is not the type of abuse that predicts or determines trauma, but the impact of that abuse on the survivor. Relationships Australia is also concerned that the exercise of classifying abuse as sexual or not sexual lacks transparency and relies sometimes on arbitrary or legalistic parameters. One client, for example, fled an institution in which she was being physically abused, only to fall into the clutches of a sexual predator. Reliance on what we respectfully urge was an inappropriately narrow and legalistic construction of causation led to her application for redress being rejected. We do not consider this to be a just outcome in which moral responsibility has been accepted, or expected, of the institution that had been charged with her care and protection.

As has been noted by Relationships Australia Victoria, practitioners are frustrated by the conundrum posed by:

- the ethical obligation, imposed on practitioners and firmly grounded in evidence,⁴ to provide treatment that will enable survivors to experience safety and hope, and that equips them with skills of self-regulation and dual awareness
- the statutory requirement, imposed on survivors, to dwell in their trauma, safely or not, for the purpose of completing the application with the requisite particularity; this can lead to self-fragmentation, activation of the flight-fight response and re-traumatisation, and
- the practical reality that therapeutic progress can be blunted for as long as it takes for the survivor to receive an outcome from the Scheme.

Recommendations

25. Re-negotiate the Scheme to recognise that *all* abuse of children – and not only sexual abuse - is to be publicly condemned, and its perpetrators sanctioned through redress.

⁴ Herman, J L, 'Recovery from psychological trauma', *Psychiatry and Clinical Neurosciences*, (1998) 52(S1), S90-S103; Fisher J, 'Twenty-five Years of Trauma Treatment: What Have We Learned?', *Attachment* (2017), 11(3), 273-289.

26. Re-negotiate the Scheme to provide that where an applicant has been abused across multiple institutions, the cap on redress payments should apply to each institution, rather than the cap being distributed among perpetrating institutions.
27. Simplify the assessment framework created under Part 2-3 of the Act.
28. Improve the content and distribution of publicly available information on what the statutory assessment framework means by 'extreme'; we find that clients currently either do not provide information that would support such a finding or provide more information than is required (which is itself traumatising, and unnecessarily so).
29. Modify processes so that incomplete or inadequate applications are, in the first instance and with the applicant's consent, referred to a Redress Support Service to support the applicant in remedying the application; this is crucial given the prohibition against making more than one application.
30. Give each Redress Support Service access to a dedicated direct line to a small team of Scheme workers, to:
 - a. promote continuity, consistency, familiarity with the applicant's matter
 - b. protect survivor's privacy and confidentiality, and
 - c. reduce the frequency of being caught in the '1800 loop' and phone tag.
31. Ensure that independent decision-makers undertake regular training to support national consistency and accuracy of decision making.

Redress Support Service – scope of role

Redress Support Services do not necessarily have clear authority or defined role to approach and facilitate a direct personal response from an institution; nor are they funded to do so.

Relationships Australia South Australia has indicated that the Scheme only contacts them (as assistance nominee) about half the time when clients are receiving outcomes, which prevents RASA from being able to support the client through that stage, and provide advocacy if necessary. Clients have expressed disappointment and frustration when they do not receive the nominee support that they have been led to expect.

Recommendations

32. Amend the Act and supporting guidance materials to clarify the role of assistance nominees, to allow survivors to appoint them for the entirety of their engagement with the Scheme, and to require Scheme workers to contact assistance nominees as directed by survivors.

Weak trauma-informed practice among personnel who administer the Scheme

Relationships Australia staff have expressed concern that Scheme personnel have only minimal training in trauma-informed principles and practice, and do not seem to be supported by robust clinical governance and leadership arrangements. This appears to have led to a range of sub-optimal consequences, including:

