

Private Briefing – 16 September 2020
ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme -
Question 1 - Case Coordination Module

Question reference number: SQ20-000605

Member: Sharon Claydon

Type of Question: Spoken. Hansard Page/s: 2 - 3

Date set by the Committee for the return of answer: 15 October 2020

Question:

Ms CLAYDON: So, to be clear, there's been no shift from the case coordination model?

Ms Creech: Not from the model. As I say, we do continue with the case coordination model. We have focused it more specifically, though, on those front-end application processing stages. There may be some applicants who needed to shift to a new case coordinator where we've had staff impacted by COVID, but I think that would be a relatively small number.

Ms CLAYDON: So people reporting that they're getting phone calls from four different officers about various questions and matters—are you suggesting that's an unusual experience?

Ms Creech: Yes. That doesn't sound like what should be a standard process.

Ms CLAYDON: I am very interested to know how much adherence there has been, I guess, to the case coordination model, because it is certainly being reported to me that people's experience is no longer one case manager.

Ms Creech: Okay. We will take that on notice.

Answer:

In April 2019, the Scheme implemented a Case Coordination model, assigning a named point of contact for all applicants. The Scheme has since adapted this model based on experience of what works to support survivors and their preferences, and due to the current context of COVID-19 and necessary adjustments to operate with a workforce partially working from home.

The current Case Coordination model balances the preference of some applicants for a single point of contact and the need to involve specialist skill teams to maintain timely and quality application processing. The model prioritises consistent messaging for applicants, which reflects feedback from consultations with survivors and survivor advocacy groups.

For applicants with increased vulnerability, the Scheme offers a specialist service through a named single point of contact.

All other applicants have access to a named contact who has oversight of their application until the redress outcome is determined (but who may not undertake all application processing tasks). Other specialist teams work on the application across stages of processing where specialist skills are required. All applicants can request to continue to speak with their named contact at any time or can contact the Scheme's specialist call handling team for information, including an update on the progress of their application.

Joint Select Committee on Implementation of the National Redress Scheme

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ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme -
Question 2 - Case Coordination Model

Question reference number: SQ20-000606

Member: Sharon Claydon

Type of Question: Spoken. Hansard Page/s: 3

Date set by the Committee for the return of answer: 15 October 2020

Question:

Ms CLAYDON: There has not been any structural change within the organisation to move away from that, according to what you've just talked to us about? I want to clarify that there's been no change in your budget or the number of FTEs in the organisation that would force a shift away from the case coordination model.

Ms Hefren-Webb: No, there's been no change to the budget being provided to the Redress Group that would have driven any change away from case coordination. There are the factors that Ms Creech talked about—we don't think it's appropriate for people to call Redress applicants from home, just because of the nature of the conversations being highly private. So that might have led to some people having a change in case coordinator. We do, of course, have staff turnover. It's unfortunate, and I know it can be hard for a survivor when the person they've been dealing with leaves—that does happen—but there's no structural driver around moving away from it.

Ms CLAYDON: You can take this on notice. I don't expect you to have this information to hand now. I am interested in the staff turnover and what's happening on that front, because that's a lot for any organisation to deal with but it has obvious implications for the case management model.

Answer:

Staffing changes for case coordinators are monitored on a monthly basis, and over the 2019-20 financial year, the turnover rate averages 6.3 per cent a month. This includes staff who move to other roles within the National Redress Scheme.

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Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme - Question 3

Question reference number: SQ20-000607

Member: Sharon Claydon

Type of Question: Spoken. Hansard Page/s: 3 - 4

Date set by the Committee for the return of answer: 15 October 2020

Question:

Ms CLAYDON: Sorry, could I just interrupt you. My concern is very specific. It is that there is a best-practice model that has been agreed to. I understand that NGOs are not adhering to that. They are in fact arguing that they're not required to. So I am seeking clarification from the department. I am advised government agencies are adhering to that but NGOs are not. I'm wondering whether this might give some insight as to why so few DPRs are actually taking place. Are you saying that there is a legislative requirement for NGOs, as institutions, to adhere to the best-practice model of direct personal responses that was devised through the DART task force. Is that what you think is happening?

