



**PEOPLE WITH DISABILITY
AUSTRALIA**

**A voice
of our
own**

Redress Matters to Address

**A submission to the Joint Standing
Committee on Implementation of the
National Redress Scheme**

**FEBRUARY
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About PWDA

[People with Disability Australia](#) (PWDA) is a leading disability rights, advocacy and representative organisation of and for all people with disability. We are the only national, cross-disability organisation—we represent the interests of people with all kinds of disability. We are a non-profit, non-government organisation. We help individuals by advocating for their interests, and groups through our systemic advocacy efforts. We also encourage people to engage in self-advocacy.

PWDA's primary membership is made up of people with disability and organisations primarily constituted by people with disability. PWDA also has a large associate membership of other individuals and organisations committed to the disability rights movement. We employ many people with disability.

We have a vision of a socially just, accessible, and inclusive community, in which the human rights, citizenship, contribution, potential and diversity of all people with disability are recognised, respected and celebrated.

PWDA is committed to human rights and believes human rights are for everyone, regardless of race, religion, ethnicity, indigeneity, disability, age, displacement, caste, gender, gender identity, sexuality, sexual orientation, poverty, class or socio-economic status.

Our organisation was founded in 1981, the [International Year of Disabled Persons](#), to provide people with disability with a voice of our own.

PWDA is a NSW and national peak organisation and founding member of [Disabled People's Organisations Australia](#) (DPO Australia) along with [Women with Disabilities Australia](#), [First People's Disability Network](#), and [National Ethnic Disability Alliance](#). DPOs are organisations that are led by, and constituted of, people with disability. We are a DPO and work as a disabled people's representative organisation, representing the interests of our members.

1. Introduction

[People with Disability Australia](#) welcomes the opportunity to provide a response to the [Joint Standing Committee on Implementation of the National Redress Scheme](#).

PWDA is a funded national Redress Support Service. We provide information, referrals and support for survivors of institutional childhood sexual abuse who may wish to interact with the National Redress Scheme. We provide information and support throughout all phases of a survivor's Redress journey, with face-to-face support available in NSW and some areas of QLD. We also provide phone and online information, referrals and support nationally.

PWDA has responded to specific elements of the [Terms of Reference](#)ⁱ below based on experience delivering Redress Support Services (RSS).

2. Availability of data and information relating to applicants

2b. Possible reasons why current application trends could vary from expectations

The low number of applications from people with disability, and people in general, could be attributed to the low levels of knowledge of the [National Redress Scheme](#) (the Scheme) in the general community, let alone within any closed disability settings such as group homes and long-stay mental health facilities.

[People with Disability Australia](#) recognises that some people with disability need support to be able to access and understand information about the Scheme. This is why PWDA has conducted outreach over the past three years to services that may have clients who are people with disability who experienced childhood sexual abuse.

[PWDA's Redress team](#) does extensive outreach to services throughout NSW, including disability-specific services, mainstream health and community services, allied health practitioners, mental health settings and programs, Aboriginal medical and wellbeing settings, and community and Aboriginal legal services.

We find that there is still very little awareness that the Scheme even exists. For example, we visited the NSW regional town of Cobar late last year, and the only person there we spoke to who had any knowledge of the Scheme was one volunteer worker, despite us visiting most of the health and community services in the town. In January, we visited services in Cowra NSW and only one person we spoke with had even heard of the Scheme.

2c. Time taken to process applications and pay compensation to applicants

Currently, in our clients' experience, payments are usually received within days of the formal acceptance of an offer. This contrasts with the application process which is slow and can take up to eighteen months or more. Our estimated average is at least twelve months which is a long time for people to wait for an outcome.

Some of the clients PWDA assists to access the Redress process are in quite dire situations, and the payment can make a big difference to their lives. Speeding up the process would ensure that change can come more quickly for them, which is a desirable outcome. In many cases a shorter timeframe would be beneficial in reducing re-traumatisation experienced by the applicant.

2d. Whether applicants with disability had a disability at the time of their abuse or whether it was acquired later in life

In PWDA's experience of assisting people with disability to access the Scheme, we see both people who had a disability at the time of their abuse, and those where it was acquired later in life. Many of our clients have psychosocial disability, which is often acquired later in life and can be in response to adverse childhood experiences (which includes sexual abuse).

There is a large body of research on the lifelong effects of childhood abuse on mental health from researchers such as Takeo Fujiwara,ⁱⁱ Ashleigh Grindey and Tim Bradshaw,ⁱⁱⁱ JJ McGrath and colleagues,^{iv} and Berhe W Sahle and colleagues.^v PWDA also finds many Redress applicants have chronic health conditions that have developed later in life, and again there is peer reviewed research indicating that poor health outcomes can be a result of adverse childhood experiences. For examples see research from Deborah Loxton and colleagues,^{vi} Ted R Miller and colleagues,^{vii} and Geetha M Waehrer and colleagues.^{viii}

People who had a disability as a child are more likely to have been both physically and sexually abused than children without disability,^{ix} yet PWDA's RSS see more clients who have acquired disability later in life. We feel that this is directly related to the fact that people with severe disability are often segregated from the general community and live and work in closed settings.

