



Joint Select Committee on Implementation of the National Redress Scheme
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23 April 2020

Dear Committee Members,

Jesuit Social Services welcomes the opportunity to contribute to the interim report by the *Joint Select Committee on the Implementation of the National Redress Scheme* to inform the second anniversary review of the National Redress Scheme ('the Scheme'), commencing after 30 June 2020.

Jesuit Social Services: who we are and what we do

Jesuit Social Services is a social change organisation with over 40 years' experience working with people on the margins. Since the 1970s, Jesuit Social Services has worked with people involved in the justice system, including young people and adults. Jesuit Social Services now operates in Victoria, New South Wales, and the Northern Territory. Our work spans the areas of justice and crime prevention, mental health and wellbeing, gender justice, ecological justice, settlement and community building, and education, training and employment.

Research, policy and advocacy are coordinated across all programs and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, as well as academic research and evidence. We seek to influence policies, practices, legislation and budget investment to positively influence people's lives and improve approaches to address long-term social challenges. We do this by working collaboratively with governments, business and the community sector to build coalitions and alliances around key issues, and by building strong relationships with key decision-makers and the community.

Jesuit Social Services' position on the current state of the National Redress Scheme

Jesuit Social Services stands with all survivors of institutional child sexual abuse, and we have welcomed the National Redress Scheme as a mechanism to hold power to account and provide a clear pathway to begin the personal healing from pain and suffering for victims/survivors.

In this context, Jesuit Social Services remains deeply concerned with provisions of the legislation governing the Scheme that restrict access for victims/survivors of institutional child sexual abuse who are, or have since been, involved in the justice system. We emphasise our position that *all* victims/survivors should be eligible for redress. We have consistently argued that no individual should be excluded from the National Redress Scheme because of criminal conviction – for example, in our *Submission to the Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse 2018*.

Those who are currently imprisoned cannot apply for redress. Those who have been sentenced to imprisonment for five years or longer must receive approval from their state's Scheme Operator and prove that they have rehabilitated since their offending to be eligible for redress. As it stands,



victims/survivors are expected to prove not only that they meet the basic requirements of eligibility for redress, but additionally that they are, in a sense, *personally worthy* of redress by proving their rehabilitation or pointing to compelling factors associated with their offending.

Placing the onus on the victim/survivor to 'prove' that they meet the standard of rehabilitation is effectively protecting institutions that allowed individuals to suffer in their care from being held to account.

As we highlighted in our previous submissions to the Committee, subsequent justice involvement by victims/survivors of institutional child sexual abuse was clearly recognised by the Royal Commission. In our own work with people involved in the justice system, Jesuit Social Services sees the impact of trauma on the life trajectories of our participants. We know that trauma can prevent an individual from truly rehabilitating, instead perpetuating complex cycles that lead to reoffending and justice system 'entrenchment'.

We note that in the first 12 months of the Scheme's operation, 130 victims/survivors requested direct personal responses from institutions.¹ This clearly illustrates that the National Redress Scheme is about more than financial redress (though this is a critical and rightful component), but is also about personal healing for victims/survivors through accountability for harm and suffering on the part of institutions. This healing should not be denied or withheld from victims/survivors who have, or have had, justice involvement.

The restriction of imprisoned victims/survivors from applying to the Scheme is particularly concerning because it is arbitrary and unfair. Custodial sentencing regimes differ widely across states and territories, making this exclusion inconsistent and locking out a significant cohort of victims/survivors potentially eligible for redress.

It is also important to note that Aboriginal and Torres Strait Islander people are significantly overrepresented in Australian justice systems. It is widely recognised that this has been caused by the traumas of dispossession, colonisation and, indeed, abuse at the hands of institutions into which Aboriginal and Torres Strait Islander people have been forced. Over the past 12 months of the Scheme's operation, two in nine applicants have been Aboriginal and Torres Strait Islander people.² The exclusion of people in prison is therefore likely to have a disproportionate impact on Aboriginal and Torres Strait Islander people and communities.

Ultimately, it seems that the Scheme is more likely to be brought into disrepute by a failure to hold institutions to account than through the provision of redress to victims/survivors with justice involvement.

¹ https://www.dss.gov.au/sites/default/files/documents/10_2019/part-3-d19-1139120-dss-annual-report-2018-19-3.pdf

² https://www.dss.gov.au/sites/default/files/documents/10_2019/part-3-d19-1139120-dss-annual-report-2018-19-3.pdf



Recommendations to improve the National Redress Scheme

Jesuit Social Services supports the Committee's recommendation that:

Commonwealth, state and territory governments agree to and implement amendments that would allow all survivors who are currently in gaol or who have been sentenced to imprisonment for five years or longer to apply for and receive redress, unless:

- *the Operator decides in relation to a particular survivor that providing redress to the survivor would bring the National Redress Scheme into disrepute or adversely affect public confidence in the scheme;*
- *and the decision of the Operator is based on publicly available guidelines that set a high threshold for bringing the scheme into disrepute or adversely affecting public confidence in the scheme.*

We accept that, in a select few cases, public confidence in the Scheme would be compromised if redress was provided. We note the need for a legislative 'safeguard' for these rare situations.

We support the creation of publicly available guidelines which set a high threshold for these exclusions. Jesuit Social Services would welcome an opportunity to provide recommendations for these guidelines. As a starting point, we recommend that 'rehabilitation' is not set as the primary marker of eligibility for justice-involved victims/survivors. Additionally, we recommend oversight of the decision-making process of the Scheme Operator in each state and territory to ensure accountability to these guidelines.

Finally, we recommend that imprisoned victims/survivors not be automatically excluded from application.

We acknowledge the Government's commitment to consult with jurisdictions on the issue of legislative reform at this second anniversary review of the National Redress Scheme. We strongly urge the Government to follow this process through and, in turn, state and territory governments to agree to implement these changes.

Jesuit Social Services appreciates this opportunity to present our views for your consideration and we would welcome the opportunity to meet with the Committee to discuss these matters further.

Yours sincerely

Julie Edwards – CEO, Jesuit Social Services