Ms Hefren-Webb: Institutions are bound to comply with the legislation. Can we come back to you on exactly what that means in terms of best practice et cetera?

Ms CLAYDON: Yes, please.

Ms Hefren-Webb: Yes, they are bound to that. As we said, we're interested in feedback, and we'd be very happy to pursue any complaints.

Ms CLAYDON: I'm happy for you to take that on notice. I'm very interested to know what the legislative requirement is for non-government agencies in the DPR, and, particularly, whether they are required to adhere to that best-practice model that everybody, as I understand it, signed up and agreed to.

Ms Hefren-Webb: Certainly. We can provide that for you.

Answer:

The legislative requirements of institutions in providing a Direct Personal Response (DPR) are detailed in both the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the Act) and the *Institutional Child Sexual Abuse Direct Personal Response Framework 2018* (the Framework).

The legislation and Framework applies equally to all participating government and non-government institutions under the Scheme.

To assist participating institutions to comply with the legislative requirements, a Direct Personal Response Guidance Handbook has been developed. The Handbook provides best practice guidance to support institutions to establish and implement effective and safe engagements with survivors in DPR processes.

The Act can be found at: <https://www.legislation.gov.au/Details/C2018A00045>

The Framework can be found at: <https://www.legislation.gov.au/Details/F2018L00970>

Joint Select Committee on Implementation of the National Redress Scheme

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ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme – Question 5

Question reference number: SQ20-000609

Senator: Marielle Smith

Type of Question: Spoken. Hansard Page/s:

Date set by the Committee for the return of answer: 15 October 2020

Question:

Senator MARIELLE SMITH: I'd appreciate that. Notwithstanding the complexities in the data, if you can get me the best answer or the best data you can, which kind of goes to the answer of that. The other question I have, which may fall into the same category, is: how many survivors made applications in respect of the organisations who may not be eligible for funder-of-last-resort payments? Can you tell me now or would you have to come back to me on it?

Ms McGuirk: We'll come back to you on that on notice.

Answer:

As at 7 October 2020, there are 41 Non-Government Institutions (NGIs) named in 51 applications that appear to be defunct, with no parent organisation, and cannot be progressed under the existing Funder of Last Resort provisions; on top of this 15 defunct NGIs have a Funder of Last Resort provision.

This matter is being considered by the second year review.

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ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme -
Question 6 - The Prince's Trust

Question reference number: SQ20-000610

Senator: Dean Smith

Type of Question: Spoken. Hansard Page/s: 6

Date set by the Committee for the return of answer: 15 October 2020

Question:

CHAIR: To give you an early heads-up, my questions go to The Prince's Trust, the independence/privacy of the independent review process that's now underway and also what follow-up actions were taken with regard to the ABC Radio background briefing story on the unscrupulous legal firms. But I'll start with some evidence you've already given to us. Of the 51 organisations that appear to be defunct—this was some of your evidence earlier in the briefing—what is the state or territory breakdown?

Ms McGuirk: We don't have that information with us today. I'm happy to take that on notice for you.

Answer:

As at 7 October 2020, 61 non-government institutions (NGIs) appear to be defunct. A breakdown of these NGIs by state and territory is outlined below:

State/Territory	Number of defunct NGIs
Australian Capital Territory	<5
New South Wales	13
Northern Territory	<5
Queensland	19
South Australia	5
Tasmania	<5
Victoria	13
Western Australia	5

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ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme - Question 8

Question reference number: SQ20-000612

Senator: Dean Smith

Type of Question: Spoken. Hansard Page/s: 8

Date set by the Committee for the return of answer: 15 October 2020

Question:

CHAIR: So these five remedies that knowmore has identified and that require the Commonwealth to discuss with states and territories—are they all of a legal legislative nature?

Mr Riley: I'd have to take that on notice, because I don't have it in front of me. My recollection is that, yes, they are; they're to do with the regulation of private law firms.

