

Submission to the National Redress Scheme Committee Secretariat

Committee Secretariat
Implementation of the National Redress Scheme
By email: redress@aph.gov.au

Dear Committee

I believe that the National Redress Scheme (NRS) is an imperative initiative. As a survivor, I have discovered during my own process healing, that all survivors of historic institutional child sex abuse (CSA) have specific needs and that astonishingly, when these needs are met, our healing and recovery is exponentially accelerated. Moreover, I have witnessed that when our needs are not met, it prolongs the suffering and the potential for re-traumatisation. It is that simple.

My scout master started sexually abusing me between the ages of 12-14 years of age. I lost count of the number of times, but at least 40 or perhaps more. I did not speak about this abuse to anybody for 33 years and met with him face to face in court after 40 years. He was a serial paedophile and had molested at least 8 others for whom he received a custodial sentence. I understand the secrets, shame and the path survivors must walk in order to gain freedom, dignity and redress.

In this submission, I have categorised the core needs of a survivor as; emotional, psychological and financial. I have addressed these in:

1. Part A - Conclusion and Recommendations
2. Part B - Understanding a Survivor's Needs
3. Part C - Understanding a Survivor's Emotional and Psychological Needs
4. Part D - Understanding a Survivor's Financial Needs
5. Part E - The need for Good Governance

I believe the recommendations outlined in this submission would significantly transform a scheme that is currently under-performing, when viewed both through the lens of the recommendations of the Royal Commission and the hopes and aspirations of survivors. When measured against the purpose for which the NRS was envisaged, to enable the healing of life-long wounds for survivors, the NRS has thoroughly failed to deliver.

The choices you and your committee make, will either continue to cause suffering to survivors by failing to address the NRS's recognised shortcomings, or initiate changes that will tremendously accelerate survivor's healing. This choice is yours.

PART A: Conclusion and Recommendations

Firstly, let me offer my sincere gratitude to the work you are doing and your *First Interim Report of the Joint Select Committee on Implementation of the National Redress Scheme April 2020*.

Secondly, let me implore you to listen to the voices of those "who have been harmed"¹ rather than the often louder and better resourced voices of the institutions under whose watch the harm was committed.

Thirdly, I would urge each of you personally, and your committee as a whole, to adopt a **Survivor-centric approach** to the process of redress rather than the current approach of the NRS, which is clearly **Institution-centric**. Let me explain the difference as follows:

Submission to the National Redress Scheme Committee Secretariat

Current Redress is an Institution-Centric Approach	Needs to become an Survivor-Centric Approach
<p>In an approach which has an acute awareness of damage to institution’s reputation, exposure to liability, risk to future existence. The focus is on:</p> <ul style="list-style-type: none"> • The organization's experience of abuses • Protection and limiting exposure to litigation and financial liabilities • Constraining victims’ stories to avoid public humiliation and loss of reputation (membership) • Controlling exposure of historical abuses • Limiting reparation (avoiding involvement & cost) • Treating it as a “problem” for the organization rather than a trauma experienced by the survivor 	<p>In an approach which has an acute awareness of the whole-of-life destructive consequences to individual survivors (physical, material, emotional, psychological, spiritual) & those indirectly impacted survivors. The focus is on:</p> <ul style="list-style-type: none"> • The survivor's experience of the abuse and survivor recovery • Creating opportunity for survivors to speak of their experience ... tell their story ... and ask questions from / about the perpetrator (if possible) to satisfy their need to be seen, heard and validated. • The perpetrator is both the accused who commits the crime AND the institution to whom he is affiliated • Survivor participation in process of determining outcomes / decisions about own case • Exposing full story of historical abuses in community • Reparation (Policy, Program, Practices) that fosters recovery and healing.

A **Survivor-Centric Approach** has many benefits specifically:

- a) Meeting survivors where they are at rather than treating survivors as “problems” who need to be fixed;
- b) Engaging survivors on an equal basis by creating a level playing field is extremely important for people who suffered CSA through power imbalances;
- c) Activate the healing power that is innate in every survivor when an opportunity for restoration is presented which is psychologically safe;
- d) Genuine offender accountability – for the individual perpetrators & institutions who have knowingly or unknowingly harboured and sometimes protected perpetrators rather than their victims – leading to redemption for those willing to face survivors to offer their amends; and
- e) Reparation through a proxy functional family group enabling the communication and healing to happen.

