

Chapter 3

Redress elements, reviews and reporting

While no amount can truly compensate survivors for the trauma experienced, financial compensation has the potential to provide survivors with a means to improve their life and wellbeing through avenues that are specific to and relevant to their own needs.¹

3.1 This chapter will highlight the key concerns raised in evidence presented to this inquiry relating to the three elements of redress being offered to institutional child sexual abuse survivors (survivors) under the Commonwealth Redress Scheme for Survivors of Institutional Child Sexual Abuse (Redress Scheme), and the supports to access and review mechanisms related to those elements of redress.

3.2 Subclause 18(1) of the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 (Redress Bill) sets out the three elements of redress that can be provided to a person:

- (a) a redress payment of up to \$150 000;
- (b) access to counselling and psychological services; and
- (c) a direct personal response from each of the participating institutions determined to be responsible for the person's abuse.²

3.3 Under subclause 18(2), a person can choose to accept one, two or all three of these elements of redress.

3.4 Part 2-6 of the Redress Bill sets out the provision of these aspects of redress under the scheme.

Redress payments

3.5 The first of the three elements of redress provided under the proposed Redress Scheme is the redress payment to survivors. The amount of this payment, the mechanisms for its calculation and its equitable administration to survivors was a key issue in evidence from submitters and witnesses.

Amount of money to be paid

3.6 The Explanatory Memorandum to the bills describes that:

The amount of the redress payment will depend on the level of sexual abuse and related non-sexual abuse that a survivor suffered and will be an amount

1 Ms Carol Ronken, Director of Research, Bravehearts Foundation, [Committee Hansard](#), 16 February 2018, p. 14.

2 [Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017](#) (Redress Bill), subclause 18(1).

up to a maximum of \$150,000. The intention of this payment is to recognise the wrong the person has suffered.³

3.7 The Department of Social Services (Department) has stated the decision to cap the Redress Scheme at \$150 000 was made by the Australian Government ahead of the design and development of the scheme.⁴

3.8 There is also an indication that a future national scheme would give states the ability to set their own compensation cap under their own 'mirror' legislation, although both states which have agreed to join such a scheme have expressed their intention to meet the Australian Government's \$150 000 cap.⁵

3.9 A large number of submissions have commented that the \$150 000 cap on redress payments proposed is substantially less than the cap which was recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) in the *Redress and Civil Litigation Report* (Royal Commission Redress Report).⁶ The Royal Commission Redress Report recommended a minimum payment of \$10 000 and a maximum payment of \$200 000, with an average payment of \$65 000.⁷

3.10 Many witnesses and submitters have recommended that the Royal Commission levels of payment be adopted by the proposed Redress Scheme without variation.⁸ The Department told the Community Affairs Legislation Committee (committee) that it had attempted to replicate the payment matrix used by the Royal Commission, but it was not able to replicate the same average and cap payments through any of its modelling or testing.⁹

3 Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017, [Explanatory Memorandum](#) (Explanatory Memorandum), p. 5.

4 Ms Barbara Bennett, Deputy Secretary, Department of Social Services, *Committee Hansard*, 16 February 2018, p. 67.

5 David Crowe, 'Political row over redress scheme for child sexual abuse', *Sydney Morning Herald*, 12 March 2018, <https://www.smh.com.au/politics/federal/political-row-over-redress-scheme-for-child-sexual-abuse-20180312-p4z3yr.html> (accessed 20 March 2018).

6 Anglicare WA, *Submission 10*, p. 4; Mrs Christine Foster, *Submission 15*, p. 5; Shine Lawyers, *Submission 25*, [p. 6]; Relationships Australia, *Submission 29*, [p. 8]; knowmore legal service, *Submission 31*, p. 25; Victorian Kids in Care Advocacy Service, *Submission 41*, p. 1; Mr Frank Golding OAM, *Submission 42*, p. 6; Waller Legal, *Submission 52*, p. 19; Centre for Excellence in Child and Family Welfare, *Submission 56*, [p. 2]; among others.