- vicarious trauma for Scheme staff
- inappropriate engagement with survivors (eg one survivor reported that advice that they would receive an offer of redress was relayed in language and tone 'as if they'd won Lotto' and without regard to whether the survivor was in a safe environment to hear the news)
- requests for information and clarification about the application process, or progress of a submitted application:
 - appear to be handled by multiple *ad hoc* call centre staff
 - are not responded to in a timely way
 - receive inconsistent, sometimes contradictory, responses (even on questions with a straightforward and binary answer, such as whether a particular institution is participating in the Scheme, or the treatment of previous payments) – implementation of recommendation 30 above would mitigate this consequence
 - can be subject to prolonged 'phone tag' between our staff and Redress staff; in some instances, 2-3 weeks pass until a connection is made, and
 - routinely go through to voice mail, which is particularly frustrating if the Relationships Australia practitioner has the client with them
- Redress call centre workers making cold calls to survivors about matters including verification of assistance nominees, bank account details etc,⁵ and
- the application process is lengthy and complex, requiring clients to stay in a trauma state for prolonged periods, and delaying therapeutic work, which depends of restoration of safety and hope.

Operation of the Scheme

Interoperability

Relationships Australia practitioners have encountered ambiguities around how the Scheme interacts with other legal processes, government programmes and services; for example:

- succession and probate laws (eg if a person dies without disclosing to family, how do you deal with probate?)
- Redress payments being counted as an assessable asset for the purposes of the *Aged Care Act 1997* (Cth)
- despite Redress payments not being treated as income within the meaning of income tax legislation, some clients report being required to pay more for their public housing, or

⁵ Clients have told us that they appreciate a text message from Scheme staff before receiving a telephone call from a private number.

having payments deemed for social security purposes; the application form itself is vague – it advises that Redress payments may ‘affect various Centrelink asset tests’

Non-participating institutions - ‘free riders’ and perverse incentives

Survivors who have been abused in more than one institution face a range of compounding dilemmas. The first, and most obvious, is that they must provide more detail on their application, in a situation where providing details can, *per se*, cause harm and injury.

If one abusing institution out of a number that have abused a survivor is not (for whatever reason) a participant in the Scheme, the applicant must decide whether to name the non-participating institution. If they do not name the institution, and provide the required details, then the non-participating institution is (once again) off the hook, and the participating institution will be liable for all of the abuse, and its impacts, detailed in the application. If they do name the institution, then the participating institution will be relieved of bearing 100% of the liability (as they would if the survivor does not name the non-participating institution), but the survivor will receive only a portion of the Redress which they would have received had they been less honest. This is a perverse incentive for survivors to withhold information that it is in the public interest to be disclosed – ie that an institution that has declined to participate in the Scheme nevertheless perpetrated abuse and is failing to take responsibility for it, to the hardship of survivors.

In fact, neither survivors nor those institutions which have taken responsibility for abuse should bear the burden of the free rider problem. Government is clearly in a much stronger position to put pressure on, or sanction, an institution that is not participating and has not taken responsibility for its own behaviour.

Funding to RSS does not reflect complexity of the work

Scheme officials and employees still express surprise at the complexity of client needs in this regard. While the complexity of need among our Aboriginal and Torres Strait Islander clients is formally recognised in the legislative architecture of the Scheme, *all* Redress clients present with high complexity profiles, and this is not reflected in the Scheme’s support for mainstream RSS providers such as Relationships Australia. Most Scheme clients present with multiple complex needs, including family violence, suicidal ideation, mental illness, relationship issues, social isolation, unemployment, disability, homelessness, or are affected by drug and alcohol use. That lack of recognition manifests both for RSS providers (in terms of funding support) and survivors (for example, there is room on the form to identify one support agency only, whereas some applicants with complex needs will need multiple agencies to collaborate).

Geographic inequities

The Royal Commission stated that

A process for redress must provide equal access and equal treatment for survivors – regardless of the location, operator, type, continued existence or assets of the institution

in which they were abused – if it is to be regarded by survivors as being capable of delivering justice.⁶

As a national federation, Relationships Australia has a special vantage point from which to identify disparities and inequities in how the Scheme is operating, both within and across jurisdictions. Our practitioners have noted:

- inequitable variation in approaches to funding outreach to regional and remote areas; in one state, funding for outreach is expected to terminate at the end of this financial year, which will place survivors in those communities at heightened risk relative to survivors in metropolitan areas, and
- variations in support for counselling post-outcome (both in quantum and in methods of delivery).

We understand, for example, that:

- New South Wales maintains a list of approved practitioners, and the money is held on trust
- Victoria funds a five agency consortium for post-outcome support, allowing providers to hire additional staff to offer counselling
- Western Australia and South Australia enable survivors to receive a one-off lump sum payment of \$5000, deposited in their bank account.