CHAIR: I'd be interested in understanding, because knowmore will participate in a public hearing, and I'm sure the committee will ask them their view about these sorts of things. So, on notice, can you share with the committee what is the time frame for having those matters resolved?

Ms Hefren-Webb: We'll certainly provide that on notice. I think, as we've talked about in previous times, over the course of the Redress Scheme, we've done a fair bit of outreach to the law societies et cetera to try and encourage them to reach out to their membership and make sure their membership is aware that people have access to a free legal service and that there is no requirement for people seeking redress to come through a private lawyer, notwithstanding that obviously we still have issues. I think knowmore's strategies are designed to see what else is possible. We'll certainly provide on notice the range of ideas they've got and the timing around that.

Answer:

knowmore's Joint Select Committee on Implementation of the National Redress Scheme submission outlines five recommendations to address concerns around "exploitative practices" by private law-firms under the Scheme. A summary of the recommendations is below, with the full recommendations available in knowmore's submission at www.apf.gov.au/Parliamentary_Business/Committees/Joint/National_Redress_Scheme/NationalRedressScheme/Submissions.

1. Amendments to the Scheme's legislative framework to cap the fees lawyers can charge applicants for services delivered in relation to the Scheme.
2. Publication of expected practice standards for lawyers and advocates providing services to applicants in relation to the Scheme.
3. Commonwealth and state/territory government legislative response similar to that enacted in Queensland to combat 'claim farming' around motor vehicle accidents. Approach would prohibit the giving/receiving of financial incentives for the referral of applicants, require lawyers assisting applicants to certify they have not engaged in claim farming, and equip a body with investigative and prosecution powers.
4. Information for applicants relevant to their decision to hire a lawyer or survivor advocate including key factors they may wish to consider, any cap on fees and how they can make a complaint.
5. Establishment of a complaints process to identify and address concerns about the conduct of lawyers and survivor advocates in relation to the Scheme.

The department sought initial legal advice on these options, which outlined that many would fall within the remit of state/territory governments. Officials will continue discussions with jurisdictions on possible opportunities to address them, noting that any implementation would likely be longer-term due to the complexity involved.

The department is also implementing communication and engagement options to address the issues. This includes sponsoring key search terms and progressing website updates to improve the Scheme website's search results position in relation to private law-firms (both have commenced as at October 2020), and is considering other strategies to be agreed with jurisdictions.

The department understands that knowmore has engaged with Robyn Kruk AO and followed up with a submission to the Second Anniversary Review.

Joint Select Committee on Implementation of the National Redress Scheme

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Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme - Question

Question reference number: SQ20-000613

Member: Sharon Claydon

Type of Question: Spoken. Hansard Page/s:

Date set by the Committee for the return of answer: 15 October 2020

Question:

Ms CLAYDON: I've got a follow-up from my other line of questioning, around the direct personal responses. I've also heard about an increase in those DPRs being accompanied by a non-disparagement agreement which prevents survivors from making negative comments about the abusing organisation or institution. Are you aware of this practice?

Ms Hefren-Webb: No, we're not aware of that practice. It's the first that we've heard of it.

Ms CLAYDON: Is there anything that can be done to prevent this from occurring, if it's found to be—

Ms Hefren-Webb: My sense is that it would not be consistent with requirements in the legislation, but we'll follow that up. As I said, we have not heard of that occurring so we'll follow that up.

Ms CLAYDON: So there are two things that I'm asking you to follow-up. One was adherence to the best-practice model, particularly by the NGOs—

Ms Hefren-Webb: Yes.

Answer:

No reports of non-disparagement agreements have been made to the National Redress Scheme. We would encourage any survivor or their support person to notify the Scheme if an institution has provided such an agreement to a survivor.

Under the National Redress Scheme (the Scheme), participating non-government institutions are required to comply with the *National Redress Scheme for Institutional Child Sexual Abuse Direct Personal Response Framework 2018* (the Framework). The Framework is a legislative instrument made under section 55 of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*. The Framework is based on best practice and outlines the core elements of what a DPR must contain under the Scheme. This is in accordance with

survivor-focused and restorative principles that are designed to avoid further harm to survivors. In particular, the responsible institution has the obligation to ‘seek to avoid further harming the survivor’ (Section 11(e)). Participating non-government institutions sign a Memorandum of Understanding stating their adherence to the Framework. The Scheme also supports institutions to model their DPR engagement on best practice methodologies through the provision of training and guidance materials.