7 Royal Commission into Institutional Responses to Child Sexual Abuse, [Redress and Civil Litigation Report](#) (Royal Commission Redress Report), September 2015, p. 66.

8 Anglicare WA, *Submission 10*, p. 4; Mrs Christine Foster, *Submission 15*, p. 5; Shine Lawyers, *Submission 25*, [p. 6]; Relationships Australia, *Submission 29*, [p. 8]; knowmore legal service, *Submission 31*, p. 25; Victorian Kids in Care Advocacy Service, *Submission 41*, p. 1; Mr Frank Golding OAM, *Submission 42*, p. 6; Waller Legal, *Submission 52*, p. 19; Centre for Excellence in Child and Family Welfare, *Submission 56*, [p. 2]; Ms Joan Isaacs, *Submission 13*, p. 2; among others.

9 Dr Roslyn Baxter, Group Manager, Families and Communities Reform, Department of Social Services, *Committee Hansard*, 16 February 2018, pp. 67–68.

3.11 The Department explained to the committee that in determining a payment matrix, it focused on the average payments as being the more important number as it would impact more survivors. In the payment matrix proposed by the Department for the Redress Scheme, while the maximum payment available is lower than the recommendation of the Royal Commission, modelling has shown that survivors will receive a higher payment on average of approximately \$76 000 per survivor. This average payment is \$11 000 higher than the Royal Commission recommendation.¹⁰

3.12 The modelling for payments under the Redress Scheme has been thoroughly tested across a series of circumstances, based on data from the Royal Commission and the Redress WA scheme,¹¹ to ensure an accurate average and distribution based on the proposed cap:

We've tested that from a number of different angles, including running a number of scenarios from the royal commission through that to stress-test those numbers, and we're confident—to the degree that we can be, not actually having run the scheme yet—that they're as robust as we can get.¹²

3.13 Throughout this inquiry, Professor Kathleen Daly, an expert on redress schemes, presented the committee with a significant amount of evidence showing that the average payment made under any redress scheme is far more important than the cap or maximum payment. Professor Daly noted that 'very few [survivors] will get the maximum' and that the average proposed by the Redress Scheme would be in the top five average payments of any studied redress scheme worldwide.¹³

Concerns about payment levels

3.14 The Redress Scheme as proposed does not include a minimum payment level. Dr Vivian Waller of Waller Legal told the committee:

I think it should have a minimum, because, for trauma informed reasons you would want someone if they are able to make out that they have been abused to be eligible for some payment. I think it might be a distressing experience for there to be a finding of fact or acceptance that someone was harmed and yet no redress is given to them.¹⁴

10 Department of Social Services, *Submission 27*, pp. 1–2.

11 Department of Social Services, [Answers to questions taken on notice](#), 16 February 2018, p. 2 (received 2 March 2018).

12 Dr Roslyn Baxter, Department of Social Services, *Committee Hansard*, 16 February 2018, p. 68.

13 Professor Kathleen Daly, personal capacity, *Committee Hansard*, 16 February 2018, p. 42.

14 Dr Vivian Waller, Principal Solicitor, Waller Legal Pty Ltd, *Committee Hansard*, 6 March 2018, p. 51.

3.15 Several witnesses and submitters supported the introduction of a minimum redress payment at the Royal Commission recommended level of \$10 000,¹⁵ while Berry Street recommended a higher minimum payment of \$20 000.¹⁶

3.16 Concerns have also been raised that a focus throughout much of the debate about the proposed Redress Scheme on the amount of the maximum payment—rather than on the amount of the average payment or on payments at the lower end of the spectrum—is giving survivors unrealistic expectations about the amount of money they may receive as a redress payment.¹⁷ Dr White from Tuart Place summarised this issue:

What do we think is likely to happen when an authority such as the federal government announces a redress scheme with a top payment of \$150,000, especially when the media prominently reports it over a period of time? It's not hard to imagine, is it? The most abused and most damaged survivors start to think they're going to receive \$150,000 in July, this year.¹⁸

3.17 Managing the expectations of survivors is discussed further below in relation to the assessment matrix and calculation of redress payments.

