

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme - Question 1

Question reference number: SQ20-000326

Member: Sharon Claydon MP

Type of Question: Spoken. Hansard Page/s: 50

Date set by the Committee for the return of answer: 17 April 2020

Question:

Ms CLAYDON: There was a concern, which was put to us by CLAN, around the challenges in trying to get data regarding how many state wards were actually applying for redress and across what states and territories. They were advised that that information was not available yet. There is a question on the form which asks people to identify if they were a state ward or not. Can you explain why it is that CLAN or other organisations, including us, might not be able to get that breakdown of how many applicants in the Redress Scheme are care leavers, for example?

Ms McGuirk: We certainly should be able to look at that information. I can't fill you in on why CLAN, and potentially other organisations, have said that that is the case. Certainly, I'm quite happy to take that broad issue on notice and see what I can provide to the committee, but I'm pretty sure we should be able to give you something on that.

Answer:

The Scheme is constantly working on improving its data capability. As at 3 April 2020, 2,799 applicants have identified as a state ward in their application. The following table shows the state of residence for applicants who identified as a state ward.

| Current residential state | Count of applicants who indicated that they were a state ward |
|---------------------------|---|
| ACT | 20 |
| NSW | 364 |
| NT | 39 |
| QLD | 827 |
| SA | 182 |
| TAS | 205 |
| VIC | 528 |
| WA | 622 |
| OVERSEAS | 12 |
| Total | 2,799 |

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme - Question 2

Question reference number: SQ20-000327

Member: Sharon Claydon MP

Type of Question: Spoken. Hansard Page/s: 50

Date set by the Committee for the return of answer: 17 April 2020

Question:

Ms CLAYDON: I'm not sure whether you'll be able to answer this, but the other question that came up in evidence this afternoon was around people being charged for freedom-of-information requests to, say, the department of education or a range of places when trying to get information to support their application for redress. Are you aware of this, and do you have any advice for us—firstly, are you aware of that happening?

Ms McGuirk: I'm not personally aware of that. I can look into it for the committee and get back. I think that's probably the best way to respond to this one.

Ms CLAYDON: If you could get back to us, that would be good—and also, what avenues are available for people to have those fees waived.

Ms McGuirk: Absolutely. We'll provide as comprehensive an answer on that as we can.

Answer:

There is no charge to make a request for information under the *Freedom of Information Act 1982* (Commonwealth). There is also no charge for a request to access a person's own personal information. However, a department may charge a person for all or some of the costs associated with processing a non-personal request. A person can dispute the charge on the basis it will cause financial hardship or that disclosing the requested information is in the public interest. Applying for a review of the charge is free. The department from which the person is requesting information manages this process.

Each jurisdiction has its own freedom of information or information access legislation and process, which may vary from the Commonwealth arrangements outlined above. Some jurisdictions charge fees for requesting information and for processing requests. All jurisdictions have a process through which a person can dispute the associated charges.

A person is not required to make a freedom of information request to seek information to support their application to the National Redress Scheme (the Scheme). However, they can do so if they wish.

The Scheme has procedures in place to seek information from participating institutions that may assist in the processing of an application. These requests for information are made by the Scheme and there is no cost to the applicant.

Under section 25 of the *National Redress Scheme for Institutional Child Sexual Abuse 2018* the Scheme must send a request for information from participating institutions named in an application or if the Scheme reasonably believes a participating institution may be responsible for the abuse of the person. The Scheme may also request information from participating institutions if the Scheme reasonably believes the institution has information that may be relevant to determination.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

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

Question reference number: SQ20-000328

Senator: Rachel Siewert

Type of Question: Spoken. Hansard Page/s: 53

Date set by the Committee for the return of answer: 17 April 2020

Question:

Senator SIEWERT: I'll just stick to the institutions, then. Could you take this on notice if it has changed. Last time, we discussed the numbers of applications for multiple institutions. Has that data substantially changed—I'm talking about the proportion—and, if it has, can you give us the figures? If it's only slightly changed, I'm fine with you just saying it hasn't changed that much.

Ms McGuirk: It hasn't changed significantly, no. Yes, it has changed, but not greatly, and I'm happy to provide the detail of that on notice if you'd like.

Senator SIEWERT: If you could, that would be appreciated. My understanding from last time was that 70 per cent of the applications were for more than one institution.