PWDA believes that this segregation directly impacts on people's ability to obtain information about the Scheme and to access assistance and appropriate support to participate. In our experience of reaching out to services to provide information about the Scheme, we can attest that gatekeeping by service providers is not uncommon and is a barrier to participation in the Scheme.

3. Strategies that could assist people with disability to access the Scheme

Many people with disability need extensive support to engage with the [National Redress Scheme](#). Of the 49 government funded [Redress Support Services](#), only three are disability-specific services. [People with Disability Australia](#) understands that some of the non-disability specific services have been provided additional funding to enhance their ability to engage with people with disability. We suggest three strategies to the [Joint Standing Committee on Implementation of the National Redress Scheme](#) to assist people with disability to access the Scheme.

The first strategy is to provide additional funding for support services that are skilled at engaging with people with disability.

The second strategy is for the relevant government departments to utilise their influence to ensure that people with disability within closed settings such as institutions, forensic and correctional settings, group homes and assisted boarding houses, can access information and support to apply to the Scheme.

The third strategy is a public education campaign aimed at people with disability, their families and supporters. This could utilise channels such as television and radio advertising and/or could be a campaign co-designed by people with disability and delivered through trusted channels such as disability representative organisations, community organisations and carer's support organisations.

4. Availability of legal advice for survivors and their advocates and, in addition

4a. Quality of legal advice

The [knowmore Legal Service](#) offers free, independent legal advice and support for survivors of child abuse, and, has in our experience provided comprehensive and sound advice to clients. Applicants are not always aware of knowmore and that it is a free service, so PWDA always explain this to our clients. We also offer to facilitate and attend meetings with knowmore if our clients wish us to do so.

We have had clients working with private law firms who have not had good experiences. We have found that private law firms are not always good at explaining things in everyday understandable language. We also have clients who have signed documents and agreements without fully understanding what they were signing and the potential ramifications.

For example, we had a client who had signed up with a law firm on a no-win no-fee basis but didn't understand that if they chose not to continue with the law firm then they would be charged for the work the firm had already done. This client had gone from one firm to another before we met them, and so had two law firms trying to charge them for services rendered when they did not wish to continue. Their reasoning for not wanting to work with either firm was they felt that the firms weren't listening to what they wanted. This left the client with quite significant fees that they were unable to pay.

4b. Opportunities for Scheme applicants to consider available legal options and to exercise their own choices

Free legal advice is available through knowmore and sometimes through community or Aboriginal legal centres. There are also law firms who will charge a fee for assisting with [National Redress Scheme](#) applications. At times, law firms do not explain to the person that there is a free service available, or if they do tell them about knowmore they put themselves forward as more likely to get a better result. Legal firms have been known to encourage applicants to go through a civil process rather than Redress. It is unclear whether this is because the legal firm could potentially make more money from a successful civil claim than if the client chooses Redress.

When we have new clients we take time to ensure that they understand all of their options and the pros and cons of each option. If they need more information, we refer them to knowmore, who will talk them through the differences between civil and criminal processes and the Redress Scheme. We are concerned that people who do not have access to [Redress Support Services](#) or knowmore are not being fully informed of the available legal options, and are not being assisted to understand those choices.

While we find that the knowmore Legal Service provides excellent unbiased advice, and work from a trauma-informed model, there have been some difficulties in accessing their services from time to time due to high demand. We urge the Joint Standing Committee to consider recommending an increase to the funding of knowmore Legal Services so they can meet this demand.

4c. Strategies to minimise instances of alleged claim-farming or excessive fees

People with disability may not always have the support they need to make informed decisions about signing up with legal firms. They sometimes don't realise that they are then stuck with that firm and can end up with high legal costs. Many clients are unaware that law firms that have a no-win no-fee payment model will charge fees if the client chooses not to complete the process.

A major problem is that different states and territories have different laws concerning fees and claim-farming.

PWDA believes greater consistency of laws and related standards across all states and territories would minimise these issues.

Another strategy to minimise the issues people encounter would be to improve community awareness of the Scheme and knowmore Legal Service. Currently awareness-raising seems to be largely left up to the Redress Support Services (RSS). In NSW these support services have banded together for community outreach initiatives, running workshops for services and providers to let them know about the Scheme, about how RSS can help, and about knowmore. This statewide initiative has been developed to:

- provide a more comprehensive outreach across the state
- endeavour to identify gaps in both physical areas and particular cohorts
- provide information and support to those communities.