The use of non-disparagement agreements does not align with the survivor-focussed model the Scheme promotes. **The Scheme does not condone nor support such agreements.** The DPR Guidance Handbook V1.2 (April 2020) provides updated advice on informed participation. Following informal consultations with jurisdictions, the Scheme amended previous guidance that encouraged institutions to seek signed consent from survivors to participate in DPR. Feedback was that survivors may have hesitations about providing formal consent. The Scheme recommends that institutions provide survivors with written information outlining the key details of the DPR process and for the institutional representative to sign a statement of understanding. Signing this is an act of commitment to the parameters of the process and may assist survivors to build a sense of trust in the process and in the representative.

The Scheme is strengthening its policies and guidelines to remove any ambiguity and ensure institutions are clear that non-disparagement agreements are not in line with the Framework.

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Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme - Question 10

Question reference number: SQ20-000614

Member: Sharon Claydon

Type of Question: Spoken. Hansard Page/s: 9

Date set by the Committee for the return of answer: 15 October 2020

Question:

Ms CLAYDON: From my understanding, government agencies are adhering to those so I'm not so much interested in those ones. And then the second one is an inquiry about DPRs having non-disparagement agreements attached to them. That would be very helpful. I'll just go back to where you were going to look at the [inaudible], and you can take this on notice. We looked at the skills and qualifications for the ODMs but I'm now interested in what skills and qualifications are prioritised when recruiting new Redress Scheme case managers. Then, once they're recruited, what is the formal training process for new employees and what pathways are there for ongoing professional development to ensure trauma-informed practice? I'm happy for you to take that on notice, unless somebody wishes to answer that now. And there is also the current rate of attrition, obviously, for those case managers in particular.

Ms Hefren-Webb: We'll provide you with that on notice.

Answer:

Responses to questions on DPR are provided in SQ20-000613; and responses to questions on staff attrition rates are provided in SQ20-000606.

Staff within the National Redress Scheme (the Scheme) perform a range of activities including speaking with survivors, undertaking administrative processes and undertaking detailed research and analysis. The department therefore seeks a diverse range of skills, knowledge and attributes when recruiting. Staff within the Scheme have experience in a range of professional backgrounds including government, social services, health and allied services.

The Scheme also staffs a 'clinical team' to support a range of survivor facing activities, and support staff to engage with applicants. Staff recruited to these positions must have formal qualifications in counselling, psychology or social work.

Staff training has included:

- National Redress Scheme policy and legislation – full end to end training on administering the Scheme
- Protected Information
- Technical training on relevant redress systems and processes
- Unauthorised access and misuse of information
- Values, Ethics & Respect
- Multicultural Customer Services
- Indigenous Cultural Learning
- Child Safety – General Awareness
- Lifeline: Accidental Counsellor
- BlueKnot: Trauma Informed
- APS Values and Behaviours
- Privacy Awareness
- Freedom of Information
- Mental Health Awareness
- Fraud Awareness
- Work Health and Safety
- Diversity and Inclusion
- Financial Principles.

Core training on Redress Scheme elements are provided at induction and other modules are undertaken iteratively after commencement, with further refresher modules occurring as required.

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Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme - Question 12

Question reference number: SQ20-000616

Member: Sharon Claydon

Type of Question: Spoken. Hansard Page/s: 9

Date set by the Committee for the return of answer: 15 October 2020

Question:

Ms CLAYDON: Thank you. Just given that those are all on notice, another issue that I am interested in is if you could explain how mandatory reporting works in relation to Redress Scheme applications.

Ms Hefren-Webb: We have a policy around mandatory safe child reporting. We've actually just commissioned an independent review of that policy to ensure that it's operating as intended and is fit for purpose. We'll provide what the current process is on notice. I expect that in the next month or so we'll get some reporting from an independent review and, if we make any adjustments as a result, we'll also provide that to you.