3.18 Another concern raised by survivors and their representative groups was that the maximum payment under the Redress Scheme could be reduced after implementation. This concern was related to the experience of the Redress WA scheme, as that scheme was initially announced with an \$80 000 maximum payment but was subsequently reduced by nearly half to \$45 000 after nearly 6000 people had already made applications:¹⁹

This decision caused a great sense of injustice for many actual and potential claimants. In order to guarantee that this is not repeated, processes must be employed to ensure that expected payment levels are not reduced during the operation of the scheme, as this would significantly undervalue the experiences of those survivors and victims.²⁰

How do you put a financial value on abuse?

3.19 Many submitters and witnesses throughout this inquiry have raised concerns that the calculation of a redress payment will be seen as effectively putting a financial

15 Law Council of Australia, *Submission 82*, p. 155; Maurice Blackburn Lawyers, *Submission 28*, p. 6; Waller Legal, *Submission 52*, p. 19; Mr Francis Sullivan, CEO, Truth Justice and Healing Council, *Committee Hansard*, 6 March 2018, p. 65.

16 Berry Street, *Submission 58*, p. 10.

17 Ms Caroline Carroll, Chair, Alliance for Forgotten Australians, *Committee Hansard*, 16 February 2018, p. 18; Mr Mark King, private capacity, *Committee Hansard*, 16 February 2018, p. 48.

18 Dr Philippa White, Director, Tuart Place, *Committee Hansard*, 16 February 2018, p. 29.

19 Ms Karly Warner, Executive Officer, National Aboriginal and Torres Strait Islander Legal Service (NATSILS), *Committee Hansard*, 6 March 2018, p. 6; Tuart Place, *Submission 19*, p. 1.

20 Ms Karly Warner, NATSILS, *Committee Hansard*, 6 March 2018, p. 6.

value on a survivor's abuse and that this may cause the Redress Scheme to be perceived as an unfair or inequitable process.²¹

3.20 The recommendations from submitters as to how to manage these concerns have been wide-ranging, such as to offer a flat rate of redress payment to all applicants,²² or to provide a higher payment to members of certain survivor groups (such as care leavers) in recognition of their circumstances.²³

3.21 Many submitters have also noted that the amount of redress payment being offered under the scheme (or indeed any amount of money) is insufficient compensation for the trauma that many survivors have suffered²⁴ and that the value of compensation from civil cases has been higher than payments proposed under the Redress Scheme.²⁵

3.22 However, as discussed throughout this report, the intention of the Redress Scheme is to provide a 'lower evidentiary hurdle than civil justice proceedings'.²⁶ It is not the intention of the Redress Scheme to offer compensation at a level commensurate with figures seen in civil cases, but to provide an avenue to redress for survivors who are unable or unwilling to access civil processes. Furthermore, the Department has explained that a compensation payment from civil justice proceedings takes into consideration a number of other factors, which makes any comparison with a redress payment impossible:

As much as we know—and some of it's drawn on reference from the royal commission, and some institutions have been a bit more open to us about payments—it is variable depending on whether it went through civil litigation. We know that that's been a much higher amount paid to people but that the evidentiary space is much more highly contestable. We know that some of the settlements that were directly done by some of the institutions were higher, but we also heard from some of the survivors that