The “unintended” consequences of an **Institution-centric Approach** that is practised today under the NRS legislation includes:

- a) Survivors don’t get the opportunity to heal, because they don’t feel psychologically safe to participate in unsafe processes run by well-meaning but incompetent institutions who have failed to see their inherent conflicts of interest in failing to run their Direct Personal Response independently;
- b) Creating unnecessary suffering and potentially re-traumatisation through the process, noting that subsequent re-traumatisation, caused by the process is the responsibility of the Commonwealth and institutions for which they may be held liable – this is in addition to the existing trauma that people have suffered;
- c) Failure of the institutions to heal themselves, learn the required lessons and change their inherently organisational-centric policies and thus redeem themselves and their culture in the eyes of a distrustful public; and

Submission to the National Redress Scheme Committee Secretariat

- d) The complete absence of survivors from senior decision-making bodies making them inadequately qualified to understand a Survivor-centric approach.

Fourth, my **recommendations** are in summary:

Emotional and Psychological Needs

- a) **Develop survivor centric policies for a restorative Direct Personal Response equivalent that is run independently of all institutions.**
- b) **Use only experienced or accredited facilitators competent in the application of restorative practices in trauma situations.**
- c) **Leverage community organisations to run Direct Personal Response equivalent sessions independently of institutions responsible for CSA.**
- d) **Facilitators engage with survivors prior to, during and after the restorative sessions.**
- e) **Get the victims to bring their family members and others who were impacted, to heal the families as well as victims.**
- f) **Measure the impact of this approach on the participants.**
- g) **Pilot this approach within at least 3 organisations in 2021 to test its impact.**
- h) **Every committee member be required to watch the 2018 film www.themeetingfilm.com**
- i) **Fundamentally review the Direct Personal Response Framework 2018 to reflect all of the recommendations made in this submission.**

Financial Needs

- a) **Do no further harm, simplify the process!**
- b) **Get a fast outcome for suffering survivors.**
- c) **Increase the payment to \$200,000 and make it the same for all survivors.**
- d) **Appoint a survivor advocate for each case.**

Good Governance Needs

- a) **Reduce the layers of Governance decision making to a maximum of two bodies.**
- b) **Include at least three survivor's representatives or advocates in all governance bodies.**

PART B: Understanding a Survivor's Needs

My Story is outlined in the draft memoir in Appendix 1 under the title ***ONE in SIX: Flawed, Fearless and Free***, *The anatomy of one man's forgiveness of his abuser and himself.*

The book's prologue reads:

This book is a warning, a guide and a lament.

It was written for survivors of sexual abuse, their supporters, family and friends. I acknowledge your pain and your courage. With a choice of coming face to face with your abuser, in court, in restorative justice or in your family, this book will encourage you to seek truth, kindness and compassion.

In Australia today sexual abuse is common. One in four women and one in six men have experienced it. Unfortunately, very few are able to discuss what happened and fewer still seek restoration and emotional healing. We survivors are made to carry the unbearable burden that sexual abuse brings.

As you challenge yourself and those closest to you; as you seek help from the judicial system for an apology, I offer the encouragement of a fellow traveller. By sharing my experience, my wish is you'll find the courage to request your perpetrator be held accountable.

Submission to the National Redress Scheme Committee Secretariat

Forgiveness of an abuser is neither quick nor easy. It is a process. This story is real, though certain names are withheld to reduce harm. My abuser's name appears as a matter of public record. This is not a story for the faint hearted but one of forgiveness and redemption.

It is about a long journey to wholeness and recovery of spirit. There is no part of this story I would change. I hope and pray you are transformed by reading it. I trust you can eventually open your heart to forgive your abuser. Only by doing so can you set yourself and them free.

To obtain a first-hand account of the process of redress, its ups and downs, the flaws in the system and some insights on what could work, I would implore you to read Appendix 1 **BEFORE** reading the rest of this submission.

PART C: Understanding a survivor's Emotional and Psychological Needs

Having met face to face with my abuser at his criminal trial in 2015, I had an encounter which was both unforgettable and that had a fundamental impact on my further recovery and healing from historic CSA.

Why was it important to meet with my abuser face to face at the sentencing of his criminal trial?

