

6 February 2026

PO Box 6021  
Parliament House  
CANBERRA  
Canberra ACT 2600



Dear Colleagues,

### **Submissions regarding the continuing operation of the National Redress Scheme**

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We make the following short submissions to the Committee in relation to the Inquiry into the continuing operation of the National Redress Scheme (the **Scheme**).

We act for survivors of institutional child abuse in civil proceedings. In that capacity, we regularly advise survivors on the interaction between civil litigation and the Scheme, including eligibility, timing and the legal consequences of accepting a redress offer. Our submissions are informed by this direct and ongoing engagement with survivors navigating these processes.

Access to redress plays a critical role for survivors for whom civil litigation is unavailable, impractical or retraumatising. The Scheme therefore performs an important function in bridging gaps in access to justice and support.

#### **Delayed disclosure and access to the Scheme**

Survivors of institutional abuse commonly disclose their experiences many years or decades after the abuse occurred, often due to shame, fear or lack of support. Where the timeframe to apply to redress is limited, there is a real risk that survivors who are not yet ready or able to come forward will miss out on the Scheme entirely. That outcome is inconsistent with what is well-established about delayed reporting of institutional abuse and does not reflect lived experience of survivors.

#### **Decision making under time pressure**

Even where survivors do engage with the Scheme, disclosure and understanding of abuse commonly occurs gradually over time. In our experience, it is not unusual for a survivor's first formal disclosure of the details of their abuse to occur in the context of seeking

support through the Scheme. For many, this represents the first step in understanding what occurred, articulating its impact and exploring available options.

As survivors begin to process their experiences, their understanding of the outcomes they may wish to pursue, including whether to pursue a civil claim, often evolves. Investigating a potential civil claim takes time, due to delays in locating and accessing institutional records. If timelines are imposed for making decisions or accepting redress under the Scheme, survivors may be required to make choices before they have the opportunity to fully understand the options available to them.

Survivors also commonly experience periods of acute mental ill-health as a result of the abuse they experienced in childhood. Psychological instability can significantly affect capacity to make complex legal decisions.

Compressed timeframes heighten distress and can compel decision making at an early, uninformed stage and while in a particularly vulnerable state.

### **Timely support**

The Scheme is intended to provide a faster alternative to civil processes. Persistent delays in assessment and decision-making mean that for many, redress has not delivered timely support. When months or years pass before survivors are informed about the outcome of a redress application, survivors can experience worsening distress and financial strain which may cause them to accept offers under pressure simply to end uncertainty. If timeliness cannot be reliably achieved, the foundational reason many survivors choose redress is not met.

### **Case studies**

Our concerns are informed by our direct experience acting for survivors. Please see below two anonymised scenarios:

#### **Scenario 1**

*A survivor sought legal advice regarding a potential civil claim for sexual abuse experienced in childhood while in the care of an institution participating in the Scheme. Due to evidentiary and funding constraints, the survivor was advised that a common law claim could not be pursued on a no-win-no-fee basis. The survivor subsequently applied for redress and accepted an offer without fully appreciating that acceptance permanently extinguished their civil rights.*

*Years later, the survivor sought further legal advice regarding the abuse, unaware that the support they had previously accessed was redress. Only after documents were obtained did the survivor realise that no further legal avenues were available. This outcome caused significant distress and a sense of injustice.*

### **Scenario 2**

*A survivor of physical and sexual abuse lodged an application under the Scheme in order to commence processing while simultaneously exploring a potential civil claim. During the period in which the civil claim was under investigation, the survivor experienced a severe mental health crisis.*

*During that crisis, the survivor attended Services Australia in person and accepted a redress offer while experiencing suicidal ideation and lacking capacity to understand the nature and consequences of that decision. Before receiving any financial benefit and following improvement in their mental health, the survivor sought to rescind acceptance of the offer. They were informed that was not possible under the Scheme.*

### **Recommendations**

In light of the above, we submit that the Scheme should be reformed. In particular, we recommend:

- extension of the Scheme to allow survivors to come forward in their own time;
- the introduction of additional safeguards to ensure survivors are fully informed before accepting redress offers;
- a mandatory cooling-off period following acceptance of an offer;
- readily providing extensions of time for the acceptance of an offer under redress;
- improved mechanisms to assess and respond to a survivor's mental state at the point of acceptance; and
- legislative amendment to permit deeds entered into under the Scheme to be set aside in circumstances consistent with established court principles, where it is just and reasonable to do so.

A scheme that permanently extinguishes civil rights must operate in a manner that is not only efficient but fair and responsive to the vulnerability of a survivor of abuse. In our experience, just outcomes are compromised where survivors feel pressured by impending deadlines, lack capacity at the point of decision-making or do not fully understand the legal

consequences of acceptance. Without adequate time and procedural safeguards, there is a real risk that the Scheme will produce outcomes that are final but not just.

Yours faithfully,



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