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- 21 Miss Miranda Clarke, Royal Commission Liaison, Centre Against Sexual Violence Inc., *Committee Hansard*, 16 February 2018, p. 5; Mr Simon Gardiner, Berry Street, *Committee Hansard*, 6 March 2018, p. 14; Mr Mark King, *Committee Hansard*, 16 February 2018, p. 48; knowmore legal service, *Submission 31*, p. 33; Professor Kathleen Daly, *Submission 44.1*, p. 3; PeakCare Queensland Inc, *Submission 51*, p. 5; among others.
- 22 Mr Mark King, *Submission 40*, [p. 3]; Mr Frank Golding OAM, *Submission 42*, p. 7; Victorian Aboriginal Legal Service (VALS), *Submission 14*, p. 2; Mr Robert House, *Submission 75*, [p. 1].
- 23 Care Leavers Australasia Network (CLAN), *Submission 60*, p. 12.
- 24 Child Migrants Trust, *Submission 33*, p. 2; CLAN, *Submission 60*, pp. 10–11; Mr Vince Mahon, *Submission 23*, [p. 1]; Mr Les Johnson, *Submission 18*, [p. 1].
- 25 Mr Mark King, *Committee Hansard*, 16 February 2018, p. 48; Mr Matt Jones, *Submission 6*, p. 3; Victims Of Abuse In The Australian Defence Force Association Inc. (VAADFA), *Submission 22*, p. 3; Relationships Australia, *Submission 29*, [p. 7]; Waller Legal, *Submission 52*, p. 8; Mr David O'Brien, *Submission 77*, [pp. 1–2]; Restorative Justice International, *Submission 77*, p. 3; among others.
- 26 Department of Social Services, *Submission 27*, p. 12.

they were much lower. In fact, the nature of some of the payments wasn't really redress. They might've been payments for health support or dental work, and they won't count in any of that. We don't have that information. We can only draw on what the royal commission collected publicly and those institutions that shared a bit with us. But it was really clear that redress is not compensation. The royal commission extensively said that it can never be compensation, that it's about a payment that recognises harm; whereas civil litigation does take into account things like loss of income, medical expenses and legal expenses—much richer factors. So it is not possible for us to do a comparison about where that sits.²⁷

Calculating the redress payment

3.23 Clause 33 of the Redress Bill sets out how the scheme operator must make a determination of:

- (a) the amount of the redress payment for a person; and
- (b) the amount of each liable institution's share of the cost of that payment.²⁸

3.24 This clause also includes, under subclause 33(2), a method statement outlining the steps for calculating a redress payment. In brief, this method statement includes:

- applying the assessment matrix to work out the maximum amount of redress payment that could be payable to the person;
- working out the gross liability amount for each responsible institution;
- working out the amount of any relevant prior payments made by that institution to that person, and indexing those amounts for inflation (by a simple formula), and adding those amounts together into a single reduction amount; and
- working out the institution's share of the cost of redress by reducing the gross liability amount by the reduction amount. The amount of redress payment owed by each may be nil but not less than nil.

3.25 The Explanatory Memorandum provides a number of examples for how these calculations would work in various circumstances where multiple institutions are responsible for varying amounts of a person's redress payment.²⁹

3.26 Prior payments which will be taken into consideration under clause 33 will not include payments that are prescribed in the rules as not being relevant.³⁰ The Department clarified in its submission that the prior payments that would not be considered under clause 33 would be:

27 Ms Barbara Bennett, Department of Social Services, *Committee Hansard*, 16 February 2018, pp. 76–77.

28 Redress Bill, subclause 33(1).

29 Explanatory Memorandum, pp. 23–25.

30 Redress Bill, subclause 33(2).

- payments provided to support access to counselling and psychological services;
- routine payments for treatment, medical or dental bills; or
- one-off payments, not in recognition of harm, for specific purposes, even if the specific purpose (such as covering rent or consumer items) was requested by the survivor.³¹

3.27 The Law Council of Australia has also recommended that prior payments considered under clause 33 should exclude any legal costs and outlays paid as part of a previous compensation payment.³²

3.28 Some submitters have noted that while the redress payment calculation takes inflation into account when assessing relevant payments, it does not in turn factor inflation into the proposed maximum level of redress payment, so the maximum amount of redress available to an individual will diminish over the lifetime of the scheme.³³ Submitters have also noted the importance of considering the financial literacy of survivors who may not understand why the payments they received in the past are being indexed.³⁴ Angela Sdrinis Legal explained to the committee the way in which inflation was calculated in the Catholic Church's Melbourne Response:

...caused enormous distress to victims who didn't always understand the formula and how it was applied and felt that [adjusting] in this way was penny pinching and cruel.³⁵

