

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Monday, 7 June 2010

Dear Secretary

Re: Review of Government Compensation Payments

I am an applicant for an ex-gratia payment made to the Attorney General's Department in South Australia. I am 58 years of age and was abused in State Care from age 12 through to age 18. I have suffered a lifetime of misery and have, until recently, been unable to assistance or support for my various psychological, physiological and psychiatric problems resulting from those childhood trauma. I am now fighting an uphill battle to get recognition, compensation and support.

I wish to make the following submissions.

1. In South Australia victims of abuse whilst in State care currently have a choice between applying for an ex gratia payment from the Attorney General or joining the Class Action being run by a law firm. I will deal with the Attorney General's ex gratia payment firstly. However, only victims of **SEXUAL** abuse can apply for the ex gratia payment from the Attorney General. This in itself is a severe injustice as victims of torture, physical and psychological abuse has been ignored. The Attorney General's compensation scheme in South Australia is grossly unfair in that it only provides compensation for victims of SEXUAL abuse and not for any other kind of abuse. In other words, a person who was touched inappropriately can claim but a person who received ongoing beatings and cruelty cannot claim.
2. The SA claim process is being handled by the Crown Solicitors on behalf of the Attorney General and therefore claimants must deal with lawyers and, more significantly, legal processes and clever legal manoeuvring by lawyers trying to get the best deal possible for the SA government. In other words, they acknowledge abuse but don't want to compensate for it.
3. The Crown Solicitor lawyers have constantly refused to answer all and any questions relating to applications and respond to all questions with "We can't say any more than what is in the guidelines".

4. The lawyers are insisting that applicants allow police checks before claims can be processed. I have refused to sign an authority for a police check and have been advised that my claim will not be processed. My ongoing question as to the purpose and use of the police check has been met with the standard reply: "We can't say any more than what is in the guidelines". I have attached emails supporting my claim that this apparent "game playing" is occurring. (See Appendix A).
5. I am concerned (and convinced) that having a police record is going to result in having my claims rejected or discounted. (Who would believe a crim?). My protestations that we are being made to pay once again for crimes committed as young offenders, early adult offenders or even later adult life offenders in that we are regarded as persons without credibility. In many cases the crimes were committed as a result of abuse and/or neglect as children. Some crimes were committed for the purpose of survival when no other reasonable cause seemed available. Once you have a police record you are, believe it or not, automatically guilty of the next charge that comes your way. Your police record is your ticket to your record being extended as you lack credibility in police enquiries, court proceedings, and now, this claim for compensation. Despite the affirmations of government leaders including the Hon Malcolm Turnbull, indeed, we are not believed and we have no credibility. The national apology was a farce and a charade.
6. It appears that, in trying to claim compensation, we are being told once again that we are liars and just making up stories. This is extremely devastating and amounts to further abuse and loss of esteem. It is exactly what we were told as children when we tried to complain about things being done to us – we were liars.
7. I submit that victims of abuse who gave evidence to the Mulligan enquiry are also going to receive preferential treatment. I submit that many victims of abuse did not know about the Mulligan enquiry and would have given evidence if they did know about it. I, like many others, thought that the Mulligan enquiry was for Aboriginal children in care. I submit that my failure to give evidence will now prejudice my credibility and claim. Mr Mulligan himself said in his findings that there was clear evidence that many victims had not come forward.
8. Victims of abuse suffered substantial social problems. Many found it difficult to live normal lives. In my case I was married at 18 to a (pregnant) girl aged 15. By age 23 I was a divorced father of two children, bankrupt, in gaol and had lost some 25 jobs due to severe emotional problems and un-treated

psychological problems. The fact is that the State turned us away at age 18 with recipes for failure and destruction. Instead of dealing with our problems, they created more. We were doomed to self destruct.

