

CONTACT: Katrina Stouppos  
CONTACT EMAIL: abuselaw@shine.com.au  
LEGAL PRACTICE MANAGER: Lisa Flynn  
OUR REF: LS/KST/6155134  
YOUR REF:



22 October 2020

Committee Secretariat  
Senate Community Affairs Legislation Committee  
By email only: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Dear Colleagues,

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

Shine Lawyers welcomes the invitation to provide our comments in response to the National Redress Scheme for Institutional Child Sexual Abuse Amendment (Technical Amendments) Bill 2020.

Shine Lawyers is the third largest specialist plaintiff litigation law firm in Australia. The firm has 680 people spread throughout 44 offices in Australia.

We have a dedicated team of abuse lawyers who specialise in providing legal advice and guidance to survivors of abuse, standing as a voice for clients, and helping them access justice and acknowledgement for the wrongdoing they have suffered.

Shine Lawyers has extensive experience representing survivors of abuse seeking redress in every institutional redress scheme in Australia. We have provided numerous submissions during the consultations establishing the Redress Scheme and subsequently and currently represent many applicants to the Redress Scheme.

Upon considering the Bill and Explanatory Memorandum, we note our support for the Bill and the changes to the Redress Scheme proposed therein which are mainly minor and technical in nature. It is hoped the second anniversary review of the Scheme will consider broader amendments for the benefit of survivors of child sexual abuse. We make the following observations for the Committees consideration:

#### Associates of participating institutions

We note Part 1 proposes to clarify the way associate institutions are determined and listed in an acceptance document. Our experience that the inclusion of a list of associated institutions as part of the acceptance document may be confusing and upsetting to survivors. The proposed amendment does not change the way institutions are held responsible or which entities are released from civil liability upon signing the release accepting a redress payment. However we support the proposed change which would allow the Scheme to describe the associated institutions in the acceptance document as a group or class as it currently does in an offer of redress, rather than listing each associate. Our view is that this should be less confusing to applicants and improve survivors experience accepting a redress offer.

**13 11 99** [shine.com.au](http://shine.com.au)

Shine Lawyers Pty Ltd  
ABN 86134702757

PO Box 100  
SAWTELL NSW 2452

43B First Avenue  
SAWTELL NSW 2452

Phone: 13 11 99  
Fax: 07 4638 5481

### Funder of last resort

We support the proposed amendments to the funder of last resort provisions in Part 2 to allow more than one government institution to be funder of last resort for a defunct responsible institution and divide the redress cost between those funders.

It is hoped the second anniversary review of the Scheme will consider expanding the circumstances a government institution(s) is the funder of last resort to include circumstances where the government institution was not equally responsible for abuse. This would improve the experience of survivors of child sexual abuse by providing access to redress for those survivors of abuse in defunct institutions where there is no other institution who can be held responsible and make payment. Ensuring eligible survivors of child sexual abuse have access to redress is the fundamental purpose of the Redress Scheme and ensuing governments step in as a true funder of last resort would be a powerful message of support to survivors.

### Engagement of independent decision makers

The proposed changes to the way independent decision makers are appointed are thought unlikely to directly impact the experience of survivors with the Scheme. It is important that enough independent decision makers are appointed to meet operational demand and ensure applications are processed in a timelier manner than in the first 2 years of the Scheme. Delay receiving the outcome of their application for redress continues to be the most frequent form of feedback we receive from our clients regarding their experience with the Scheme.

We support the changes in Part 3 in the hope independent decision makers are engaged quickly and efficiently and in sufficient numbers to ensure applications for redress are processed within the shortest time necessary.

### Protecting the name and symbols of the Scheme

We have not encountered any concerns from clients or otherwise through our experience with Redress regarding confusion caused by use or misuse of the name or symbols of the Scheme. We otherwise have no comment in response to this Part.

### Bank account for payment of redress payment

We note the current restriction on the scheme operator paying a redress payment or counselling and psychological care payment other than to an account a person holds with a financial institution. In most circumstances we agree it is appropriate to limit payments in this way however we support the proposed change allowing payment to be paid to an administrator appointed by a court, tribunal or board.

### When funding contribution from responsible institution is due for payment

We note the proposed change allowing the scheme operator to grant some flexibility for the due date of a funding contribution from an institution. It is noted that the proposed flexibility would not delay the redress payment to a successful applicant to the scheme. However we cannot appreciate any sufficient justification for additional time to be granted to a responsible institution in this regard. It is unnecessary to add to the workload of the scheme by having to make extensions of time applications when the time and resources of the scheme are better spent elsewhere.



Protected information

We support a more rigorous pursuit of institutions to participate in the Scheme. Encouraging and ensuring maximum participation of institutions in the scheme is essential for allow survivors of child sexual abuse to receive redress. We support the amendments to the present limit on protected information such that meaningful consultations can be carried out to encourage institutions to join the scheme. The release of information for this purpose is sufficiently limited within the proposed change to ensure information is not used for other purposes.

Should the committee have any further questions, please do not hesitate to contact us

Yours faithfully

Lisa Flynn  
National Practice Leader  
**SHINE LAWYERS**

Katrina Stouppos  
Associate – Practice Leader