This outreach can and has been tailored for specific cohorts. For example, a workshop was held in Sydney's inner southern suburb of Redfern late last year for Aboriginal services. There are also plans for a workshop this year specifically tailored for disability organisations and services.

While many of the RSS are happy to undertake community outreach, these services could perform this role more effectively with increased funding.

5. The performance and effectiveness of support services for Scheme applicants

5a. Accessibility

Accessibility is a complex issue. There are a wide range of disabilities and each person's experience of disability is different.

While the [National Redress Scheme](#) has worked on updating documents provided to applicants, due to the amount of information and the legal requirements of some communications these documents are still long and complex. Some people with disability will require support such as someone to explain these documents to them and ensure that they understand them. This is part of the service that [People with Disability Australia](#) provides through PWDA's Redress team. Some people are unaware that there is assistance available to them. One solution could be for a bold plain-English message at the top of every communication saying that if you have trouble understanding these documents this is where/how you can get help.

When we have come across an issue for our clients (such as being physically unable to sign the application document) we have approached the Australian Government Department of Social Services (DSS) to advocate for flexibility to be built into the Scheme and its processes to provide reasonable adjustments where necessary. We have recently been told by DSS that we can approach the agency for assistance if needed, and that accessibility issues can be looked at on a case-by-case basis. We are appreciative of this, but a faster turnaround is needed. For many people the Redress journey is inherently re-traumatising, so any additional barriers and delays can have severe impacts on applicants' wellbeing.

PWDA also raises the issue of accessibility for people with severe disability who have been abused but cannot describe what has happened and its impact on their life, nor can they express consent to participating in the Scheme. Currently, the rules

of the Scheme do not allow another person to make an application on their behalf, so these people face an insurmountable barrier to participation. If there is a reasonable likelihood that they have been abused, there should be some process or mechanism for an application to be lodged on their behalf. This barrier is counter to the right to accessibility which is a general principle of Article 3 of the Convention on the Rights of Persons with Disabilities (CRPD).^x

When it is known that there was abuse at a particular institution, we feel that more should be done to connect with people who were involved with that institution as children. For children with disability these institutions were often residential institutions. Following the movement towards de-institutionalisation from the 1980s, many of these people now live in group home settings. As stated earlier, some of the organisations that run these settings act as gatekeepers and do not allow the dissemination of information to their workers or residents about the Scheme and the support that can be provided by [Redress Support Services](#). Particularly where these organisations are now participating institutions, more should be done to encourage them to educate their workforce about the Scheme and how to connect their clients with supports such as RSS and knowmore.

In our experience supporting clients to access the counselling component offered by the Scheme, there are many barriers to participation which mean that a lot of people are unable to access these services. The majority of our clients are in NSW so we raise issues relating to accessing counselling in NSW but note that some of these issues may be applicable across other states and territories.

In NSW, the Scheme counselling component is provided through [Victim Services](#). The Department of Communities and Justice service has a list of approved counsellors and psychologists, and the Redress applicant can choose a practitioner from an online list. We have found the following in relation to accessing practitioners through the list:

- Some people with disability require support with accessing the list and choosing a practitioner. Victim Services staff can provide some limited support with this.

- The online list is not accessible for many people including those with low literacy, people with vision impairment, people with cognitive disabilities, and people who may not have access to technology.
- People in the Greater Sydney area can sometimes find the range of choices overwhelming and may need assistance to sort through the options available.
- Practitioners listed on the Victims Services list may not always have capacity to take on new clients, particularly ones with highly complex needs, such as survivors who have diagnoses of complex post-traumatic stress disorder and/or personality disorders.
- Many regional, rural and remote areas of NSW do not have any approved practitioners located in the area. This means that there are only phone or online services available to people. These services are not accessible or suitable for a wide range of people for a variety of reasons. This includes people with communication support needs, people who cannot access a phone or computer, and people whose trauma response means that they are not comfortable speaking of their experiences without being able to meet the practitioner face-to-face.
- There appears to be a general shortage of approved practitioners, particularly those that have a specialisation in working with trauma survivors. Often it is difficult to find a practitioner who has any availability, and even when a suitably qualified and experienced practitioner is located there can be an extensive waiting period.
- Practitioners who are appropriately skilled and experienced in working with trauma survivors are not always also skilled in working with people with disability, so this narrows the number of suitable practitioners considerably. Practitioners also tend to have a very narrow view of disability and may think that their practice is accessible because it has a wheelchair ramp, but have no or little understanding of the different types of disability, including neurodivergence and intellectual disability. There needs to be more education across this sector to ensure that practitioners have a fuller knowledge of

disability, accessibility and the barriers that many people with disability face. These barriers can have a direct and detrimental impact on the health and welfare of people with disability and as such need to be recognised and addressed by practitioners offering psychological support.