3.29 While some submitters recommended that the Redress Bill be amended so that prior payments are not adjusted,³⁶ the Victorian Aboriginal Child Care Agency (VACCA) has recommended that supporting documents for survivors should instead make clear how any prior payments will be indexed and counted under the Redress Scheme.³⁷

The assessment matrix

3.30 As mentioned in chapter two of this report, the assessment matrix to work out the amount of a redress payment is not included in the Redress Bill and is subject to

31 Department of Social Services, *Submission 27*, pp. 7–8.

32 Law Council of Australia, *Submission 32*, p. 17.

33 Maurice Blackburn Lawyers, *Submission 28*, p. 6; Kimberley Community Legal Services Inc., *Submission 63*, [pp. 5–6]; Ms Penny Savidis, Partner, and Head of Institutional Abuse Department, Ryan Carlisle Thomas, *Committee Hansard*, 6 March 2018, p. 48. See also: Australian Lawyers Alliance, *Submission 47*, p. 5; Survivors & Mates Support Network (SAMSN), *Submission 66*, p. 3.

34 Connecting Home, *Submission 34*, p. 6; Mr Andrew Collins, *Submission 57.1*, p. 3; Victorian Aboriginal Child Care Agency (VACCA), *Submission 36*, pp. 7–8.

35 Angela Sdrinis Legal, *Submission 46*, p. 7.

36 Angela Sdrinis Legal, *Submission 46*, p. 7; In Good Faith Foundation, *Submission 55*, p. 4.

37 VACCA, *Submission 36*, p. 8.

declaration by the Minister for Social Services (Minister) in delegated legislation under proposed clause 34.

3.31 While this matrix has not yet been declared or released, the committee is aware that the Independent Advisory Council on Redress (Advisory Council) has been consulted on a confidential draft.³⁸

3.32 At the inquiry hearing on 6 March 2018, the Department confirmed to the committee that a form of the assessment matrix would be publicly available once it has been declared and that survivor-focused communication materials would be developed to explain it. The Department recognised the importance of 'transparency in the version of the matrix that is declared...and the communications materials', however noted that:

...it may be that there are some materials that are not public facing because of the nature of the content that is in them, the very detailed [sic] of the policy guidance. Again, that would be on the basis of advice we received from the independent advisory council that some of the language, particularly where it goes to really working through particular acts, may be very triggering for survivors.³⁹

3.33 Professor Kathleen Daly told the committee that providing this kind of transparency about the assessment matrix and the assessment process for the public and for survivors, even at a high level, will promote trust in the scheme:

It needs to be sufficiently robust but of a general nature, so the detail of what the calculation is going to be is not what's required at a public level—the guidelines of what's done on the inside—but the general shape of what is going to be assessed and how, in the sense of its weight and so forth. I think it's important to show that, otherwise it just looks like anything goes or we don't know what the judgement will be based on.⁴⁰

Exemption from income tests

3.34 Clause 45 of the Redress Bill provides for the protection of the redress payment:

- (1) Despite any law of the Commonwealth, a State or a self-governing Territory:
 - (a) a redress payment is not to be treated as being a payment of compensation or damages; and
 - (b) a redress payment is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise; and

38 Mr Simon Gardiner, Senior Consultant, Public Policy, Berry Street, *Committee Hansard*, 6 March 2018, p. 14; Mr Francis Sullivan, Truth Justice and Healing Council, *Committee Hansard*, 6 March 2018, p. 66.

