

Chapter 4

Conclusions and recommendations

Concluding committee view

4.1 The committee agrees with the universal view put forward by witnesses and submitters that a Redress Scheme for Survivors of Institutional Child Sexual Abuse (Redress Scheme) is a vital step in addressing cases of historical child sexual abuse. The committee also believes the Redress Scheme will help to ensure institutions become 'child safe' for future generations.

4.2 The committee is strongly supportive of the 'Objects for the Act' of the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 (Redress Bill), which are to recognise and alleviate the impact of past institutional child sexual abuse and to provide justice for the survivors of that abuse. The committee further supports the inclusion of the guiding principle that redress under the scheme should be survivor focussed. Enacting these goals will assist Redress Scheme decision-makers, whenever necessary, to return to the basic principle of justice for survivors.

4.3 The committee believes it is important for all parties to the Redress Scheme to act in accordance with those principles. There is no higher duty for the Australian Parliament than the protection of our nation's children. There is no greater obligation on the Australian legal system than seeking justice for our most vulnerable victims. There is no deeper responsibility for institutions liable for child sexual abuse than to shoulder the burden of making reparations to the children they so terribly failed.

4.4 The recommendations of this committee are made in accordance with the principles enshrined in the Redress Bill.

Comments on provisions

4.5 The committee recognises the deep concerns of survivors that the voluntary nature of the Redress Scheme, combined with a two year deadline for non-government institutions (NGIs) to opt in, creates a traumatic waiting period for survivors. Should an NGI decide not to participate, this could leave survivors for whom civil litigation is not an option with no opportunity for redress.

Recommendation 1

4.6 The committee recommends the Australian Government should consider reducing the two year deadline for institutions to opt in to the Redress Scheme, and should consider options to encourage greater participation in the Redress Scheme, as outlined in chapter two.

4.7 The committee heard concerns from submitters and witnesses about the range of matters to be contained in the rules of the Redress Scheme, which have not yet been finalised. The committee acknowledges that the Australian Government is in active negotiations with the states and territories and NGIs around Australia about their participation in the Redress Scheme. As such, it is difficult for the Department of

Social Services (Department) to publish rules, some of which are still very much in flux. Notwithstanding this, the Department should take the earliest possible opportunity to provide greater clarity on potential rules, such as those impacting non-citizen survivors, and the proposed exclusion of serious criminal offenders.

Recommendation 2

4.8 The committee recommends the Department should ensure that planned consultations on the rules of the Redress Scheme include survivors' representative groups, and ensure information on rules is communicated as it becomes available.

4.9 The amount of the redress payment and the assessment matrix is also of great concern to survivors. A great deal of focus in evidence to the inquiry was on the perceived payment cap reduction to \$150 000 from the \$200 000 cap proposed by the Royal Commission. The committee further notes evidence that many potential applicants may believe they would receive a maximum payment, and that discussion of the payment cap raises expectations in the community which may lead to further trauma.

4.10 The committee notes the views of Professor Kathleen Daly, an expert on redress schemes, that in designing a redress payment, the average payment is of greater importance than a higher payment cap. Professor Daly also informed the committee that an international review of similar scheme shows the proposed Redress Scheme average payment is in the upper level of scheme payments worldwide.

4.11 The committee supports the proposal by the Department that in designing a payment matrix, the focus should be on the average payments of the Redress Scheme, not the maximum payment. This focus will ensure a higher payment to more people overall. The committee supports the Department's planned average payment which is calculated to be \$11 000 higher than the average payments proposed by the Royal Commission.

Recommendation 3

4.12 The committee recommends the Department should actively engage with survivors' representative groups to provide clear communications for survivors, the community and media on how decisions will be made and matters that will be taken into account in making those decisions. Where necessary communication should reference the average payment amount rather than focussing on the maximum redress payment.

4.13 Concern was expressed throughout the inquiry on the range of related non-sexual abuse that would be taken into account during the assessment process. Survivors reported that, in many cases, this abuse had as deep an impact as sexual abuse and should form a significant proportion of the final redress determination.

4.14 Further concerns were raised by many submitters and witnesses that the Redress Scheme excludes children who were subjected to non-sexual abuse only. Abuse suffered by tens of thousands of children in care included heinous physical, psychological, emotional and cultural abuse.

4.15 The committee is aware of the deep and abiding impacts that non-sexual abuse has had on the lives of survivors, particularly care-leavers.

4.16 The committee is strongly supportive of the establishment of this Redress Scheme to address historic cases of institutional child sexual abuse. However, the committee is also of the view that the non-sexual abuse of children in care requires greater thought and focus from all levels of government and Australian society in general.

