



blue knot
foundation

empowering recovery from childhood trauma

**Inquiry into the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill
2017 and Commonwealth Redress Scheme for Institutional Child Sexual Abuse
(Consequential Amendments) Bill 2017**

Dear Community Affairs Legislation Committee,

Thank you for this opportunity to submit a response to the above inquiry. The provision of fair and equitable redress to victims/survivors of Institutional Child Sexual Abuse is a vital step in:

- honouring the courage of tens of thousands of victims of the crime of child sexual abuse in our institutions
- honouring the Redress and Civil Litigation report and recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse
- thousands of 'responsible' Australian institutions acknowledging the harm done to children for whom they were responsible

The following comments are made in consideration of the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017. Blue Knot Foundation would like to note the challenges in fully commenting on the Bill and Consequential Amendments in the absence of visibility of the Rules, which relate to many areas under consideration.

Page 3;

- Clause 3 (1) Objects of act: Suggest additional object
 - **provide pathways to healing i.e. generate meaningful, symbolic, tangible and just responses, which can make a significant difference in a survivor's life**
- Clause 3 (2) Amend object
 - (c) Amend to specify: implement Commonwealth's response to **the recommendations around Redress included in Report on Redress and Civil Litigation**

Page 13; Clause 13 General principles guiding actions of officers under the scheme

- Suggest following amendments to (2)

Redress under the scheme should be survivor-focussed i.e. **good enough for each survivor**

- Suggest following amendments to (3)

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Redress should be assessed, offered and provided with appropriate regard to:

- (a) what is known about the nature, **dynamics** and impact of child sexual abuse, and institutional child sexual abuse in particular; and
- (b) **sensitivity to** the cultural needs of survivors;
- (c) **diversity within and across the process**
- (d) the needs of particularly vulnerable survivors
- (e) **a process which is trauma-informed i.e. embeds the trauma-informed principles of safety, trustworthiness, choice, collaboration, empowerment and focusses on the importance of how it is conducted and not just what it is**
- (f) **those working with survivors are skilled and trained in how best to work with survivors of institutional child sexual abuse**

➤ Suggest following amendments to (4)

Redress should be assessed, offered and provided so as to avoid further harming or traumatising the survivor.

- **Safety is prioritised – empathic, validating, trustworthy, respectful, compassionate**
- **Expectations are managed at all stages.**
- **Survivors have control and choice in decision-making: ‘work with’ rather than ‘do to’.**
- **Power balances are not replicated; survivors not silenced, shamed or blamed.**
- **Survivors understand the process.**
- **Information is shared; processes are open and transparent.**
- **Focus is on process not solely outcomes: ‘how’ we do it is as important as ‘what’ we do.**

Clause 29 The need for a Statutory Declaration is an unnecessarily onerous requirement which for many survivors will be very challenging to arrange:

Page 31; Clause 35 Notice of determination to applicant

- Having minimum of 28 days and maximum of 90 days for internal review of the determination does not allow sufficient time for survivors to seek advice, consider it and make an informed request for review

Page 41; Clause 49 General Principles guiding counselling and psychological services



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Blue Knot Foundation suggests the following additional principles:

- **Survivors to be adequately informed to enable informed decision-making around counselling and psychological care services with skills and experience around supporting survivors of complex trauma**
- **No wrong door - principles of equity and access for all survivors regardless of socio-economic status, geography etc.**
- **Additional psycho-social support around challenges of daily living and/or other stresses**
- **Counselling and therapeutic care available when and as required to meet client's needs with maximum flexibility to meet survivors' counselling needs throughout their lives**

Page 43; Clause 52 General principles guiding provision of direct personal responses

- Blue Knot Foundation suggests the following amendments to the existing principles:
 - (1) Engagement between a survivor and a participating institution should only occur if, and to the extent, that a survivor desires it.
 - (2) Participating institutions should make clear what they are willing to offer and provide, **how and by whom** by way of direct personal response to survivors.
 - (3) Institutions should ensure that they are able to provide the direct personal response that they offer to survivors, **privileging trauma-informed principles of safety, trustworthiness, choice, collaboration and empowerment at all times.**
 - (4) All participating institutions should offer and provide on request by a survivor:
 - (a) meaningful recognition of the institution's responsibility by way of a statement of apology, acknowledgement or regret;
 - (b) **an assurance as to steps taken to protect against further abuse, including relevant information to evidence such changes.**
 - (5) In offering direct personal responses, participating institutions should try to **be as responsive as possible to survivors' needs, choices and wishes.**
 - (6) Participating institutions that already offer a broader range of direct personal responses to survivors and others should consider continuing to offer those forms of direct personal response.
 - (7) **Direct personal responses should be delivered by people with active listening skills and who have received trauma-informed training about:**
 - **the nature, dynamics and impact of institutional child sexual abuse**
 - **stress response – hyper and hypo-arousal; triggers, emotional regulation etc.**



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- **the needs of survivors – choice e.g. time, place, format, presence of support person etc.**
- **issues of power, secrecy, control**
- **parallel processes**
- **importance of physical and emotional safety**
- **cultural awareness and sensitivity training where relevant.**

(8) Participating institutions should welcome feedback from survivors about the direct personal response they offer and provide, **and undergo a documented process of continual quality improvement informed by feedback.**

Page 54; Clause 69 Power to request information from applicants

- Blue Knot Foundation considers that 14 days is too short a time to reasonably expect a survivor to provide additional information, with an extension to only be provided under exceptional circumstances. We would propose that 30 days should be minimum time.

Page 61; Clause 77 Disclosure by the Operator under certain circumstances

As the current clause states:

The Operator may disclose protected information that was acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under this Act if:

(a) the Operator certifies that the disclosure is necessary in the public interest to do so in a particular case or class of cases and the disclosure is to such persons and for such purposes as the Operator determines;

- It would be important to understand the limits of 'a particular case or class of cases' as this requirement needs to be balanced against a survivor's rights to confidentiality.

Page 64; Clause 79 Additional disclosure – insurance purposes etc.

As the current clause states:

(3) However, before a person discloses information that relates to another person who has applied for redress, the person must have regard to the impact the disclosure might have on the other person.

- Blue Knot Foundation feels this clause allows significant discretion to a representative of an institution to make a subjective decision based on their view of likely impact of disclosing such information on a survivor. This feels inadequate as it currently stands.

For additional information please do not hesitate to contact:

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