In many instances, a redress payment is the most money survivors have ever had access to or control of, and financial counselling would be extremely helpful. As it is, where survivors simply receive a lump sum payout, they can be very vulnerable to financial abuse. Our practitioners (not only our RSS practitioners, but also our Elder Abuse Service Trial practitioners) report instances of up to the maximum payouts being 'cleared out' by family members. The situation is particularly fraught for clients who live with cognitive impairment.

Recommendations

33. The Commonwealth, State and Territory governments should, with the benefit of findings by independent reviewer, and recommendations of this Committee, engage afresh with the parameters and mechanics of the Scheme, with particularly attention on how the Scheme can offer improved geographic equity.
34. Fund service providers to offer financial counselling pre and post outcome, to enable clients to arrange their finances and be able to manage their payments. For example, Relationships Australia South Australia has assisted many of its clients to open separate bank accounts and reduce the risk of financial abuse and exploitation from family and friends. Relationships Australia Western Australia has noted the benefits to clients of

⁶ See *Final Report, Preface and Executive Summary*, p 176.

being offered a seamless warm handover from a Redress Case Manager to a Redress Financial Counsellor.

35. Ensure that applicants have access to a choice of provider of financial counselling. For example, in regional and remote Western Australia, the only available services may be run through religious organisations associated with perpetration. In smaller communities across Australia, issues of privacy and confidentiality will arise.
36. Financial counselling service providers should be required to comply with trauma informed practice.

Legal advice and private law firms

As previously noted in this submission, survivors are making decisions about participation in the Scheme against a background of:

- a perceived vacuum of trustworthy, accurate and widely accessible information
- urban myths and misinformation about the Scheme
- confusion about difference between the Scheme and civil litigation, with a lack of knowledge about what each option entails and offers, and
- a process that inherently betrays the promise of trauma-informed, survivor-centred practice.

Our staff report an increasing propensity for people to turn to civil litigation rather than the Scheme for recognition, support and redress. It is troubling that survivors think they are better off turning to the court system, with its well-known expenses and delays, more stringent burdens of proof, and complex laws of causation. These are burdens that the Royal Commission hoped, in recommending a redress scheme, to lift from the shoulders of over-burdened, wronged and traumatised survivors.

Yet the factors noted above create an accommodating environment in which to exploit survivors and their fear and frustration about the Scheme. Our practitioners are aware of predatory behaviour on the part of some lawyers. Instances include:

- securing domain names that appear designed to divert people from official sites in favour of sites operated by law firms seeking fees
- joining Facebook groups and engaging with them to discourage participation in the Scheme and aggressively pursue contracts with members of the group
- giving inaccurate advice about the scope and operation of the Scheme – such as representations that applications cannot be made in relation to abuse by a defunct institution or in relation to abuse perpetrated by a deceased person, or that the Scheme requires legal representation
- offering survivors financial inducements to refer other clients
- signing survivors to contracts securing up to 30-40% of the ultimate redress payment as legal fees, and

- being persuaded to sign contracts that they do not understand (including in relation to consequences if a client changes their mind and decides to pursue remedy through the Scheme, rather than civil litigation).

Knowmore

Experiences of knowmore vary among our member organisations:

- Relationships Australia New South Wales has had very positive experiences approaching knowmore to check application forms for clients (which is usually done with a one week turnaround), and has also praised knowmore for its ability to identify lawyers who are willing to act *pro bono* for survivors.
- Relationships Australia Western Australia has expressed concern that knowmore's services are not trauma-informed in their delivery: the offices present with a 'corporate', 'clinical', or 'institutional' look and feel, which can be traumatising, and practitioners themselves do not practise in accordance with trauma-informed principles (for example, advising clients that knowmore will not act for them because their potential claim for redress 'isn't big enough' or that they are too busy to take on another matter). Relationships Australia Western Australia acknowledges that these latter issues probably arise from under-funding, and is also concerned that knowmore no longer does outreach in Western Australia.
- Relationships Australia South Australia, like Relationships Australia New South Wales, has had positive experiences in accessing knowmore to check applications, but note that knowmore does not have a base in Adelaide; South Australia is served on a fly in/fly out basis with staff from Victoria, New South Wales, Queensland and Western Australia.
- Relationships Australia Victoria notes that it has received positive feedback from clients about knowmore, and reports that its own staff have found knowmore practitioners 'highly collaborative, supportive and positive to work with, allowing us to form collegial networks for our clients between our services.'