Ms McGuirk: Yes, and that's remaining relatively steady. We talked specifically about, I believe, the number of applications where four or more institutions are named, and now that is over 2,000.

Senator SIEWERT: OK. Thank you.

Ms McGuirk: I'll provide a more granular level of detail for you on notice.

Senator SIEWERT: That would be much appreciated.

Answer:

Since 26 February 2020, the number of applications that list multiple institutions has increased, with 5,087 (77 per cent) of applications, as at 3 April 2020, naming more than one application:

- 1,564 applications name two institutions;
- 1,420 applications name three institutions;
- 861 applications name four institutions; and
- 1,242 applications name more than four institutions.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020
ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme -
Question 4

Question reference number: SQ20-000329

Senator: Dean Smith

Type of Question: Spoken. Hansard Page/s: 54

Date set by the Committee for the return of answer: 17 April 2020

Question:

CHAIR: How many nominees have been identified for applicants?

Ms McGuirk: I don't believe I have that information.

CHAIR: That's OK. We'll put that on notice.

Answer:

As at 3 April 2020, 2,024 applicants have an assistance nominee, and 148 applicants have a legal nominee.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 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: SQ20-000330

Senator: Dean Smith

Type of Question: Spoken. Hansard Page/s: 55

Date set by the Committee for the return of answer: 17 April 2020

Question:

CHAIR: There are 14 institutions that fit that characterisation. My question on notice is: how long you have been engaging with those 14 institutions? Have they been engaged with for two weeks or have they been engaged with for 18 months? Without disclosing the name of the organisations, I'd like to know how long each one of those 14 have been engaged with by the department?

Ms Cartwright: Sorry, I don't quite understand the 14. I'm looking at—

CHAIR: That's number of applications, that's right. How many organisations are there that you would categorise as 'inquiring'?

Ms Cartwright: I don't have that particular information. I can provide that on notice.

CHAIR: I have two questions. The first is: how many organisations has the department characterised as 'inquiring'? The second is: the time that the department has been engaging with them thus far? Because I suppose what myself and other members of the committee are probably trying to identify is what is the risk? What is the risk in that inquiring group of some organisations deciding not to, or declining to, sign up? Does that make sense?

Ms Cartwright: I understand what you're asking for and we'll look at that. It also can depend on the size of the institution. Also it's a lot faster for many small, lone institutions to join—

CHAIR: I understand—

Ms Cartwright: The time frames are different. But I understand what you're asking and we'll get that information to you.

Answer:

The Department of Social Services (the department) is made aware of an institution through several means, including:

- (a) An institution was named in the Royal Commission into institutional responses to child sexual abuse (the Royal Commission);
- (b) An institution was named in a National Redress Scheme for people who have experienced institutional child sexual abuse (the Scheme) application; and
- (c) An institution contacts the department to learn more about the Scheme ('institution initiated contact').

The 14 institutions originally contacted the department to join the Scheme and as a result were considered 'enquiring' institutions and subsequent to their initial enquiry, an application(s) was made to the department.

As of 1 April 2020:

- six of the 14 enquiring institutions have now committed to joining the Scheme;
- one has declined; and
- one institution has had an application withdrawn.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme - Question 6

Question reference number: SQ20-000331

Senator: Dean Smith

Type of Question: Spoken. Hansard Page/s: 55

Date set by the Committee for the return of answer: 17 April 2020

Question:

CHAIR: Thank you. I can understand the challenges with individual circumstances, and I won't cite the details, but what would be a reason or an explanation for two siblings that, unfortunately, had similar experiences involving the same institution or institutions, why would they not be getting a decision on their redress application at the same time or in a close time period? Why would there be a difference in someone getting, perhaps, positive news about their redress application and their sibling receiving no information about their redress application for some period of time? Why would a situation like that emerge?

Ms Cartwright: There may be slight nuances in each individual's application. Even when there are family members there may be another institution or another bit of information that the schemes needs to collect for the determination to be made.

CHAIR: Perhaps on notice you could expand on your answer a little bit more. I am hearing not many but enough examples of where there seems to be, unfortunately, considerable delay between family members, which then puts additional emotional stress on those family relationships.

Answer:

Since the Scheme's commencement, the Scheme Operator has received a large number of applications of varying complexity, with each application being reviewed and processed on a case by case basis. Given the unique and varying elements that constitute each individual application, processing times can vary significantly.