- a) As I was to later discover, the process of meeting my abuser in court and reading to him a detailed impact statement meant I could:
 - a. **Speak** my truth and have this witnessed by the court and my spouse
 - b. **Hear** about those who were also impacted (spouse, children, family etc)
 - c. **Acknowledge** the impacts that his repeated abuse had on me
 - d. **Recognise** my need for an apology by the perpetrator
 - e. **Enrol** the perpetrator in delivering a verbal apology in front of the court room prior to sentencing
- b) This encounter enabled me to speak my truth directly to the person who had harmed me, be heard by him, get his acknowledgement directly and face-to-face for the harms he had done, feel his shame and guilt as he expressed it, hear his remorse for his behaviour, accept his apology and amends for harms done, validate my own experience and eventually in the months that followed, and finally come to forgive the perpetrator for the harms he had done.
- c) I was to later discover that this was not "business as usual", in fact it was quite an anomaly. Most people did not invite themselves into the courtroom to express clearly and unambiguously what had happened, how they felt and what they needed from the perpetrator.

The role of Restoration in my Recovery

- a) I did not realise at the time, that the process I went through with my abuser was essentially a restorative process, without the formal process or "psychological safety" of a restorative conference.
- b) I also later discovered to my surprise that the Royal Commission, had not set out in their extensive list of recommendations, any requirements for so-called "restorative justice services" to accompany the process of redress for institutional CSA.
- c) Further investigation revealed that research undertaken in Ireland in 2014 by Marie Keenan², strongly supported the view that survivors DO wish to meet face to face with their abusers. When this can be independently facilitated, in a psychologically safe space, when the abusers are willing to admit their guilt, accept accountability for their actions and make every attempt to meet the needs of the survivors, people heal.
- d) Why? Everyone heals and healing matters. The survivor, perpetrator and organisation get questions answered, people discover what they need to know in order to let go. The process becomes real and human, not hijacked by the justice process, courts and law.

Submission to the National Redress Scheme Committee Secretariat

- e) I discovered that as humans impacted by someone's misconduct we are pre-programmed to need:
 - a. Amends making for the harms done face to face;
 - b. Answering the myriad of unanswered questions that survivors often carry for decades throughout their lives including; why me? What did I do? Did you do it to other people? What are you doing to stop this now? How do you deal with victims? Is there a policy?
 - c. Filling in the missing pieces of fragmented information or memories that survivors often carry;
 - d. Articulating and address specific needs around mental health.
- f) When we get these needs met, shame and guilt are overcome and people heal. Everyone involved within the community surrounding the parties heals. Unfortunately, this is not a facet of the current NRS design, but it could be.

The role of Direct Personal Response (DPR) in the healing of survivors

DPR was one of the recommendations of the Royal Commission and has been adopted, as recommended by many institutions including Scouting Australia (NSW) who call DPR their *Restorative Engagement* process.

My comments about DPR are shaped by my own experiences of the Scouting Australia (NSW) Restorative Engagement process which I went through in January 2019.

- a) **Psychologically Unsafe:** trust is a fragile commodity for a survivor. The organisation is understandably seen by survivors as their co-abuser, accomplice or perpetrator's enabler. From a survivor's perspective, the leaders of the organisation represent the organisation's human embodiment of the abuser. To meet face to face with representatives of that organisation, especially people who hierarchically represent the organisation's leadership, is by definition a lop-sided meeting. The failure to recognise this fundamental inequality is at the heart of the issues with DPR.
- b) **Poor Communication Skills:** Survivors like me, suffer mostly from trauma and PTSD. Being able to address a survivor using "trauma responsive communication" techniques is an absolutely necessary prerequisite for the organisational representatives. Failing to demonstrate empathy, active listening, and a willingness to engage in addressing the questions of a survivors does not build trust nor does it lead to healing.
- c) **Absence of Independence and Process:** When there is no independent facilitator, no structure, no agenda, no preparation, no understanding of the expectations by either party nor a clear articulation of the needs and aspirations of the parties, then there is plenty that can and will go wrong. In my case, nothing was discussed beforehand. Such an environment or "setup" is psychologically unsafe for survivors. In the absence of an independent facilitator or convener, who can prepare both sides for an open and honest communication, there is the potential for further suffering and re-traumatisation.
- d) **Poor Impression overall:** Having gone through the process, the agreement was made that a written apology would be appropriate. Unfortunately, it was sent, but never received. As a result, I held a poor regard for the process. I was able to later share this experience with the Board of Scouting Australia (NSW). I made the case to them that if an institution was willing to do DPR properly, then it was also reasonable to assume that the organisation would deploy **Best Practice** process, together with skilled independent facilitators to actually achieve the desired outcome; healing, recovery and an amends made by the people representing the institution.