There are also barriers to accessing counselling support if a person is living in one state or territory and the abuse occurred in a different state or territory. Each state or territory government is responsible for providing the counselling support, and there are different models and ways of delivering this support. Navigating counselling access for someone who is not living in the state or territory where the abuse occurred can be extremely difficult.

5b. Resourcing and funding levels

PWDA interacts extensively with other Redress Support Services, working collaboratively with other services in NSW and being an active member of the NSW RSS Community of Practice group. We also attend RSS meetings in other states when we can. From this interaction with other RSS teams, we can see that many services are struggling to support clients and perform outreach work to inform and educate communities about the Scheme within their funding parameters.

Typically, RSS funding is allocated to services in two-year blocks. Many applicants to the National Redress Scheme find that their entire journey takes longer than two years. For some applicants who have complex situations and presentations it can take a year or more to complete the application. Then it can take anything from six months to two years or more for an offer to be made, especially if the named institution has not already joined the Scheme. There is then a six-month period to decide to accept or reject the offer, and this can be extended. Applicants may then require assistance in engaging with counselling or participating in the [Direct Personal Response](#) process. It is of concern that due to the two-year funding blocks Redress Support Service providers are unable to promise continuity of service to applicants from the beginning to the end of their interaction with the Scheme. For some survivors this can be a serious barrier to engaging with the Scheme.

Endnotes

ⁱ Parliament of Australia B, 'Terms of Reference', Inquiry into the Operation of the National Redress Scheme, Joint Standing Committee on Implementation of the National Redress Scheme, *Parliament of Australia*, 28 November 2022, last accessed 16 February 2023, last accessed 16 February 2023.
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Redress_Scheme_Standing/Redress47/Terms_of_Reference

ⁱⁱ Fujiwara, Takeo, 'Impact of Adverse Childhood Experience on Physical and Mental Health: A Life-course Epidemiology Perspective', *PCN—Psychiatry and Clinical Neurosciences*, 76.11 (2022): 544–551, last accessed 16 February 2023.
<https://doi.org/10.1111/pcn.13464>

ⁱⁱⁱ Grindey, Ashleigh, and Tim Bradshaw, 'Do Different Adverse Childhood Experiences Lead to Specific Symptoms of Psychosis in Adulthood? A Systematic Review of the Current Literature', *International Journal of Mental Health Nursing*, 31.4 (2022): 868–887, last accessed 16 February 2023.
<https://doi.org/10.1111/inm.12992>

^{iv} McGrath, JJ et al, 'The Association Between Childhood Adversities and Subsequent First Onset of Psychotic Experiences: a Cross-National Analysis of 23 998 Respondents from 17 Countries', *Psychological Medicine*, 47.7 (2017): 1230–1245, last accessed 16 February 2023.
<https://doi.org/10.1017/S0033291716003263>

^v Sahle, B.W., Reavley, N.J., Li, W. et al. The association between adverse childhood experiences and common mental disorders and suicidality: an umbrella review of systematic reviews and meta-analyses. *Eur Child Adolesc Psychiatry* 31, 1489–1499 (2022). <https://doi.org/10.1007/s00787-021-01745-2>

^{vi} Loxton, Deborah et al., 'The Impact of Adverse Childhood Experiences on the Health and Health Behaviors of Young Australian Women', *Child Abuse & Neglect*, 111 (2021): 104771–104771, last accessed 16 February 2023.
<https://doi.org/10.1016/j.chiabu.2020.104771>

^{vii} Miller, Ted R et al., 'Adult Health Burden and Costs in California During 2013 Associated with Prior Adverse Childhood Experiences', *PLoS One*, 15.1 (2020): e0228019–e0228019, last accessed 16 February 2023.
<https://doi.org/10.1371/journal.pone.0228019>

^{viii} Waehrer, Geetha M et al., 'Disease Burden of Adverse Childhood Experiences Across 14 States', *PLoS One*, 15.1 (2020): e0226134–e0226134, last accessed 16 February 2023.
<https://doi.org/10.1371/journal.pone.0226134>

^{ix} Euser, Saskia, Alink, Lenneke RA, Tharner, Anne, Van IJzendoorn, Marinus H and Bakermans-Kranenburg, Marian J, 'The Prevalence of Child Sexual Abuse in Out-of-home Care: Increased Risk for Children with a Mild Intellectual Disability', *JARID: Journal of Applied Research in Intellectual Disabilities*, first published 17 March 2015, last accessed 17 February 2023.
<https://doi.org/10.1111/jar.12160>

^x United Nations, *Convention on the Rights of Persons with Disabilities*, United Nations, last updated December 2006, last accessed 16 February 2023.
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>