With respect to familial applications, which may appear at first glance to contain similar elements or shared experiences, the uniqueness of each application and experience can vary greatly. For example, custodial arrangements may differ between siblings, varying the number and extent of institutional responsibility that the scheme must consider. At the time of submitting their applications, the applicant themselves may be unaware of the specific custodial arrangements that were in place for them at the time that they experienced their abuse.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

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

Question reference number: SQ20-000332

Senator: Dean Smith

Type of Question: Spoken. Hansard Page/s: 55

Date set by the Committee for the return of answer: 17 April 2020

Question:

CHAIR: Perhaps on notice you could expand on your answer a little bit more. I am hearing not many but enough examples of where there seems to be, unfortunately, considerable delay between family members, which then puts additional emotional stress on those family relationships. Going to the governance structure, the cooperation between the Commonwealth and the states, is it a unanimous agreement of each jurisdiction before scheme design issues can be incorporated or is it a majority decision?

Ms McGuirk: It depends on the nature of the decision that's required. What is it changing? Does it have a financial impact? Is it rules? There's a variety of different things. We have a system that's linked to the number of expected applications. For example, where we expected the application to come from some states, their vote is worth a little more. Probably the best way to do this would be to provide you with an explanation, on notice, setting out the different categories.

CHAIR: Perfect. That's exactly where I was going. I was wondering whether or not that document was publicly available and whether I had just overlooked it somewhere.

Ms McGuirk: No. It's in the intergovernmental agreement, but we're quite happy to provide that to the appropriate expert, on notice.

Answer:

The *Intergovernmental Agreement on the National Redress Scheme for Institutional Child Sexual Abuse* (the Agreement) provides the basis for the Commonwealth and participating state and territory governments to work together to implement the Scheme.

The Agreement sets out the:

- a) roles and responsibilities of the Commonwealth and participating state and territory governments
- b) governance arrangements
- c) financial arrangements
- d) implementation arrangements, and
- e) Scheme operational arrangements.

The Agreement establishes the Ministers' Redress Scheme Governance Board (the Board) that consists of the Commonwealth Minister and other state and territory ministers responsible for redress in participating jurisdictions. The Board is responsible for the proper, efficient and effective performance of the Scheme. The Board has decision-making powers in relation to proposed amendments to primary legislation, rules and policy guidelines.

The Board has the following functions:

1. Discuss key issues relating to:
 - implementation and operational matters (including review and evaluation activities);
 - emerging policy, operational or communication issues; and
 - matters relating to participation in the Scheme.
2. Discuss and agree on proposed amendments to primary legislation, rules and policy guidelines.
3. Manage cost risks.

Board members have voting rights on proposed amendments to primary legislation, the rules, policy guidelines and other matters as defined in the Board's Terms of Reference.

Matters requiring consideration by the Board are subject to either a unanimous or a two-stage voting process.

Unanimity is required for changes culminating in increased participation costs to states and territories and any major design decisions. For example:

- changes to the administrative charge
- changes to the maximum redress payment amount
- changes to the assessment framework, as set out in the Scheme legislation, which is used to work out the amount of redress payment and sharing of costs
- changes to the funder of last resort policy
- changes to the counselling and psychological care model
- changes to the scope of redress covered by the Scheme.

A two-stage voting process is required for changes to key Scheme elements (unrelated to increased participation costs and any major design decisions), where the subject matter does not require unanimous vote. The following changes would require the two-stage vote:

- changes to primary legislation
- changes to the Rules
- changes to the governance arrangements.

The first stage of the voting process requires the agreement of two-thirds of parties on the Board (each state and territory has one vote and the Commonwealth has two votes).

The second stage of the voting process requires the agreement of jurisdictions representing at least 75 per cent of the financial liability of jurisdictions, according to the estimated liability table included in the Agreement (set out below).

| Jurisdiction | Stage 1 | Stage 2 Percentage of liability |
|--------------|-----------|---------------------------------------|
| NSW | 1 | 34.45% |
| VIC | 1 | 20.36% |
| QLD | 1 | 19.36% |
| WA | 1 | 9.22% |
| SA | 1 | 6.51% |
| TAS | 1 | 4.29% |
| Cwth | 2 | 3.68% |
| NT | 1 | 1.27% |
| ACT | 1 | 0.87% |
| Total | 10 | 100% |

The Agreement is available at:

www.coag.gov.au/sites/default/files/agreements/iga-national-redress-scheme_0.docx

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 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: SQ20-000333

Member: Milton Dick MP

Type of Question: Spoken. Hansard Page/s: 56/57

Date set by the Committee for the return of answer: 17 April 2020

Question:

Mr DICK: Privacy is another issue that has been raised with me. Have we had any breaches yet of data going to the wrong place? Are we carefully monitoring this to ensure that no-one's information is being forwarded to someone who shouldn't have it? I think that's a sensitive issue.

