

Dear Senator Brockman

The Centre for Excellence in Child and Family Welfare (the Centre) welcomes the opportunity to make a submission to the Senate Community Affairs Legislation Committee Inquiry into the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 (the Scheme) and related bill.

Who we are

The Centre is the peak body for child and family services in Victoria. For over 100 years we have advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 community service organisations, students and individuals throughout Victoria working across the continuum of child and family services, from prevention and early intervention to the provision of out-of-home care. Many of our member organisations work with Aboriginal children and families and Aboriginal Community Controlled Organisations (ACCOs). Our members have a deep understanding of the profound and life-changing impact of sexual and other forms of institutional abuse on children.

Our member consultations

The Centre also welcomes the recently released findings of the Royal Commission into Institutional Responses to Child Sexual Abuse.

During the time the Royal Commission was gathering its evidence, the Centre facilitated several redress forums for our member organisations to provide information about the work of the Royal Commission. We have consistently highlighted to our members the importance of implementing child safe policies as a preventative measure to abuse in care and appropriate responses to children abused in care settings and their families.

We recently conducted a targeted consultation with members from regional, rural and metropolitan areas. These organisations varied in size, faith, and historical experiences. They included Forgotten Australians and Open Place, which provide support to people who grew up in institutional care.

Our position on the Scheme

Consistent with our 2014 submission on redress schemes to the Royal Commission, the Centre supports a national redress scheme for children abused in care. This is because Commonwealth and State Governments, together with those institutions contracted to care for children, are responsible for what happened, and continues to happen, to children in care settings. Commonwealth and State Governments are responsible for policies – such as child migrant policies and the Stolen Generation – that have harmed many children irreparably. Over the years, various inquiries have highlighted the abuse of children in care settings, their needs post care, and the actions that Governments must take if reparation is to be made. Accordingly, the Centre believes it is fitting that Commonwealth and State Governments and institutions responsible for the care of children should contribute to a national redress scheme.

We note that the proposed Scheme will provide an avenue for some victims/survivors who do not want to approach an organisation directly. We recognise the benefits of a Commonwealth Scheme that will provide a consistent approach, be easy to access, operate on a low standard of proof, and not be connected to a faith.

However, the proposed Scheme contains several limitations that will need to be addressed if the Scheme is to be effective.

Exclusions

Member organisations have expressed concern that the Scheme will only provide redress for child sexual abuse and that it excludes victims/survivors who have been convicted of offences or have spent time in prison. This was a strong theme in the feedback we received from our sector – that the Scheme discriminates against people who have already suffered. Excluding prisoners from the Scheme is another form of punishment for these victims/survivors whose lives have been damaged profoundly by the abuse they received as children at the hands of trusted adults.

Often prisoners and those convicted of crimes have been sexually abused as children in care and have missed out on education and employment and the opportunity to have meaningful connections in the community. They have been left disenfranchised from community and it is not surprising that there is a higher rate of offending behaviour [interviewee, non-government organisation].

While it is recognised that redress scheme should keep to the terms of the Royal Commission, many member organisations who provided feedback also felt that the Royal Commission's terms of reference were limited by focusing only on institutional child sexual abuse and no other forms of abuse.

The scheme has to respond to all forms of harm and deprivation people experienced in care not just sexual abuse [interviewee, non-government organisation].

It was felt that the Scheme could be adapted and moved closer to the benchmarks and standard set by the Royal Commission.

Opt-in nature of Scheme

Another limitation of the Scheme is the fact that it is not mandatory and that the states and territories need to opt into the Scheme. For non-government organisations in Victoria to participate in the Scheme the state must have opted in.

If many organisations across different states and territories already have redress schemes that are working, and if these schemes are broader and more generous, why would states want to go into the Commonwealth scheme? There is also the potential for unfairness as the amount individuals will receive will be dependent on which organisations opt in.

Level of payment

The level of payment is below what the Royal Commission recommended (\$150k and not \$200k) without a clearly articulated rationale for this discrepancy.

Lack of clarity

Organisations raised concerns about how the counselling and legal support would be paid for. It is not clear if this counselling is for the life of the victim/survivor or for the life of the Scheme or whether it will be appropriate. It is also not clear who funds the legal advice and whether there is some provision to protect claimants from paying excessive legal fees. The Centre seeks greater clarity around these issues.

One Aboriginal service expressed concern that there appears to be no provision for legal and counselling services for Aboriginal people specifically. There is no provision in the Scheme for a dedicated telephone hotline and website that is culturally sensitive.

The governance of the Scheme is also unclear. For example, how will a Commonwealth Scheme operate? Will organisations have any say in the running of the Scheme? Will there be an advisory group made up of faith and non-faith organisations? Who is the administrator and does this mean one person will read all the claims and arrive at a decision or will it be a panel making the decisions? If the operator/administrator is a Commonwealth Government department then this would not make it an independent group.

Assessment of claims

Those institutions who will be providing payments for victims/survivors are concerned that the Scheme will not allow them to engage in the process or to have the right of reply when a victim makes a claim. Organisations seek greater clarity around the threshold for evidence and would like to be able to review the evidence to ensure that the victim/survivor is making a claim against the right organisation.

In conclusion

The Centre regards the proposed Commonwealth redress scheme as a critical step in reparation for past wrongs done to thousands of children by governments and institutions.

However, we believe strongly that a redress scheme should not limit eligibility only to those who were sexually abused as children in institutional care. Redress should extend to all children who suffered forms of abuse while in care settings – sexual abuse, physical abuse, emotional and psychological abuse, neglect and forced separation from their families. Individuals who have suffered as children should not be doubly punished for the culpability of adults by being excluded from compensation and services because they have been offenders or in prison.

Non-government organisations need to have some input into the governance of a Commonwealth Scheme to maximise their engagement with the process.

The Scheme needs to be administered by an independent body and needs to be transparent.

The Centre believes that for the Scheme to be effective it needs to be truly national. It cannot be national unless the states and territories sign up to it. Some jurisdictions are waiting for more clarification about costs and obligations. However there is urgency around this for victim survivors who are ageing and unwell and need prompt resolution.