The Results of Direct Personal Response (DPR) in submissions to date

The submissions made to the committee, cite a range of issues and shortcomings with the current DPR process as follows:

Submission to the National Redress Scheme Committee Secretariat

- a) Submission 14 “we have seen Just over 50% of applicants indicate that they wish to access DPR. For the Uniting Church as at the end March 2020 we have had **only one applicant contact us** to say they wish to commence the DPR process.”
- b) Submission 18 “We note in the first 12 months of the schemes operation 130 victims Requested Direct Personal Response from institutions”. This submission goes on to say that those who are incarcerated are excluded.
- c) Submission 19 “We have received feedback that the process to obtain a Direct Personal Response for survivors is unclear and what is known about the process can be intimidating for clients”.
- d) Submission 23 “statistics confirm that the Salvation Army between the period one July 2018 and 20 May 2020 there have been 466 redress applications received by the NRS with 112 applications finalised and the offer of financial redress accepted. Of these 212 there were 67 applicants who indicated they would like to accept the offer of DPR, yet **only three applicants** have made contact with the Salvation Army to commence this process”.
- e) Submission 27 “The number of victims taking up the offer of a Direct Personal Response has been somewhat lower than expected where a DPR has been provided the survivor found the process to be beneficial.”
- f) In NO submission from any institution was there a clear statement of how they were conducting their DPR process, whether it was independently run and how they had measured its effectiveness in achieving the joint objectives of restoration and healing.
- g) The overall impression of these institutions is they are wanting to abide by the recommendations in the Royal Commission. Unfortunately, institutions appear partially or completely unaware of their organisation’s inherent conflicts of interest and their inadequate skills levels to manage the DPR process. Consequently, they lack the insight required to adequately manage a restorative DPR process that achieves the outcome of ongoing healing of those whom they have harmed.

What are the risks and consequences of the current DPR?

The trend apparent in the submissions is that institutions demonstrate a willingness to provide DPR once requested, though they also report a very low rate of take-up by survivors. Within these institutions they exhibit all the signs organisational-centric policies, so detrimental to a survivors healing.

Institutions appear to be unable to understand, process and respond to the risks or challenges inherent in their DPR offering, nor comprehend the unintended consequences of their lack of risk management and fail to take actions that mitigating these risks. The challenges DPR raises can be expressed as follows:

Risks of the DPR process	Unintended consequences of these risks	Measures to Mitigate Risks
The psychological safety of the DPR process for survivors	Survivors don’t get the opportunity to heal, because they don’t feel safe to participate in unsafe processes run by well-meaning but incompetent representatives	Develop survivor centric policies for a DPR equivalent that is independent of all institutions
Low or no level of trauma responsive communications skills	Further suffering and potentially re-traumatisation through the process	Use only experienced or accredited facilitators capable to run restorative practices in trauma situations
The absence of an independently facilitated process		Facilitators engage with victims prior to, during and after the restorative sessions

Submission to the National Redress Scheme Committee Secretariat

Risks of the DPR process	Unintended consequences of these risks	Measures to Mitigate Risks
The absence of a survivor centric policy by institutions to deal with healing and restoration of the victim in a structured manner	Subsequent re-traumatisation caused by the process is the responsibility of the Commonwealth and institutions for which they may be held liable – this is in addition to the existing trauma that people have suffered.	Get the victims to bring their family members and others who were impacted, to heal the families as well as victims Leverage community organisations to run these sessions independently of institutions
The absence of measures to determine effectiveness of the policy to effect real healing and restoration	Failure of the institutions to heal themselves, learn the required lessons and change their inherently organisational-centric policies	Measure the impact of this approach on the participants Pilot this approach within at least 3 organisations in 2021 to test its impact

What would I recommend to the Committee?

- a) **Develop specific survivor centric policies per institution, for a restorative DPR equivalent that is run independently of all institutions:** In this document restorative DPR equivalent is a reference to a restorative conference set up and run on behalf of the institution responsible for CSA. *The absence of a restorative DPR equivalent policy that is victim-centric will always mean institutions continue to fail to achieve the desired outcomes.* This is the case today. I suspect that few if any of the institutions managing DPR have a victim-centric policy. If they did there would be a process that would provide survivors with **a 96% victim satisfaction rating.**² Requiring institutions to adopt a survivor-centric policy, setting out how they manage historic CSA cases, and requiring them to adopt **Best Practices in Restoration** as a matter of policy, will guarantee their organisations acknowledgement of the life-destructive consequences for which their organization is responsible. It will also explain to survivors how they will be supported in their healing and to government and the community how they intend to take responsibility for their previous failure to protect children.