Ms McGuirk: Yes, we do monitor that.

Mr DICK: So there have been no privacy breaches?

Ms McGuirk: There have been some privacy breaches.

Mr DICK: 'There have been some,' you say?

Ms McGuirk: Yes.

Mr DICK: What have they been?

Ms McGuirk: I don't have that. I know there have been, but I do not have that information in front of me. There have been a variety of breaches about institutions and about other people. It's a very big area. I genuinely don't have that information in front of me. If there are particular categories you'd like to understand, we can—

Mr DICK: Can we get a breakdown? I don't think it'll be a large number, but could we get a breakdown of where that's happened so that there is some quality assurance we can have a look at?

Ms McGuirk: We can have a look at what we can provide on notice to you.

Answer:

There has been one eligible data breach under the *Privacy Act 1988* in relation to the National Redress Scheme since its commencement.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme - Question 9

Question reference number: SQ20-000334

Member: Milton Dick MP

Type of Question: Spoken. Hansard Page/s: 57

Date set by the Committee for the return of answer: 17 April 2020

Question:

Mr DICK: Yes. While I have you, just on numbers, do you know how many prisoners have actually applied from prisons? I don't know but I'm guessing that's a big chunk of that. Could we get a breakdown of what states and where that's at?

Ms McGuirk: A breakdown state by state is problematic for this group because the numbers are smaller, and when we get to breaking them down by state we could potentially be breaching privacy.

Mr DICK: I've got it.

Ms McGuirk: So it's not appropriate and we can't provide that due to the low numbers in some jurisdictions. I've got a number here that I'm happy to see if I can update for you, but it was a number at the beginning of February. There were 35 applicants who had applied from jail, and there were 159 applicants who had applied with a serious criminal conviction of more than five years. But I can get you a more updated figure than that.

Answer:

As at 3 April 2020, 41 applicants have applied to the Scheme from gaol and there are 188 applicants who have applied with a serious criminal conviction of more than five years.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

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

Question reference number: SQ20-000335

Member: Milton Dick MP

Type of Question: Spoken. Hansard Page/s: 57

Date set by the Committee for the return of answer: 17 April 2020

Question:

Mr DICK: If you can, that would be great. My final question is about applications and payments. Can we get some raw data on the different types of abuses, for want of a better term—whether it has been contact, penetration, exposure. Are we collecting that sort of data on who's getting payments for different sorts of abuse?

Ms McGuirk: I'll look at what I'm able to provide you on notice. I don't have anything like that with me and I'm not sure of my ability to get exactly what you're looking for, but I'll see what I am able to provide.

Mr DICK: Thank you

Answer:

As at 3 April 2020, 1601 applications were assessed as eligible for redress, of these applications that have been finalised:

- 75% were in recognition of penetrative abuse
- 24% were in recognition of contact abuse
- 1 % were in recognition of exposure abuse

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme - Question 11

Question reference number: SQ20-000336

Member: Sharon Claydon MP

Type of Question: Spoken. Hansard Page/s: 58/59

Date set by the Committee for the return of answer: 17 April 2020

Question:

Ms CLAYDON: I understand. I know last time we spoke you mentioned the situation where 23 people had passed away while waiting for a redress payment. Are there any further updates on that? A level of concern and anxiety amongst a number of the survivor groups has been raised with us this morning. These are people who often already feel quite marginalised coping with all kinds of health issues, and are very anxious with the coronavirus environment now. I'm not sure what additional protections or services are being supplied at this time, and whether or not more people have passed away waiting for redress payments since we last talked. Can you give me an update on that.