9. The governments have turned their back on us since we left care. It is only in recent times that some support services have been started up like the Post Care Service in South Australia. It is forty years too late – too much damage has been done and too much loss has been incurred.
10. The various amounts of compensation being offered across Australia seems to be a lottery. The payouts differ from state to state and also differ in other ways of calculation of damage or severity. It appears we need to have a national approach and make payments in all states uniform.
11. The South Australian ex gratia payments appear to have a bizarre framework for determining compensation payment amounts. The application guidelines state that “if your application is successful, money will be offered according to the severity of the sexual abuse. For example, a person who establishes that they have suffered serious and lasting harm from sexual abuse whilst in State care may receive up to \$30,000. In exceptional circumstance, where extreme sexual abuse has occurred, a total of up to \$50,000 may be granted by the Attorney General”. I am at a loss to understand these guidelines or how they were instigated. My requests for clarification have been met with the usual response from the lawyers “We can’t say any more than what is in the guidelines”.
12. Neither would they say what constituted a “successful application”.
13. This raises the question: Is the compensation being paid for the abuse received or for the consequences of that abuse? We all react and recover differently from the same stimulus. However it is still bizarre for the Attorney General to say that serious and lasting harm is worth \$30,000 whilst extreme sexual abuse is worth \$50,000.
14. In any case MAXIMUM amounts of \$30,000 or \$50,000 are an insult when compared with much larger amounts of compensation currently being awarded for far less serious events. I understand that the previous South Australian Attorney General (Mr Atkinson) had demanded amounts of \$20,000 from each of the persons whom he claimed had defamed him in a newspaper article during the last State election. How much then is ten or more years of abuse followed by a lifetime of suffering worth by comparison? The fact is that we have had to endure a lifetime of misery because we haven’t been able to get help for those events that happened more than four decades ago. We have been told to “shut up and get on with it.”

15. With regard to class action I understand that there are approximately 165 claimants who have joined the class action in South Australia.
16. The advice that I received from those lawyers was that the case would be handled on a “no win no fee” basis. What they kept quiet was that in these cases, where there was a win, the fee was double that of the normal fee. I was quoted an estimate figure of some twelve thousand five hundred dollars (\$12,500) for them to act for me. I could not get an answer to my query as to whether that figure included GST or whether the twelve thousand five hundred dollars was the doubled figure or was in fact now \$25,000 (with or without GST). If GST is to be added those estimates would be \$13,750 or \$27,500 respectively. The person I spoke with was quite evasive about the fees. I submit that this situation is quite scandalous and that once more, we are being abused.
17. These lawyers are now negotiating with the Attorney General with regard to the ex-gratia payments. It would appear (by the above mathematics) that the only beneficiaries out of these processes are going to be the legal fraternity.
18. I have tried to make contact with others who have made claims with these lawyers. I have been told that they were directed by their lawyers that they were “not allowed to discuss the case with anyone else”. I submit that this is scandalous but not unexpected from the legal industry. The problem is that they appear to be feathering their own nest and have little or no regard for their clients interests. They stand to make millions of dollars from these claims. Simple mathematics ($165 \times \$12,500$) or ($165 \times \$25,000$) show that this firm will gross either more than two million or four million dollars from these clients.
19. These millions of dollars in lawyers’ fees could have been directed toward abuse victims if the State or Federal governments had acted quickly upon previous undertakings to provide compensation.
20. I understand that approximately 30 former State Wards have applied for payments under the SA Government’s redress scheme. I understand that many have not been able to apply because they are locked into contracts with a law firm. These legal proceedings, besides being very costly, could drag on for many years. In South Australia our courts are log-jammed. Many claimants or potential claimants will die in the meantime. I submit that any redress scheme must be rapid in order to compensate victims whilst they are still alive. As mentioned, I am 58 years old and in poor health.
21. Most abuse victims are now either retired or approaching retirement. Many are unwell and some are dying or dead. Many have psychological or

psychiatric disorders and are unable to deal with compensation claims physically or mentally. Many are even unaware of any kind of compensation program. In my experience I have never been contacted by any South Australian government department to advise me that a compensation claim process had been instigated.

