



**Australian Government**  
**Department of Social Services**

**Liz Hefren-Webb**  
**Deputy Secretary**

Ms Apolline Kohen  
A/g Committee Secretary  
Senate Community Affairs Legislation Committee  
PO Box 6100  
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CANBERRA ACT 2600

Dear Ms Kohen

**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS LEGISLATION  
COMMITTEE**

Thank you for the opportunity to make a submission to the Senate Community Affairs Legislation Committee inquiry into the National Redress Scheme for Institutional Child Sexual Abuse Amendment (Technical Amendments) Bill 2020.

The Department of Social Services (the department) welcomes the opportunity to provide additional assistance or information that is required by the Committee to support their deliberations. The department's submission is enclosed.

Yours sincerely

22 October 2020

## **Senate Community Affairs Legislation Committee Submission**

### **Inquiry into the National Redress Scheme for Institutional Child Sexual Abuse Amendment (Technical Amendments) Bill 2020**

#### **Context**

On 8 October 2020, the National Redress Scheme for Institutional Child Sexual Abuse Amendment (Technical Amendments) Bill 2020 (the Bill) was introduced in the House of Representatives and was referred to the Senate Community Affairs Legislation Committee for inquiry and report.

#### **The amendments**

The Australian Government is committed to ensuring that the National Redress Scheme for Institutional Child Sexual Abuse (the Scheme) delivers for survivors and that any amendments to the legislative framework are survivor-focused and trauma-informed.

The amendments contained in the Bill include:

- clarifying how participating institutions are to be determined and described in the letter of offer provided to applicants;
- clarifying how the costs of redress are to be shared when there is more than one government institution that is a Funder of Last Resort for a defunct institution;
- providing greater efficiency in engaging Independent Decision-Makers, while maintaining assessment processes to ensure their suitability;
- introducing protections to ensure that the Scheme name and logo are not used by other parties to the detriment of survivors;
- permitting a redress payment to be made to a person who has been appointed by a court, tribunal or board to manage the financial affairs of a redress applicant (e.g. public trustees);
- permitting extension of the timeframe for payment of a funding contribution by an institution (this does not impact on the timing of payments to applicants); and
- enabling disclosure of protected information for the purpose of encouraging non-participating institutions to join the Scheme.

These amendments are required to address a number of minor issues with the current operation of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the Act) from the Scheme's inception. These issues include potential unintended barriers to efficiency in the day-to-day operation of the Scheme and reflect the Government's commitment to the continuous improvement of the Scheme.

The Commonwealth and all states and territories are participating in the Scheme, as well as 288 non-government institutions, representing over 53,000 sites across Australia. This has meant it has been possible to make over \$315 million in payments to survivors of abuse. Continuous improvement of the Scheme and greater administrative efficiency will support and further this initial progress, to the benefit of the survivors in relation to whom the Scheme was established.

While the technical issues being addressed in the Bill have not caused significant problems to date, and in many cases have not yet eventuated, taking action as proposed by the Bill will provide clarification ahead of issues arising in the future and will enable efficiencies to be made as soon as possible.

One such efficiency is contained in Part 7 of the Bill. This amendment enables the disclosure of protected information for the purposes of encouraging non-participating institutions to join the Scheme. Maximising the participation of institutions is critical to the success of the Scheme and survivor access to redress, and sharing information to enable governments to collectively communicate with and encourage institutions to join is essential for this purpose. While such information can currently be shared for this purpose, it involves an onerous administrative process that can make it difficult to efficiently and meaningfully consult with intended organisations. This amendment will allow for a more practical and timely process to enable the Scheme to disclose the names of non-participating institutions to support coordinated efforts to encourage those institutions to participate in the Scheme.

The Bill will not make any changes to the application of the protected information provisions to information about survivors who apply for redress and will not permit any additional use or disclosure of such protected information,

By way of example, where a non-government institution is named in an application for redress, and a state or territory government department has an existing relationship with that non-government institution (by way of a funding arrangement for example), it would be helpful for the Scheme to engage with the relevant jurisdiction to enable them to use their existing relationship to encourage the institution to participate. Similarly, where a small, local sporting group is named in application, the amendment will enable Scheme to meaningfully engage with a relevant umbrella organisation to discuss how best to secure the participation of the local sporting group.

As well as creating efficiencies for the Scheme, the Bill will ensure that Scheme operations remain trauma informed and survivor focused. For example, Part 1 of the Bill clarifies that associate institutions are able to be determined and listed in a letter of offer by way of a class description. Where a responsible institution is part of a large participating group, an applicant could otherwise receive a letter of offer with thousands of institutions individually listed, which is neither trauma informed or practical. This amendment will not affect the actual redress outcome for the survivor or the release from civil liability of institutions in a participating group.

Importantly, the technical nature of the amendments mean there are no changes to the Scheme design or policy and no consequential impacts on survivors. The amendments do not affect the application or assessment processes, do not impact redress outcomes for survivors and do not change how survivors engage with the Scheme.

### **Consultation**

Given the minor and technical nature of the amendments, the department did not undertake consultations on the Bill during its development (beyond the required consultation with the state and territory governments in accordance with the Scheme's governance arrangements). The amendments are technical in nature and are focused on improving the day-to-day management of Scheme operations. The amendments do not change how survivors or institutions deal with the Scheme. Subsequent to the introduction of the Bill into Parliament, the department has communicated with key stakeholders, including Redress Support Services, on the content and intent of the Bill. No concerns have been raised to date.

Given the minor and technical scope of the Bill, it does not address more substantive policy changes to the Scheme. Any such policy changes would be best pursued following the second anniversary review of the Scheme (which is currently underway). Survivor input into any changes to Scheme policy is critically important, and survivors are currently being consulted as part of the second anniversary review of the Scheme.

The scope of the second anniversary review (established by the Act) is broad, encompassing issues from the extent of participation in the scheme and user experiences of participation, to funding arrangements. This is an important opportunity to consider the Scheme's operation in light of its objectives and examine where and how any improvements may be made. The Bill has been drafted in this knowledge and so as to ensure there is no impact on the benefits the review may deliver for the Scheme.