39 Dr Roslyn Baxter, Department of Social Services, *Committee Hansard*, 6 March 2018, pp. 68–69.

40 Professor Kathleen Daly, *Committee Hansard*, 16 February 2018, p. 45.

(c) an amount must not be deducted from a redress payment.⁴¹

3.35 Clause 46 of the Redress Bill also protects the redress payment from garnishee orders.⁴²

3.36 The Commonwealth Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2017 (Consequential Bill) seeks to amend existing Commonwealth legislation to enable the support of the scheme. Specifically, the Consequential Bill proposes to amend the:

- (a) *Social Security Act 1991*—to insert paragraph (8)(8)(jc) which, in effect, will exclude payments made under the Redress Scheme from the definition of income for the purposes of that Act;⁴³
- (b) *Veterans' Entitlements Act 1986* (VEA)—to insert paragraph 5H(8)(mb) which, in effect, will exclude a payment made under the Redress Scheme from the definition of income for the purposes of that Act;⁴⁴ and
- (c) *Bankruptcy Act 1966*—to insert paragraph 116(2)(g) which, in effect, will exclude a Redress Scheme payment from being classified as property of a bankrupt that is divisible by creditors under that Act.⁴⁵

3.37 The Explanatory Memorandum explains that the proposed amendments to the *Social Security Act 1991* and the VEA will ensure that Redress Scheme payments 'will be exempt from the income test' under those acts and 'will not reduce income support payments to a person who receives redress'.⁴⁶ Furthermore, it is explained that payments under the Redress Scheme will not be divisible among creditors for the recovery of money during the course of bankruptcy proceedings.⁴⁷

Income support protection

3.38 Submitters to the inquiry did not comment extensively on the provisions of Consequential Bill. However, the evidence which was received focused on income support protections for individuals included in Schedule 1.

3.39 Shine Lawyers' submission, whilst supportive of the Consequential Bill's role in ensuring Redress Scheme payments do not contribute to income tests, expressed concern regarding income support protections:

...it is still open to the Department of Veterans' Affairs to reduce income support payments by revoking liability for psychiatric illnesses already

41 Redress Bill, subclause 45(1).

42 Redress Bill, clause 46.

43 [Commonwealth Redress Scheme for Institutional Child Sexual Abuse \(Consequential Amendments\) Bill 2017](#) (Consequential Bill), Schedule 1.

44 Consequential Bill, Schedule 1.

45 Consequential Bill, Schedule 2.

46 Explanatory Memorandum, p. 64.

47 Explanatory Memorandum, p. 65.

accepted under the VEA or the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) on the basis the psychiatric illness results from abuse and not from other service incidents.⁴⁸

3.40 Shine Lawyers provided an example of contact it had with a survivor who reported they felt unable to pursue redress 'on the basis that the veteran's hard-fought pension for war-caused PTSD under the VEA may be compromised'.⁴⁹ Consequently, Shine Lawyers recommended that further consideration be given to ensuring existing entitlements are not impacted as a result of Redress Scheme payments and those veterans' pensions paid under the DRCA receive the same protections as those whose pensions are paid under the VEA.

3.41 In its submission, the National Social Security Rights Network (NSSRN) highlighted the importance of Redress Scheme payments being used at survivors' discretion, without impacting on other social security entitlements. NSSRN expressed support for the Consequential Bill's proposed amendment to the *Social Security Act 1991*.⁵⁰

3.42 Mr Duncan Storrar, Director of the Victorian Kids in Care Advocacy Service queried whether survivors' redress scheme payments would be liable to be paid to Medicare under the *Health and Other Services (Compensation) Act 1995*.⁵¹

3.43 The Department provided clarity on this issue at the request of the committee, outlining that a universal protection for Redress Scheme payments is included in clause 45 of the Redress Bill.⁵²

Committee view

3.44 Setting an appropriate amount for redress payments is an extremely difficult issue, with many competing voices and views, even within the survivor communities. The committee has deep sympathy with the views expressed by survivors that no amount of redress can truly recompense a survivor for the suffering caused by institutional child sexual abuse.

3.45 The committee notes the purpose of establishing the Redress Scheme is not to replicate a civil litigation pathway, but to create an alternative for survivors who do not wish, or are unable, to go through lengthy and often traumatic legal proceedings.