Answer:

The Scheme's policy on mandatory reporting is activated where the Scheme suspects that children are currently at risk of being abused. The relevant circumstances are where:

- The applicant is under the age of 18; or
- The alleged abuser is still working with children (where the Scheme is made aware); or
- The alleged abuser has their own children (where the Scheme is made aware); or
- There is any other reason that children may be at risk of being abused; or
- The abuse occurred in the last 10 years.

Before making a report to police, the Scheme will contact the applicant to inform them that a report will be made and ask them if they wish to be identified in the report. If an applicant does not wish to be identified, a blind report will be made.

Once the Scheme makes a report, the police are responsible for investigating the allegations. The Scheme is not notified of the outcome of any investigations.

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ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme -
Question 14

Question reference number: SQ20-000618

Member: Sharon Claydon

Type of Question: Spoken. Hansard Page/s:

Date set by the Committee for the return of answer: 15 October 2020

Question:

Ms CLAYDON: Thank you. And I have one last question. The 30 March 2020 communique from the Ministers Redress Scheme Governance Board meeting of the same date said: Ministers acknowledged the need for strong transparency of the Scheme's performance and agreed on a set of performance measures ...

So, could you please provide some information regarding what those measures are—the set of performance measures—and what information will be used to assess performance?

Ms McGuirk: Yes. Do you want us to do that now? Or do you want that on notice as well?

Ms CLAYDON: I am happy for you to take that on notice. That's fine.

Ms McGuirk: Yes.

Answer:

On 30 March 2020, the Redress Scheme Ministers' Governance Board agreed to six success measures:

- Application timeliness
- The survivor journey
- Survivor acceptance
- Maintaining institutional participation
- Scheme accessibility
- Support service accessibility

The Department of Social Services (the department) has existing administrative data available to report against five of the success measures. The survivor journey measure requires direct feedback from survivors to understand their experiences of the National Redress Scheme. The department has engaged Whereto Research to consult with appropriate stakeholders and develop a survey to report against the survivor journey measure.

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ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on Implementation of the National Redress Scheme -
Question 7 - Fairbridge

Question reference number: SQ20-000619

Senator: Dean Smith

Type of Question: Spoken. Hansard Page/s: 6

Date set by the Committee for the return of answer: 9 October 2020

Question:

CHAIR: Okay. To what extent will the commitments of the Commonwealth and other state jurisdictions to remove charity and other financial benefits from organisations—to what extent are Fairbridge and The Prince's Trust exposed to those levers here in Australia?

Ms Stuart: I can tell you that, based on our own information that we've taken from publicly available information, those organisations do not have charitable status in Australia. In fact, Fairbridge Restored, as it's a company in the UK that's currently under administration, is not really in operation in any meaningful way; it's been brought back to life to be wound up through the administration process. Also, based on information that's publicly available, I don't believe that those organisations receive Commonwealth funding.

CHAIR: What is the relationship between the Prince's Trust and Fairbridge Restored?

Ms Stuart: I probably would like to take that on notice and get you a precise answer on exactly what the legal relationship is. But my understanding is that there's not a formal legal relationship between the Prince's Trust and Fairbridge; they are separate legal entities. The Prince's Trust has taken interest in the child migrant issues only because, when the previous Fairbridge was in existence and it was wound up, there was a merger or absorption in some way under UK law. So, the Prince's Trust takes an interest in child migrant issues and has that kind of historical view. But my understanding is that, given that the Fairbridge company has now been restored in and of itself, they are technically separate entities.

Answer:

The Fairbridge Society UK previously merged with the Prince's Trust. Fairbridge UK was dissolved as a company over seven years ago.

The Prince's Trust applied to the UK Companies Court to restore Fairbridge to the Register of Companies. Fairbridge (Restored) Limited (FRL) was established in February 2020, and was immediately placed into administration so that various liabilities made against the company could be investigated by the Administrators.

FRL operates under company number 00176613 and the Prince's Trust operates under company number 09090276.