

Our Ref: WGS:LH

Please reply to: Brisbane office

20 October 2020

Ms Pauline Cullen
Committee Secretary
Joint Select Committee on Implementation of the National Redress Scheme
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: redress@aph.gov.au

Dear Ms Cullen

Answers to Questions on Notice from the 25 September 2020 public hearing

I thank the Committee for inviting knowmore to appear at its public hearing on Friday 25 September 2020.

At that hearing, we took three questions on notice. We provide the following information in response.

1. The number of survivors pursuing common law action as opposed to going through the National Redress Scheme

Ms CLAYDON at page 14: I have one final question, and you might want to take it on notice. We're always perplexed by the low numbers of people participating in the scheme, to date. From your unique perspective of offering free legal advice, do you have any sense of the reasons for that low participation rate? Are a significant proportion of people pursuing or at least exploring common law action, as opposed to going through the National Redress Scheme? I'm interested to know how significant that is in terms of the low participation rates of National Redress Scheme.

As we noted in evidence to the hearing, we expect there are various reasons for the current rate of uptake of the National Redress Scheme (NRS) by survivors to date, including:

- the non-participation and/or the delay in joining by many institutions;

- some factors relating to the design and operation of the Scheme (such as the maximum payment being less than that recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse, and the processing time for determinations), which detract from it presenting to some survivors as a preferable alternative to civil litigation, given that accepting a redress payment will extinguish future legal rights against participating institutions and officials; and
- the removal of many previously existing barriers, such as limitation periods, that survivors wishing to pursue civil claims faced.

With respect to Ms Claydon's question about the proportion of people pursuing or exploring common law action as opposed to applying to the NRS, our referral data may provide some insight into this.

Under our funding agreement relating to the NRS, in assisting survivors to access the Scheme knowmore is required to help survivors by providing information and advice about the options available to them, including claims under the Scheme, access to compensation through other schemes or common law rights and claims. As Ms Swain explained in evidence, we provide all survivors contacting our service with legal advice on all options that may be available to them, and many survivors, after receiving such advice, make a decision that they would like to obtain further advice about the prospects of a civil claim. These clients are referred to a private law firm on knowmore's referral panel for this purpose. These referrals are either in the form of a 'cold' referral, with a number of firms provided as options, or a 'warm' or 'facilitated' referral to a particular firm, depending on the client's circumstances and needs.

As of 17 September 2020, knowmore had provided the following referral services for clients to receive advice from panel firms about civil claims:

- approximately 2,160 clients received cold referrals; and
- 433 clients received warm/facilitated referrals.

We do not have data reflecting the option ultimately pursued by the clients receiving cold referrals. However, of the clients receiving warm referrals for civil claim advice, 65 clients (15%) subsequently returned to knowmore and completed an application to the NRS. A further 15 referrals to knowmore were provided after the client had received an NRS offer.

This limited data around clients receiving warm referrals for detailed advice about the prospects of a civil claim supports the notion, in our view, that a large number of survivors may be pursuing common law action rather than applying to the Scheme for redress, although we cannot be sure which option the remaining clients ultimately decided to pursue — they may have decided to pursue a civil claim, but they also may have decided to complete an NRS application without assistance or with assistance from a Redress Support Service, or they may have decided against pursuing either option.

We have recently requested information from some of our panel lawyers about their observations of trends in civil claims for institutional child sexual abuse. This information may further address Ms Claydon's question, and we will forward this to the Committee when we have received it.

2. The degree to which First Nations survivors in different states are having 'success' with the National Redress Scheme

Senator SIEWERT at page 15: As to the numbers, earlier you said that they're different in different states, and obviously the states and the territories with the largest First Nations populations have seen the largest increase. In terms of the numbers, is there variance between the states as to how successful or not the process is being for First Nations peoples?

As promised at the hearing, we have examined our application and offer data to provide further insight into the outcomes that our Aboriginal and/or Torres Strait Islander clients are receiving from the NRS. The **attached** summary describes the outcomes of our analysis. Given that only a small number of clients in

some jurisdictions have received offers, we request that the attachment be kept confidential to avoid the outcomes of individual survivors being identified.

We expect that the Department of Social Services will be able to provide more comprehensive information that reflects the experiences of all Scheme applicants (not just knowmore clients).

3. Reports of survivors being targeted by 'get-rich-quick' schemes or similar practices

Mr DICK at page 16: ...I wanted to ask briefly: are you aware, or has there been any evidence that you've been told about from any potential clients, of predatory behaviour—of people trying to make money off these victims? I'm not talking about the legal assets; I'm talking about any get-rich-quick schemes that have come into the system. I've been approached by someone who was offered a payment. Someone said, 'We'll take care of your financial affairs for you,' and it was just a money-making scheme. Are you aware of any behaviours out there that have occurred to any people that have received payments?

knowmore has not heard any reports of survivors having their redress payments targeted in get-rich-quick schemes as described by Mr Dick, either directly from survivors or via Redress Support Services.

We noted in our April 2020 submission to the Committee that we have heard of some survivors being targeted by "apparent scammers". This referred to reports of some survivors paying large sums of money (pre- and post-redress) for self-help, counselling and similar services that appeared to have limited credibility.

As we noted in that submission and at the most recent public hearing, we are also aware of survivors who have had their redress payments targeted by relatives and friends. We remain very concerned about survivors' vulnerability to this kind of economic abuse, especially for elderly survivors and Aboriginal and/or Torres Strait Islander survivors.

Correction to evidence

I also wish to correct evidence given at the hearing with respect to knowmore's financial counselling services. At pages 10 and 15, I indicated that 45 per cent of clients who received financial counselling services in the last six months identified as Aboriginal and/or Torres Strait Islander people. This was in fact the percentage of clients who identified as Aboriginal and/or Torres Strait Islander in our previous reporting period (July to December 2019). The correct percentage for the January to June 2020 reporting period is 35 per cent.

Yours sincerely



WARREN STRANGE
Executive Officer

Encl. *Summary of knowmore application and offer data (confidential)*