- b) **Use only experienced or accredited facilitators competent in the application of restorative practices in trauma situations:** Restorative processes require accredited facilitators who are practiced in the art and science of restorative practices. Running a conference with representatives of the institutions responsible for CSA, possibly including willing perpetrators and the survivors is an extremely delicate process. Expertise is required to manage the process of the conference, the preparation and what happens during the conference. The risks of re-traumatisation of people already suffering from PTSD is too significant to allow a non-qualified facilitator to conduct such a meeting.

- c) **Leverage community organisations to run these sessions independently of institutions responsible for CSA.** There are organisations at state levels (i.e. SAMSUN, Restorative Justice experts) who are well qualified to provide an independent facilitator role to a range of institutions responsible for historic CSA. Their independence and mission positions them as credible independent facilitators. Allowing institutions, as the enablers of the abuser, to facilitate their own DPR can never be a viable alternative given their inherent conflicts of interest. They are vicariously liable in law, by virtue of their participation in the NRS, which makes them a party to the restorative process (like a perpetrator). Facilitators can never be representatives of the organisation, ever.

Submission to the National Redress Scheme Committee Secretariat

- d) **Facilitators engage with survivors prior to, during and after the restorative sessions:** This is normal protocol in any restorative process. All parties are prepared by the facilitator, who then goes on to facilitate the restorative conference with all parties to the conflict present. They also hold parties accountable for any actions agreed during the meeting.
- e) **Get the victims to bring their family members and others who were impacted, to heal the families as well as victims:** If the estimated number of victims is 1 in 4 women and 1 in 6 men, then there are many survivors of sex abuse in our community. If we then take the immediate impacts to their family – in my case that would have numbered between 3 and 8 people. Some of those people would have wanted to attend a session to hear an apology from the institution and the perpetrator. They also have questions they would want to have answered. The pain and suffering goes deep and silently within our community. The only way to heal is to heal all of those involved to the extent that they wish to participate.
- f) **Measure the impact of this approach on the participants:** There are thousands of victims and their families who could potentially benefit from a well-designed and executed restorative conference process. The results of these processes in other countries can include 96% victim satisfaction and 95% victim, offender and other participants satisfaction². These results are possible to achieve in Australia, with the desired political will, the right policies and existing resources dedicated to doing the work necessary.
- g) **Pilot this approach within at least 3 organisations in 2021 to test its impact:** The Royal Commission’s recommendations are yet to be fully implemented by all organisations. Conducting a pilot to prototype this kind of social innovation across 3 organisations willing to take on the challenge of adopting a restorative conference process can be tried and tested in 2021. I would implore the Committee to encourage less talk, and more action to try a Survivor-centric approach where the evidence suggests there is a high likelihood of success. The quicker the better.
- h) **Every committee member be required to watch the 2018 film www.themeetingfilm.com.** This real-life drama is based on the actual meeting which took place between Ailbhe Griffith and the man who, nine years earlier, subjected her to a horrific sexual assault leaving her seriously injured and fearing for her life. It is an example of what meaningful, well run DPR process could be for survivors. Restorative meetings such as these are available in Ireland today.
- i) **Fundamentally review the Direct Personal Response Framework 2018 to reflect all of the recommendations made in this submission:** The Framework as drafted does not pass the “psychologically safe” test, to do no harm to survivors. At worst, it enshrines re-traumatisation at the heart of the scheme, and demonstrates the more harmful aspects of the Institution-centric approach adopted by the NRS. The Framework highlights the poor understanding of the power imbalance institutions have as co-abusers and fails to address the risks of triggering traumatic memories these institutions represent to survivors. It also misses the opportunity to enshrine the process of amends making or restoration into the DPR as an independently run process, and emphasise the importance of restoration for all impacted by historic CSA including; the survivor’s family members, spouses, children etc.

PART D: Understanding a survivor’s Financial Needs:

Why did I choose a civil damage claim and not use the National Redress Scheme (NRS)?