Ms McGuirk: I don't have an updated number here. I'm happy to look at what I can provide on notice, but I will highlight that the department has written to the committee to amend that testimony. The number 23 that was provided was actually the number of payments that have been made to beneficiaries. It was actually in respect of 19 people who had died. When we pulled that piece of data—usually in the system it's 'one person one payment'. However, when we went back we realised that the information we provided to the committee was 23 payments in respect of 19 people, because there were multiple beneficiaries for some applicants—departing from our one payment one person rule. I assure the committee we have changed the way that that data is extracted now. So when I seek to update that number for you on notice, which I'm committing to do, we will be able to assure you that it will be the correct information. As I said, a few weeks ago now we sent a letter to the committee outlining and apologising for that. But I will take an update on that number on notice.

CHAIR: Just on that point—being conscious of privacy requirements—I think it would be prudent for the department to provide some context around that number of 19 if possible. It may not mean that they made applications on the first day of the operation of the scheme. They may have made applications a few months ago, or six months ago. And, of course, the age demographic around that would be an important consideration as well. I've seen this argument about people dying when they are waiting for receipt of certain payments or for certain monies owed to them or for signing up for schemes. I think the committee would appreciate whatever context the department can put around that figure, so that the figure is not incorrectly interpreted by the committee, by witnesses or by others who might have a

keen interest in the Redress Scheme. Is that point understood?

Ms McGuirk: I'll see what context we can provide, acknowledging that that is a very small number, and often breaking it down any further may potentially lead to a privacy breach.

Answer:

As at 3 April 2020, 22 applicants have died and a payment has been made to their beneficiaries. The average age of these applicants is 68 years.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

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

Question reference number: SQ20-000337

Member: Sharon Claydon MP

Type of Question: Spoken. Hansard Page/s: 59

Date set by the Committee for the return of answer: 17 April 2020

Question:

Ms CLAYDON: Chair, can you ask the department if, when they're coming back to me with the direct response, they could also include the number of complaints they've received with regard to the direct response process in relation to that policy.

Answer:

The *National Redress Scheme for Institutional Child Sexual Abuse Direct Personal Response Framework 2018* (available at www.legislation.gov.au/Details/F2018L00970) requires participating institutions to have a process for managing complaints relating to direct personal responses.

Participating institutions are required to advise survivors engaging in the direct personal response of the availability of the complaints process and of the avenues for providing feedback or complaints to the institution.

Institutions must also be available to survivors, including after any initial feedback is provided on the direct personal response and make reasonable efforts to consider and be responsive to complaints.

To date, the department is not aware of any complaints from survivors regarding the conduct of a direct personal response.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020
ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme -
Question 13

Question reference number: SQ20-000338

Senator: Rachel Siewert

Type of Question: Spoken. Hansard Page/s: 59

Date set by the Committee for the return of answer: 17 April 2020

Question:

Senator SIEWERT: I want to go back to the question that Mr Dick was following up in terms of the question I asked on the number of First Nations people who have received payments. Of the new figures you gave us—we know how many have been approved; how many have been rejected?

Ms McGuirk: I don't have that particular number in front of me. I'll have to take it on notice.

Answer:

As at 3 April 2020, 300 applicants who identify as First Nations People have received a redress payment. As at 3 April 2020 the number of First Nations People found ineligible is less than five.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Parl Com QoN - Joint Select Committee on implementation of the National Redress Scheme - Question 14

Question reference number: SQ20-000339

Senator: Rachel Siewert

Type of Question: Spoken. Hansard Page/s: 59

Date set by the Committee for the return of answer: 17 April 2020

Question:

Senator SIEWERT: That would be appreciated. Can I ask about the question beginning 'SQ 20' and ending in '80', which was about the defunct organisations. You said that there are a number of institutions that have declared it and they've been dealt with under the funder-of-last-resort arrangement. Does that mean that people who have applied to these defunct organisations have now received some redress payments?

Ms McGuirk: No. It means that we can fully process their applications through to offer. That won't necessarily result in payments for all of those applicants at this stage.

Senator SIEWERT: I notice you said you can't provide a breakdown of the amounts of redress an applicant has received. Could you take on notice: out of those seven institutions, how many applications are there in total, rather than the breakdown, and how many have received payments?

Ms McGuirk: I'll see what I can provide. A lot of that is protected information, when we're talking about the number of applications for particular institutions—

Senator SIEWERT: I want the total for all of the seven.