Recommendations

37. The Attorney-General's Department should work with State and Territory legal professional conduct regulators to develop appropriate rules, guidelines and remedies to ensure that legal practitioners' dealings with survivors are trauma-informed and just, fair and equitable. This could include the development of model contract terms, and non-derogable terms in contracts to ameliorate the significant asymmetry of power and knowledge that exists between legal practitioners and many survivors.
38. Amend the Scheme so that counselling support is available to survivors who elect to pursue civil litigation.

Participation in the Scheme

Relationships Australia practitioners have expressed concerns that Aboriginal and Torres Strait Islander survivors are deterred from engaging with the Scheme, on the basis that it is not

culturally safe. A national Aboriginal and Torres Strait Islander Engagement Strategy should have been developed at the outset. Instead, Redress Support Services are now being asked by the Scheme to develop regional engagement strategies within the existing service delivery funding. We understand that an Aboriginal Engagement Toolkit may have been developed in South Australia; however, there has been little transparency surrounding its emergence. Relationships Australia South Australia staff are engaging with the South Australian Attorney-General to seek clarification. We refer in this regard to recommendation 11 above.

As we have noted in previous submissions about the Scheme, we have serious concerns about the limits imposed on participation by incarcerated survivors. Further, our practitioners are aware of:

- inconsistent applications of section 20 of the Act
- obstacles for incarcerated survivors to access their records for the purpose of making an application, and
- difficulties encountered by people who have been in prison for most of their adult life in seeking to quantify, for the purposes of Part 3 of the application form, the impact that the abuse has had on them.

Recommendations

39. To enhance cultural safety of the application process, transpose questions 11 and 24.

Impact of COVID-19

Relationships Australia New South Wales has reported that, in the immediate aftermath of the emergence of COVID-19, there was a drop off in people wanting to consider applying. However, there now seems to be a renewed sense of urgency around making and progressing applications.

CONCLUSION

Relationships Australia recognises that many of the issues we have traversed in this submission were the subject of this Committee's attention and recommendations in its First Interim Report. If the Committee's recommendations were implemented, then the Scheme would offer a markedly better experience for survivors, and a more appealing alternative to civil litigation.

This Committee has previously stated that 'any amendment to the scheme proceed on the principle of "do no harm" to the survivor, be subject to proper consultation with key survivor groups, and appropriately incorporate feedback from those consultations.' The Australian Government has accepted this proposition.

That proposition has not translated into the reality that survivors encounter when they engage with the Scheme. Rather, it sometimes seems that, as the time since delivery of the Royal Commission's Final Report lengthens, key precepts are incrementally eroded and the Scheme is mutating into a bureaucratic mechanism parsimonious in both the spirit with which it engages applicants and in its material responses.

The willingness of the Royal Commission to respond to survivors in a way that is grounded in integrity, humility and belief in the witness they bear has not been consistently embodied in the processes and administration of the Scheme.

Relationships Australia commends Government's positive responses to feedback, but urges that the Scheme be re-negotiated to restore, as its central tenet, a belief in the accounts of survivors and to more firmly embed trauma-informed practice in all aspects of the Scheme. Further, recognising that geographic equity is not within the sole gift of the Commonwealth, we call on states and territories to engage afresh with how the Scheme can offer geographic equity.

Finally, Relationships Australia also provides services to people engaging with the Royal Commission into Aged Care Quality and Safety and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. How the Scheme evolves in response to the work of this Committee, the independent statutory review, and other advocacy is likely to have significant implications for recommendations to emerge from these Royal Commissions. That reality adds weight and urgency to the Committee's task.

Thank you for your consideration of this submission. Should you wish to discuss any aspect of it, or the services that Relationships Australia provides, [REDACTED]

Kind regards

[REDACTED]
Nick Tebbey
National Executive Officer
Relationships Australia