When reviewing my options, I investigated the NRS and **choose NOT to make an application for damages from the NRS** for the following reasons:

Submission to the National Redress Scheme Committee Secretariat

- a) The limit of \$150,000 seemed and remains trivial compared to a lifetime of potentially missed earnings and related out-of-pocket costs. In my case, the maximum possible damages payment would equate to \$3,750 per-annum for me for the last 40 years. That seemed both a small amount of damages and a completely inadequate when compared to the actual costs of therapy and lost earnings over a lifetime.
- b) \$150,000 was the maximum possible, which meant that despite being repeatedly abused over three years, and suffering PTSD for a lifetime as a result, I was going to have my pain and suffering measured and compared with that of other survivors and evaluated for “merit”, against criteria I did not understand.
- c) I estimated conservatively that my best and worst-case outcomes were in the range \$30,000-\$80,000 (which equates to an amount of between \$750-\$2,000 per-annum for 40 years). This left little over for me after deducting my legal fees to that time. I find it incredulous to believe that any member of your committee could suggest that such a payment would represent an “adequate” financial outcome.

Was the civil damages pathway a better outcome?

Yes, my civil claim was greater than the maximum currently available under the redress scheme, even taking into account a legal fee investment of approximately \$120,000, which I understand is typical for this sort of legal action.

Did this meet my needs?

In order to achieve this result, I did require the services of various legal counsel, to safely guide me through the maze of common law and other legal hurdles. This is a legal minefield to navigate, for which I was grateful to my counsel.

What did I learn?

- a) The legal pathway for a civil claim is difficult to understand and requires experienced, well-educated legal representation if one is to be successful;
- b) It was fast. We had it resolved in under a year from start to finish;
- c) It depends upon the willingness of the institution involved as to how fast the legal process proceeds, as well as the level of difficulty involved;
- d) Despite the speedy expediting of my matter, there are many hurdles an institution’s legal team can use to obstruct, delay and frustrate a final settlement;
- e) The institution is as much “an abuser” as the perpetrator. If the institution chooses to behave in a way that “does no harm” further suffering or re-traumatisation is minimized;
- f) The key winners here are the legal representatives of each party; in my estimate, there would have been \$250,000 (at a minimum) in unnecessarily legal costs spent by both parties to the claim;
- g) Additional costs to society include all of the additional legal costs for running the legal processes through the courts;
- h) There were many other cases also run by my legal team (my barrister had 40 on his desk at the time of my settlement) where the institution involved did everything in its power to obstruct the settlement process. I was grateful for the willingness to minimise harm by the institution involved in my case.

What would I recommend to the Committee?

- a) **Do no further harm, simplify the process and eliminate ALL red-tape!** The additional waiting time of the NRS, the bureaucratic form filling and over-engineered opaque processes are what Hannah Arendt once referred to as the “banality of evil”. In the context of the NRS the current processes should be eliminated to the extent possible to facilitate healing not further suffering. All unnecessary red-tape causes pain, suffering and re-traumatisation. Simplify the entire

Submission to the National Redress Scheme Committee Secretariat

- process to minimise the potential for re-traumatisation. This will remove wasteful costs from the administration of the system that can be used to pay damages to survivors, not torment them.
- b) **Get a fast outcome for suffering survivors.** This comes at the end of a lifetime of suffering. To needlessly create a series of obstacles for no apparent benefit or risk reduction is sadistic. The current approach is using legal process to retraumatise already traumatised people.
 - c) **Increase the payment to \$200,000 and make it the same for all survivors.** The real financial damage at the high end is in the millions per survivor. The lifetime loss of income for many is going to be significantly more than \$6,000 per annum for the average survivor who comes forward after 33 years. Further, the consequent DECREASE in cost to administer the NRS, if it were made a single amount, would more than cover any extra cost. Such a change would further eliminate the expensive legal costs ensuring more would get to the survivors faster, rather than feeding the industry that has now formed to profit from survivor's misfortune and ignorance.
 - d) **Appoint a survivor advocate for each case,** who is skilled in trauma responsive communications, experienced and can resolve the conflicts as they occur.

