



25 May 2018

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Dear Ms Radcliffe,

National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 and related bill

Thank you for the opportunity to comment on the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (the Bill) and related bill.

Anglicare Australia has previously made a detailed submission regarding proposed legislation for the Redress Scheme, and we direct the committee to this submission at **Attachment A**. We write now to raise a particular concern which has arisen regarding the new legislation.

Anglicare Australia's primary priority is that the wellbeing of children and young people, and those who have experienced past abuse, is placed well ahead of the wellbeing of institutions. Anglicare Australia has strongly supported the proposed establishment of a National Redress Scheme for Institutional Child Sexual Abuse, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse, and notes that many Anglicare agencies have already developed redress mechanisms.

The consultation process and final recommendations of the Royal Commission clearly established the necessity for transparency and consistency in the manner of assessment of redress payments. The matrix for assessment of payments is fundamental to the Scheme. However, according to this Bill, this Scheme's framework for monetary payments will be determined by Ministerial declaration outside of the current Bill.ⁱ The proposed assessment guidelines and matrix for monetary payments must be made publically available as a matter of urgency prior to the passage of the Bills.

Without the public release of this assessment matrix and guidelines, it is impossible to determine whether the Scheme will deliver transparency, consistency and fairness for survivors. Further, given the change in language from 'assessment matrix' in the previously proposed legislationⁱⁱ to 'assessment framework' in the current Bill, Anglicare Australia is concerned that the declared method of assessment for redress payments may be very different from the matrix recommended by the Royal Commission and supported by survivor groups and other stakeholders. The recommendations of the Royal Commission for the development of a matrix which accounts for the severity and impact of abuse and other additional factors remains the most legitimate and should be implemented.ⁱⁱⁱ

In order for organisations to sign up to the National Redress Scheme, they must be able to ensure that survivors will be guaranteed equal or higher redress payment and support than what they are currently entitled to through existing organisational redress schemes. The matrix and guidelines for assessing redress payments must be publically released as soon as possible, so that organisations can support a national Scheme.

Anglicare Australia supports the timely passage of modified legislation to ensure survivors can access the Scheme and funded supports as quickly as possible. However, we cannot support the proposed legislation where the fundamental methodology for assessment of redress payments is unclear.

Anglicare Australia's further concerns regarding this Bill remain the same as those outlined in our submission to the Committee's previous inquiry into the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017. This submission is attached for the Committee's consideration. Anglicare Australia wishes to re-emphasise that the Redress Scheme should be designed with sensitivity to the needs of survivors as the primary priority; that there should be equitable access to the Scheme regardless of whether a survivor has served a prison sentence; and that survivors should be supported with clear information, choice and flexibility in accessing counselling or psychological services.

We thank the committee for your consideration of Anglicare Australia's concern, and would be pleased to elaborate further on any of the issues raised in this or our previous submission. Should the committee seek further information, I invite you to contact the Anglicare Australia office on (02) 6230 1775.

Yours sincerely

Kasy Chambers
Executive Director

ⁱ National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 Explanatory Memorandum, p38, Clause 32.

ⁱⁱ Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 Explanatory Memorandum, see p.25 Clause 34.

ⁱⁱⁱ Royal Commission into Institutional Responses to Child Sexual Abuse, Redress and Civil Litigation Report, Recommendations 16-18.



Attachment A



care DIGNITY
respect
change HOPE

Submission to the Inquiry into the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and related bill

2 February 2018

www.anglicare.asn.au


About Anglicare Australia

Anglicare Australia is a network of over 40 independent local, state, national and international organisations that are linked to the Anglican Church and are joined by values of service, innovation, leadership and the Christian faith that every individual has intrinsic value. With a joint budget of \$1.48 billion, a workforce of over 18,000 staff and more than 11,000 volunteers, the Anglicare Network contributes to more than 50 service areas in the community. Our services are delivered to more than one million Australians, in partnership with them, the communities in which they live, and other like-minded organisations in those areas.

Anglicare Australia has as its Mission “to engage with all Australians to create communities of resilience, hope and justice”. Our first strategic goal charges us with reaching this by “influencing social and economic policy across Australia...informed by research and the practical experience of the Anglicare Australia network”.

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Anglicare Australia submission to the Inquiry into the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and related bill

Introduction

Anglicare Australia is pleased to take this opportunity to comment on the *Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and related bill*.

Anglicare Australia's priority is, and will continue to be, ensuring the wellbeing of children and young people, and those who have experienced past abuse, is placed well ahead of the wellbeing of institutions.

Anglicare Australia welcomed the announcement of the Royal Commission in 2012 and we have followed the proceedings closely to ensure we learn from its work. Our members operate professional services and incorporate the research, reports and findings from the Commission into their policies and procedures. We have carefully reviewed the *Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse* and are working to incorporate its findings across our services.

We strongly support the Australian Government's proposal to establish the Commonwealth Redress Scheme for Institutional Child Sexual Abuse, as recommended in the Final Report, and note that many Anglicare agencies have already developed redress mechanisms.

In theory, the proposed Scheme provides a safety net for victim-survivors. However, Anglicare Australia is concerned that its successful operation could be undermined without engagement from state governments, who must be encouraged to opt-in. We are also concerned that the Government has previously proposed to exclude some victim-survivors from eligibility.

Our comments on the principles underpinning the Bill, and other comments, are outlined below.