3.46 The committee is highly cognisant of evidence presented by the Minister and the Department that the more the Redress Scheme replicates civil litigation, the less

48 Shine Lawyers, *Submission 25*, p. 10 (italics added).

49 Shine Lawyers, *Submission 25*, p. 10.

50 National Social Security Rights Network, *Submission 38*, p. 3.

51 Mr Duncan Storrar, Director, Victorian Kids in Care Advocacy Service, *Submission 41*, p. 2; Note: Section 8 of the *Health and Other Services (Compensation) Act 1995* (Compensation Act) provides for the recovery of past Medicare benefits from compensation made to a compensable person. Section 4 of the Compensation Act defines compensation payments the purposes of the act.

52 Department of Social Services, Answers to written questions on notice, received 8 March 2018.

motivation there is for institutions to opt in, many of whom may view a decision to opt in through a prism of financial liabilities. Should institutions elect not to opt in, survivors for whom civil litigation is not an option will have no recourse such as a Redress Scheme, and will miss out not only on a redress payment, but on the accompanying counselling and direct personal response.

3.47 The committee notes the evidence from the Department that in establishing a payment matrix, greater focus was placed on the average that will be paid to a majority of survivors, than on the cap amount which will impact only a few. The committee is highly supportive of the Redress Scheme's \$11 000 increase to the average payment compared to the average proposed by the Royal Commission. The committee also notes the overall cost of the Redress Scheme being proposed by the Australian Government is higher than the costs proposed by the Royal Commission.

3.48 The committee notes the Royal Commission recommendation for a minimum payment amount of \$10 000 has not been explicitly incorporated into the Redress Bill. Without seeing details of the assessment matrix, it is unknown if such a minimum payment is implicitly included. The committee believes that greater clarity on this issue would be helpful.

3.49 The committee notes concerns raised about indexing the cap amount, and believes the Department should take this into consideration to ensure that the value of payments made near the end of the 10 year Redress Scheme operation are not significantly reduced by inflation.

3.50 The committee also recognises the concerns raised by survivors and legal groups that the assessment matrix is not intended to be publicly available. However, the committee notes the Advisory Council was consulted in the development of the assessment matrix. The committee believes the justification provided by the Department—the need to protect the Redress Scheme from fraudulent claims—is reasonable and the committee is supportive of the Department's plan to make a high-level version of the matrix available to the public.

3.51 The committee notes that prior payments made for the same abuse being assessed by the Redress Scheme, are intended to be reduced from the Redress Scheme payment. The committee approves of the proposal that prior payment amounts specifically made for items such as medical care or counselling services will not be deducted from the final Redress Scheme payment. The committee believes that legal costs included within a prior payment should also be excluded.

3.52 The committee agrees with the provisions that provide exemptions from income tests and provide a blanket quarantine for Redress Scheme payments from being considered compensation.

Counselling and psychological services

3.53 Part 2-6, Division 3 of the Redress Bill relates to the provision of counselling and psychological services following a successful application for redress.

3.54 Clause 48 of the Redress Bill sets out that rules may prescribe matters related to counselling and psychological services provided under the scheme,⁵³ while clause 49 includes general principles to guide these services, including:

- empowering survivors to make decisions about their own care;
- supporting survivors to maintain existing therapeutic relationships; and
- ensuring that services provided through redress supplement, rather than compete with, existing services.⁵⁴

3.55 Counselling has been universally acknowledged by submitters and witnesses as a critical element of redress, particularly in how it will assist survivors in their trauma recovery. A significant number of questions and concerns were raised about how the counselling element will operate.

3.56 A number of submitters and witnesses pointed to the need for counselling to be available for the lifetime of the survivor, not the lifetime of the scheme.⁵⁵ Miss Miranda Clarke from the Centre Against Sexual Violence Inc., explained the need for lifetime counselling:

For someone who goes through childhood sexual abuse, particularly when that's in the context of a care-giving relationship, the effect for that person is something which extends beyond their lifetime. And, because it affects their ability to develop as a child and they miss key developmental stages, it means that that's something that can't necessarily be fixed. As the royal commission acknowledged, it's not something that can be cured with appropriate treatment, and it's something that will be triggered throughout their lifetime, for example, when they have their own children or grandchildren; if they were to run into someone from their past; a redress scheme; having to talk about what's happened—it's something which is constantly coming up for those people. The royal commission has done all this research already—it is the body that has said that this is something that is needed throughout their lives.⁵⁶