22. Despite the events of recent years recognising that many children were abused and damaged whilst in government care there has been no attempt by governments to locate victims and offer assistance. In my own experience I only found out about South Australia's "Post Care" service a few months ago. I contacted them and they sent me some information. I submit that the South Australian government had some sort of obligation to contact me and offer assistance at some stage over the past twenty or thirty years. My contact details were always readily available from Centrelink. If this had happened I could have received psychological and psychiatric assistance much earlier than at age 58. I submit that all governments should attempt to identify and locate all persons who were in State care and offer services to them if required.
23. I was made a State Ward at age 12. My mother had deserted us and my father died soon after. I was placed in various institutions for "safe keeping". I was not a criminal but treated as a criminal and was placed with other criminals. Some of those criminals were like grown men. They were animals. They inflicted all kinds of abuse on me and other younger kids under the eye and order of our custodians, most of whom were religious. I suffered seven years of abuse including anal rape. I have given names to the South Australian Attorney General but I believe nothing has been done. I cannot prove my claim and have been branded a liar. I have lived a life of misery due to severe psychological and psychiatric conditions. I have abused all those whom have loved me or cared for me. I have a criminal record. I have lost over a hundred jobs. I have tried to improve my life but have been shunned by the medical profession. I am not crazy enough to get attention and, for most of my life, could not afford the treatment I needed and it was not available through Medicare. I have left behind me a trail of destruction – self destruction and destruction of others who came into my life.
24. I submit that the State Government failed in its duty of care to protect me whilst I was in their care.
25. I submit that the State Government has done nothing to for most of my life to acknowledge the damage done by them (and their servants) and to try and repair that damage.

26. The amount of injury is substantial. The maximum payment of \$30,000 or \$50,000 offered by the South Australian government is grossly inadequate. I would have thought that MINIMUM payments exceeding \$100,000 (one hundred thousand dollars) more appropriate for more than forty years of pain and suffering and loss endured by those who were neglected and abused in State Care.
27. I submit that second tier damage was done as a result to family members of abused children in care after they were released including their siblings, partners and children and that compensation should be paid to those who were victims of the victims.
28. I am happy to waive any confidentiality in this matter. I have told the truth and have nothing to hide. I am happy for my details to be published. I am happy to appear before the Senate or any other enquiry and give sworn evidence.
29. Thank you.

Kevin Bruce UREN

APPENDIX A

THREE (3) FACSIMILIE TRANSMISSIONS FROM SA CROWN SOLICITOR

12TH April 2010

Dear Mr Uren

Thank you for your Fax dated 12 April 2010.

I understand that you telephoned me and left 2 messages in this matter last week. Unfortunately I did not receive those messages. This Office is currently in the process of changing telephone networking systems. I have now located one telephone message for 8/04/2010 on the "old" system. I am unable to locate a second telephone message. I apologise for not being in a position to return your call,, I understand the problem with messaging has now been attended to.

In respect of your enquiry regarding the purpose and intended use of a police report I can only restate the matters set out at page 3 of the Application Guidelines which state "when deciding an ex gratia payment, the Attorney-General may take into consideration many things including what level of co-operation you gave to any South Australian Police investigations and your criminal history". The Guidelines further state " this is why you must allow a police check to be made on you if you apply for an ex gratia payment. "

I look forward to receiving the signed and completed Police History Check request in due course .

I have now included my email address as I note that this is your preferred means of communication .

Civil Litigation Section
Crown Solicitor's Office
Attorney-General's Department

14TH April 2010

Dear Mr Uren

In response to your email dated 13 April 2010 today I understood that I had answered your question in full .

To reiterate pursuant to the Victims of Crime Act 2001 the Attorney-General has a discretion to decide whether to make an ex gratia payment .

The contents of an applicant's criminal history may, according to the application guidelines released by the Attorney-General's Department, be a matter taken into consideration by the Attorney- General .

The provision of a South Australian National Police Check Application is a requirement of the application for an ex gratia payment. Without the provision of the application, your application for an ex gratia payment does not meet the application guidelines and it may not be possible to fully consider your application . If you believe that the guidelines are inappropriate for dealing with your application please state why. Your reasons or your personal circumstances may then be considered by the Attorney-General in determining your application.

I trust this clarifies the matter.

I look forward to hearing from you.

Civil Litigation Section
Crown Solicitor's Office
Attorney-General's Department

22nd April 2010

Dear Mr Uren,

In response to your email dated 22 April 2010 I make the following comments.

I consider that I have answered your question in full.

As previously outlined the application guidelines clearly state that the money for which former residents in State care can apply is called an " ex gratia payment ". An ex gratia payment is made without legal obligation and is purely discretionary. The Attorney- General in determining whether a payment will or will not be made or in determining what amount is paid may take into account the contents of the police report or may disregard them . Each application will be decided on its individual merits.

I cannot add anything further in this regard .

May I suggest that if you require further assistance in respect of your application and do not wish to consult solicitors, that you contact the Commissioner for Victims' Rights or Post Care Services. Contact details for these parties are set out at page 8 of the application guidelines .

Civil Litigation Section
Crown Solicitor's Office
Attorney-General's Department