Ms McGuirk: I understand what you're asking and, again, I will provide to you what I can, looking at the numbers, to ensure that people can't be identified. I understand what you're trying to get to, and I'll get you as close as I can.

Answer:

As at 3 April 2020, there are seven defunct institutions declared under funder-of last-resort (FOLR) arrangements across Queensland, Tasmania, and South Australia. 28 applications are associated with these institutions under the FOLR arrangements. Of these applications, three have been finalised.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme -
Question 15

Question reference number: SQ20-000340

Senator: Rachel Siewert

Type of Question: Spoken. Hansard Page/s: 59

Date set by the Committee for the return of answer: 17 April 2020

Question:

Senator SIEWERT: Thank you. In the answer to question 79, of the top 15, Nos 2, 4 and 8 are all defunct organisations with a not insignificant number of applications. Are those three currently being pursued? If they are, have they been resolved in terms of funder of last resort?

Ms McGuirk: When we identify an institution as defunct, we look for any other existing body that could potentially take responsibility for that institution. So, similar to the answer I gave before—we don't rest when institutions indicate an inclination that they're not interested—we're the same with a defunct institution. We keep researching, trying to find any organisation that could potentially take responsibility for them. I'll check again what I can identify and what I can't. But I understand what you're asking, and I'll see what I can get for you.

Senator SIEWERT: You've obviously used the funder-of-last-resort provision under the scheme for these others. If you could give us as much information as possible on those three, that would be appreciated.

Ms McGuirk: Yes, we'll see what we can do. At the moment, our funder of last resort, as we've discussed before, is where we can link to a government of some sort. I understand what you're asking, and I'll see what I can get for you.

Answer:

Under section 162 of the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (the Act), a participating government institution can be the funder of last resort (FOLR) for a defunct institution that is not participating in the Scheme if the Scheme Operator is satisfied that:

- (a) the Operator has determined that the government institution is equally responsible with the defunct institution for the abuse; and
- (b) the defunct institution is listed for the jurisdiction that the government belongs to.

In some cases, where an institution is considered defunct, automatic deeming is also considered under Division 2 of Part 3 of the *National Redress Scheme for Institutional Child Sexual Abuse Rules 2018* (the Rules). This includes the following:

- (a) Participating government institution that arranged for non-government institution's responsibility for day-to-day care of person is equally responsible with that institution;
- (b) Equal responsibility of Commonwealth defence institution and other institution for abuse of cadet; and
- (c) Responsibility for abuse of certain child migrants from the United Kingdom and Malta.

All institutions that are defunct are considered for the automatic deeming as a first step. As at 29 February 2020, the Department of Social Services (the department) is currently investigating the institutions listed as numbers 2, 4 and 8 for FOLR including automatic deeming where appropriate.

The department has identified a potential link to government for institution 2 (45 applications) and institution 8 (13 applications) and is working with the relevant jurisdictions pending legal advice.

Further investigation is underway for the institution listed at number 4 (18 applications) to determine if FOLR provisions and/or automatic deeming can be applied.

The department is currently unable to provide detailed information on the institutions listed as numbers 2, 4 and 8 as doing so may lead to their identification and breach the disclosure of protected information requirements under the Act.

Joint Select Committee on implementation of the National Redress Scheme

Public Hearing – 19 March 2020 ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Joint Select Committee on implementation of the National Redress Scheme -
Question 16

Question reference number: SQ20-000341

Member: Sharon Claydon MP

Type of Question: Spoken. Hansard Page/s: 60

Date set by the Committee for the return of answer: 17 April 2020

Question:

Ms CLAYDON: Sure. I've just got one more question for the department on the storage issue. It's a question they can take on notice if we've run out of time. I wanted to see if they could confirm where that data on people calling up the National Redress Scheme is being stored—whether that's being stored off-site by a private contractor or offshore, where it is. I'd like that information.

Ms McGuirk: I'll provide you with the full details on notice. But I'm advised that the files are stored by Telstra in the highest level secure environment. But I'll take the rest of the details on notice, if that's acceptable.

Ms CLAYDON: So it's your understanding that Telstra is responsible for storage and protection of that data?

Ms McGuirk: Yes, it's part of the contract we have with Telstra.

Ms CLAYDON: Thank you very much.

Answer:

The data on people calling the National Redress Scheme is stored on Telstra servers on Services Australia premises and meets all relevant privacy and Scheme legislative requirements.