Section 13 (4): General principles guiding actions of officers under the scheme

Anglicare Australia believes that the redress response must be designed to be sensitive and considerate of victim-survivors' needs, and should therefore be underpinned by the need to:

- Minimise the risk of further trauma to victim-survivors;
- Reach an agreeable redress outcome;
- Resolve the matter quickly and in a co-operative manner;
- Acknowledge the individual circumstances of each victim-survivor; and
- Enter into redress discussions with co-defendants with the aim of ensuring that such discussions are also conducted in an expeditious and non-adversarial manner.

Redress should be assessed, offered and provided so as to avoid further harming or traumatising the survivor. On that basis, Anglicare Australia recommends that the following general principles be added to Section 13(4) of the Bill:

- Safety is prioritised
- Expectations of the redress scheme are managed at all stages
- Survivors have control and choice in decision-making

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- Power balances are not replicated (survivors should not be silenced, shamed or blamed)
- Survivors are given the necessary support to understand the process
- Information is shared, and processes are open and transparent
- The focus is on process, not solely on the outcomes.

Section 16 (2) and (3): Eligibility for the scheme

Anglicare Australia supports the proposed Scheme as a way of offering support and security to victim-survivors who are unable to seek redress through other means. We were therefore disappointed when the Government announced in 2017 that anyone convicted of a child sex offence and those sentenced to prison terms of five years or more for serious crimes would be excluded from the Commonwealth Redress Scheme.

We note that the cause and effect of offending behaviour was comprehensively analysed by the Royal Commission in its Final Report.¹ In addition, the Final Report noted that 10.4 per cent of survivors were in prison at the time of their private session.² They reported sexual abuse in a variety of settings; for instance many were sexually abused when placed in juvenile justice institutions for a variety of behaviours which would not today merit such placement. Having been placed there however, they can become enculturated into antisocial behaviours or crime.

However, the considerable percentage of survivors who were in prison at the time of the Royal Commission would pale into insignificance if we were to consider the number of survivors who had, at any time, served a prison sentence meeting the stated criteria. For such people to be punished yet again would be inimical to every sense of rehabilitation, equity and fairness.

Singling out offenders would be a retrograde step at a time when institutions should be making amends all child victims of sexual abuse in their services. What happens to the Redress payment once it has been made should be an entirely different question.

Our view is that the Commonwealth Redress Scheme can only claim legitimacy if all victims of child sexual abuse in institutions are acknowledged and treated equally. Our recommendation is that the Redress Scheme is implemented without these eligibility restrictions.

Section 49: General principles guiding counselling and psychological services

The Redress Scheme must be based on an understanding of, and responsiveness to, the impacts of trauma. The focus of the response should be on the physical, psychological, emotional and cultural safety of victim-survivors. Whilst acknowledging that elements of the scheme may need to be facilitated through a formal process, the model should aim to resolve matters in a timely and non-legalistic way to avoid causing further harm.

¹ Royal Commission into Institutional Responses to Child Sexual Abuse (2017) *Final Report: Volume 5, Private sessions*. Attorney-General's Department. pp44-50.

² Royal Commission into Institutional Responses to Child Sexual Abuse (2017) *Final Report: Volume 5, Private sessions*. Attorney-General's Department. p10.

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On that basis, Anglicare Australia recommends that Section 49 relating to *General Principles guiding counselling and psychological services* be expanded to include the following additional principles:

- Survivors must be adequately informed to enable decision-making on counselling and psychological care services
- There should be 'no wrong door' – including equity and access for all survivors regardless of their socio-economic status, location, or any other factor
- Counselling and therapeutic care should be provided with maximum flexibility to meet survivors' counselling needs throughout their lives.

Anglicare Australia also refers to its response to the Royal Commission's Issues Paper on Child Safe Institutions,³ and recommends that all staff and agents who come into contact with victim-survivors be required to have attended training on the impacts of trauma and sexual assault.

Other feedback

The National Scheme is an opportunity for all governments to demonstrate a commitment to responding in a coordinated consistent manner to the sexual abuse of children.

A major recommendation of the Royal Commission was for a national approach on issues such as Working with Children Clearances and a Redress Scheme. The proposed Scheme provides an opportunity for all governments to demonstrate a commitment to developing more consistent and coordinated responses to child sexual abuse. However, the failure of some States to opt-in to the Scheme would not only eschew this opportunity but reflect an entrenched resistance to nationally consistent legislation needed to properly protect children. Anglicare Australia believes that the Commonwealth Government has a responsibility to work with States and invest in efforts to ensure they opt-in.

We also believe that the Commonwealth Government has a further responsibility to invest in efforts to engage non-government organisations to participate the Scheme. The Commonwealth should actively pursue their involvement and ensure that sufficient benefits accrue to those organisations that opt-in.

The engagement of as many stakeholders are possible in the Scheme will ensure that responses to the needs of survivors of child sexual abuse receive consistent and fair treatment. Crucially, it would also signal the adoption of a cooperative approach that is required to protect children across all jurisdictions.

³ Anglicare Australia (2013) *Response to Issues Paper 3: Child Safe Institutions*. Available online: <https://www.childabuseroyalcommission.gov.au/sites/default/files/file-list/Issues%20Paper%203%20-%20Submission%20-%2028%20Anglicare%20Australia.pdf>