PART E: The need for Good Governance

It is clear to any impartial observer that the myriad of the Governance bodies is highly incompatible with a Survivor-centric approach. The Institute on Governance defines 5 principles which underpin "good governance" including "legitimacy and voice" and "fairness"³. The Australian Public Service Commission also advertises on its website its desire to "reduce red-tape in the APS"⁴. The APSC states that "unnecessarily burdensome and prescriptive administrative requirements can increase the cost of doing our business. They may divert resources away from the delivery of important services to the Australian public, lower workplace productivity and reduce job satisfaction levels." It neglects to say that this same red tape burden, when viewed through the perspective of a survivor of CSA, causes harm, suffering and re-traumatisation.

Who is responsible for the NRS?

That's a difficult question to answer. There are 5 tiers of responsibility in the operation and running of the NRS. It is difficult to imagine a more convoluted governance structure than what has been embraced by the current government. As heavy as it is in boards, committees, a council and roundtables, it is extremely light on survivor representation. This is especially the case in the more senior governance bodies, that appear to be well equipped to manage issues concerning the limits of financial liability of the scheme but are equally ill-equipped to assess its effectiveness to determine the scheme's negative impact on survivors.

How easy is it to change?

The inertia of the NRS multi-tiered bureaucratic machine is profound. Following recommendations made to improve the scheme, the Government's response to the Joint Select Committee's *Getting the National Redress Scheme right: An overdue step towards justice* was tepid. The title is self-explanatory; an **overdue step towards** justice. Despite all of the suffering, it seems there are those within the Government and APS who are more concerned to follow process, procedures and protocol, than reduce survivors suffering; given only 11 of the 29 recommendations were agreed to.

This is an appalling state of affairs. Having gone through the Royal Commission, seen hope revived through the Commission's recommendations, survivors are still waiting to see these recommendations and improvements recommended by your committee materialise. Hannah Arendt¹ described the powerlessness of our situation when she said "In a fully developed bureaucracy there is nobody left with whom one can argue, to whom one can present grievances, on whom the pressures of power can be exerted. Bureaucracy is the form of government in which

Submission to the National Redress Scheme Committee Secretariat

everybody is deprived of political freedom, of the power to act; for the rule by Nobody is not no-rule, and where all are equally powerless, we have a tyranny without a tyrant.”⁵

Let me lay the responsibility for this tyranny at the feet of each member of your committee. The current governance arrangements highlight that the NRS is both difficult to govern and continuously-improve for the immediate benefit of survivors, like me. This needs to change, and as our legally elected representatives, it is your committee’s role to make this happen.

What would I recommend to the committee?

- e) **Reduce the layers of Governance decision making to a maximum of two bodies:** Costs and time saved as a consequence of eliminating red-tape is a win-win for all involved. Reducing the boards, councils and other committees to a maximum of two would accelerate the decision-making velocity and implementation efficacy bringing rigour to the improvement process.
- f) **Include at least three survivor’s representatives or advocates on ALL governance bodies.** This provides the opportunity for survivor representation to be present on all bodies to ensure decisions made reflect core principles of 21st century governance; legitimacy, fairness and a voice for those who voice is only now being heard for the first time.

Now that you have read through the shortcomings on the NRS from a survivor’s perspective, I would like you to imagine one of your family, a son or a daughter had found themselves in the same position as me. Having read through this submission, how comfortable would you feel reassuring your family member that the current NRS is not causing them more suffering? Or, do you now feel motivated to do everything in your power to make the NRS both world leading and embody restorative best practices which would demonstrably lead to a survivor’s healing?

If your committee would like to further discuss any aspect of this submission, please do not hesitate to contact me directly on 0404511363. I wish you much wisdom as you consider the ways in which the NRS program’s shortcomings can be significantly improved for the benefit of all survivors and their families.

Yours sincerely

Mark Jones



Appendix 1 - ***ONE in SIX: Flawed, Fearless and Free***, *The anatomy of one man’s forgiveness of his abuser and himself.*

¹ M. Keenan, *Sexual Trauma and Abuse: Restorative and Transformative Possibilities?* School of Applied Social Science, University College., Dublin, 2014

² Sherman, W Lawrence, and H Strang (2007). *Restorative Justice: The Evidence*. Restorative Justice in Colorado (2019). RJ Colorado.Org

³ J. Graham, B. Amos and T. Plumtre; *Principles for Good Governance in the 21st Century* Policy Brief No.15 Institute on Governance

⁴ Reducing Red tape in the APS <https://www.apsc.gov.au/reducing-red-tape-aps>

⁵ H. Arendt; *On Violence*, Houghton Mifflin Harcourt, 1970