

1 February 2018

Committee Secretary
Senate Standing Committees on Community Affairs

By email: community.affairs.sen@aph.gov.au

Dear Committee Secretary,

NSSRN submission in relation to the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and Commonwealth Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2017

1. The National Social Security Rights Network (NSSRN) is a peak community organisation in the area of income support law, policy and administration. Our members are community legal centres across the country that provide free and independent legal assistance to people experiencing issues with social security and family assistance payments. The NSSRN draws on this front line experience in developing its submissions and policy positions.
2. The NSSRN welcomes the opportunity to comment on the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 ("the Bill") and Commonwealth Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2017 ("the Companion Bill").
3. The Bill and the Companion Bill have been drafted in response to the recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse ("the Royal Commission") to establish a national redress scheme for survivors of institutional child sexual abuse. The Royal Commission's final report condemned the protracted failings of institutions to protect children in their care from abuse. It acknowledged the profound traumatic impact this abuse has had on survivors. It recognised the courage and resilience of many, including those who sustained pressure on governments and responsible institutions to address and disrupt this systemic issue. The Royal Commission also called on our society to take responsibility and to resolve to protect children from further abuse.¹
4. The Bill's proposed scheme aims to provide an accessible, appropriate and survivor-focused redress. It provides for monetary payments, access to counselling services and a direct personal response from the institutions responsible.²
5. Our submission focuses on:
 - a. how the proposed monetary payments under the redress scheme may impact social security recipients; and
 - b. the need for an accessible and inclusive redress scheme.

¹ Royal Commission into Institutional Responses to Child Sexual Abuse, 'Final Report – Preface and Executive Summary', (2017).

² Commonwealth, *Parliamentary Debates*, House of Representatives, 26 October 2017, 12128-12133, (Christian Porter), 12129.

Impact on social security income and asset assessments

6. The Royal Commission recommended that any redress scheme include “monetary payments as a tangible means of recognising the wrong survivors have suffered.”³ The Bill proposes to provide monetary payments to a maximum of \$150,000. It is important that this amount, as a token acknowledgement and reparation of the wrongs experienced by survivors, is able to be used at a survivor’s discretion and should not impact on other income sources or any social security entitlements.
7. The NSSRN therefore supports the proposed amendment to the *Social Security Act 1991* (Cth) contained in the Companion Bill. This amendment will exempt redress scheme payments from income tests under social security law.⁴
8. The NSSRN also supports the proposals that these payments will not be subject to income tax, and they will not be directly garnished to recover any outstanding debts that may exist to the Commonwealth, such as those arising from social security overpayments.⁵
9. Despite these protections, the redress scheme payments may impact on a person’s social security entitlement. This is because there are no provisions in the Bill or the Companion Bill that propose payments under the redress scheme be exempt from social security asset assessments. This means that some social security recipients may experience a reduction or cancellation of their income support or pension payments. This will depend on the amount they receive under the scheme, their other assets and payment type.
10. As the redress scheme aims to address and alleviate the impact of institutional child sexual abuse, any interference with a survivor’s social security entitlement must be avoided. The NSSRN urges an additional amendment to s1118 of the *Social Security Act 1991* (Cth) to include payments under this redress scheme, and any gifts or purchases made from these payments, as exempt assets for the purposes of social security asset assessments.

Access to redress: excluded classes of people

11. The NSSRN supports a redress scheme that is available to all survivors of institutional child sexual abuse. The Royal Commission recommended that any redress scheme “must provide equal access and equal treatment for survivors... if it is to be regarded by survivors as being capable of delivering justice.”⁶
12. Part 2-2 of the Bill sets out the entitlement and eligibility for redress under the scheme. We are concerned that s16(3) of the Bill provides for the use of rules to exclude some people from accessing the scheme. Section 117 of the Bill outlines the formation of the Commonwealth Redress Scheme Rules and empowers the Minister to make these rules by legislative instrument.
13. In November 2017, the then Federal Social Services Minister, Christian Porter, stated that the rules would exclude individuals from receiving redress if they have been convicted of sexual offences, or if they have been convicted and sentenced to a term of imprisonment of five years or more for any crime.⁷ The NSSRN opposes this exclusion.

3 Royal Commission into Institutional Responses to Child Sexual Abuse, ‘Final Report – Redress and Civil Litigation’, (2015) 8.

4 Commonwealth Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2017 sch 1 item 1 proposes to amend s8 of the *Social Security Act 1991* (Cth).

5 Commonwealth, *Parliamentary Debates*, House of Representatives, 26 October 2017, 12128-12133, (Christian Porter), 12129.

6 Royal Commission into Institutional Responses to Child Sexual Abuse, ‘Final Report – Recommendations’ (2017) 43.

7 ‘Child sex abuse redress scheme to cap payments at \$150,000 and exclude some criminals’, *ABC News* (online), 26 October 2017,

14. Research has outlined the complex and varied psychological, physical, social and educative and economic impacts of child sexual abuse.⁸ Many of these factors often underpin offending behavior. All survivors of institutional child sexual abuse, including those who have committed criminal offences, should be entitled to access the redress scheme. An exclusion of this nature runs contrary to the recommendations of the Royal Commission.
15. The NSSRN does not support the use of rules to exclude certain people or classes of people from accessing redress under the scheme. The eligibility criteria should be clearly outlined in the proposed legislation without further interference.

The need to provide a truly national redress scheme

16. The Royal Commission found that the incidence of institutional child sexual abuse was extremely prevalent. An actuarial report provided to the Royal Commission estimated that there may be 60,000 redress scheme claimants nationally.⁹ However, it has been estimated that this Bill's scheme will only provide payments to approximately 1000 survivors – people who experienced abuse in Commonwealth and territory institutions.¹⁰
17. The proposed scheme falls grossly short of providing a national scheme. The States have not been compelled to participate, and responsible institutions have to opt into the scheme. We urge the government to proactively ensure that any implemented redress scheme extensively covers the vast numbers of survivors. The redress scheme must be fair, accessible and accommodate the various needs of survivors.

Conclusion

18. Redress scheme payments are not intended to provide survivors with a means of financial support, rather they are aimed at acknowledging the deep harm caused by abuse. In consideration of this, payments under the redress scheme, and any gifts or purchases made from these payments, should not impact the entitlements available to survivors under social security law. They must be exempt not only from income assessments but also asset assessments.

Contact for this submission

The NSSRN would welcome the opportunity to provide further feedback to the Committee on our submission.

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<http://www.abc.net.au/news/2017-10-26/sex-offenders-to-be-excluded-from-child-abuse-redress-scheme/9087256>.

8 Dr Tamara Blakemore, Dr James Leslie Herbert, Professor Fiona Arney & Ms Samantha Parkinson, 'Impacts of Institutional Child Sexual Abuse on Victims/Survivors: A Rapid Review of Research Findings' (Report, Royal Commission into Institutional Responses to Child Sexual Abuse, 2017).

9 Royal Commission into Institutional Responses to Child Sexual Abuse, 'Final Report – Redress and Civil Litigation', (2015) 8.

10 'Sex offenders will not get abuse redress', *SBS News* (online), 26 October 2017, <<https://www.sbs.com.au/news/sex-offenders-will-not-get-abuse-redress>>.