Recommendation 4

4.17 The committee recommends that, in further developing the operational assessment elements of the Redress Scheme, the Department take into consideration the long-term impact of non-sexual abuse on survivors, including the needs of Aboriginal and Torres Strait Islander survivors.

4.18 The inclusion of counselling services as part of redress was universally acknowledged by submitters and witnesses as being of vital importance to assist survivors. There was confusion as to the amount of counselling that the Redress Scheme would provide whether a financial cap would be placed on counselling, whether it would be for the lifetime of the Redress Scheme or whether it would be for the lifetime of the survivor.

4.19 The committee acknowledges the Minister has confirmed a final decision on the amount of counselling to be provided under the Redress Scheme has not yet been determined.

4.20 In forming a recommendation on this issue, the committee recognises that counselling for the lifetime of the survivor cannot be delivered by the current framework of the Redress Scheme, which is financed through a 10-year appropriation.

Recommendation 5

4.21 The committee recommends the Government consider mechanisms to ensure ongoing counselling is available to survivors, should they need it.

4.22 The wider impacts of child sexual abuse that can affect family members of survivors were discussed by a number of witnesses and submitters. Concern was expressed that the Redress Scheme did not include counselling for affected family members. The committee recognises the intergenerational impacts that child sexual abuse can have, and the positive effect that family counselling can have. The committee is also cognisant of the Minister's comments that expanding the scope of the Redress Scheme risks a lower opt in by NGIs.

Recommendation 6

4.23 The committee recommends the Redress Support Service incorporate referral of affected family members, in cases where it is necessary to meet the critical needs of the survivor, to existing counselling services.

4.24 The committee notes concerns raised by advocates and legal groups on difficulties survivors may face with many aspects of the application process. The committee is satisfied the Department remains highly conscious of the needs of

survivors. The three elements of support—general redress support, legal advice and financial advice—will assist survivors through a difficult pathway. The committee stresses the need for the Department to continue the range of consultations already underway in designing the operational elements of the Redress Scheme, and to ensure that wherever possible, user experience feeds back into the design. The committee is highly supportive of the Australian Government's early announcement of \$130 million of funding for these Redress Support Services.

4.25 However, even with these supports taken into account, concerns were raised with specific elements, such as the proposed timeframes for applicants to produce documents or respond to an offer of redress, and the limit of application per person. The committee notes the Department has indicated these issues are still under consideration, and may be modified.

Recommendation 7

4.26 The committee recommends that in developing the minimum timeframes in the Redress Scheme, for the provision of documents or answers to an offer of redress, the Department should consider the special circumstances of survivors in remote communities, those with functional communication barriers and survivors experiencing trauma or mental health episodes linked to their abuse.

Recommendation 8

4.27 The committee recommends that the government consider changing the period of acceptance for redress from three months to six months, including provision for survivors to request an extension to this acceptance period where circumstances warrant.

4.28 The proposed exclusion of criminal offenders was raised as a serious concern, by survivor groups, legal organisations and by the NGIs. The committee notes the Attorney-General has indicated that while this issue was originally raised in negotiations with the states and territories, a final position has not yet been determined. More recently, the Attorney-General has indicated that a discretionary approach to exclusions could be considered.

Recommendation 9

4.29 The committee recommends that in finalising the position on the exclusion of serious criminal offenders from the Redress Scheme, the Australian, state and territory governments should consider the value of the Redress Scheme as a tool for the rehabilitation of offenders, and that excluding criminal offenders can have the unintended consequence of institutions responsible for child sexual abuse not being held liable.

4.30 The committee is supportive of the reporting functions included in the Redress Bill, as an appropriate way of ensuring oversight of an important program, and way of holding non-participating responsible institutions to public account. The committee believes an expansion of this reporting function could further strengthen public trust in the operation of the scheme.

Recommendation 10

4.31 The committee recommends that the annual report to Parliament on the operation of the Redress Scheme should include detailed data to understand the experiences of people going through the Redress Scheme and to provide a basis of any necessary refinements to the Scheme, including details of the number of applications received, average processing times and average payments offered.

4.32 The committee believes that while there are still certain provisions within this bill under consideration by the Australian Government, or under negotiation with relevant participating entities, the Redress Scheme is an important mechanism to provide redress and some closure to survivors of some of the worst crimes that can possibly be inflicted. The Redress Bill provides an appropriate framework under which those final negotiations can occur, particularly noting the inclusion of survivor representative groups in the consultative group.

4.33 As stated by the Prime Minister and the Attorney-General, and affirmed by the Leader of the Opposition, it is time to take action on behalf of the victims of institutional child sexual abuse.

Recommendation 11

4.34 The committee recommends these bills be passed.

Senator Slade Brockman

Chair