3.57 Conversely, Care Leavers Australasia Network (CLAN) told the committee 'Some care leavers don't want counselling. They've been counselled and they've had enough'. However, CLAN said this view was not universal:

I think that those who want counselling should have it for as long as they need it. With Vietnam veterans, we acknowledge that war veterans have post-traumatic stress disorders, and, as taxpayers in this nation, we provide support to those soldiers. Well, children in orphanages and children who were in the care of the state, the churches and the charities are like little

53 Redress Bill, clause 48.

54 Redress Bill, clause 49.

55 Shine Lawyers, *Submission 25*, [p. 5]; knowmore legal service, *Submission 31*, p. 35; Waller Legal, *Submission 52*, p. 16; Law Council of Australia, *Submission 82*, p. 22; among others.

56 Miss Miranda Clarke, Centre Against Sexual Violence Inc., *Committee Hansard*, 16 February 2018, p. 3.

soldiers. We were in a war zone. We didn't have a gun, but we lived with fear every day of our lives. We've just had to suck it up.⁵⁷

3.58 The Department informed the committee that the duration of counselling was an issue that had not been finalised. The Department further stated that in coming to a position, a number of other issues need to be taken into consideration, such as that survivors wanted the responsible institution to be financially responsible for the three redress elements, but conversely also wanted no further contact with the responsible institution once the redress application was finalised. It should also be noted that appropriation for the Redress Scheme is only for the 10-year period of the scheme. The financial management of ongoing counselling was an issue of continuing consideration by the Department.⁵⁸

3.59 Submitters and witnesses also discussed the need for trauma-informed training for counselling services to ensure they are appropriate to survivors of institutional child sexual abuse. The need for culturally appropriate services is discussed later in this chapter.

3.60 CLAN told the committee that counsellors 'need to be not only trauma informed but that they need to be care leaver informed—and so does the redress scheme'.⁵⁹

3.61 Ms Jennifer Jacomb from Victims of Abuse in the Defence Force Association Inc. (VAADFA) agreed with this view, and also raised concern that Redress Scheme counselling only begins once an application has been finalised:

In that respect, I endorse the remarks of CLAN earlier. It just can't be a normal shrink or a normal counsellor. It has to be one who's had expertise in the area of dealing with child abuse victims; that's our recommendation. We strongly encourage the bill to be modified to provide funding so we can pay for the right sort of counselling. The national redress team, to their credit, are doing the best they can. They're aware of the problem and they're empathetic to the problem. But, as the bill stands at the moment, they don't have the money. The money's only authorised once the claim's admitted.⁶⁰

3.62 Another issue raised was the need for survivors to be able to choose their counselling service.⁶¹ In his second reading speech, the Minister stated:

57 Ms Leonie Sheedy, Chief Executive Officer, CLAN, *Committee Hansard*, 6 March 2018, p. 24.

58 Ms Barbara Bennett, Department of Social Services, *Committee Hansard*, 16 February 2018, p. 76.

59 Ms Leonie Sheedy, CLAN, *Committee Hansard*, 6 March 2018, p. 24.

60 Ms Jennifer Jacomb, Secretary, Victims of Abuse in the Australian Defence Force Inc., *Committee Hansard*, 6 March 2018, p. 31.

61 Anglicare WA, *Submission 10*, pp. 5–6; Centre Against Sexual Violence Inc., *Submission 21*, [p. 2]; Western Australian Council of Social Service, *Submission 24*, [p. 3]; Maurice Blackburn Lawyers, *Submission 28*, p. 9; Relationships Australia, *Submission 29*, [p. 8]; VACCA, *Submission 36*, p. 5; Australian Psychological Society, *Submission 59*, [p. 1]; among others.

Consistent with the royal commission's recommendations, the scheme will provide survivors with flexibility to access the counselling or psychological services of their own choice. This will empower survivors to make decisions about their own counselling needs and will support them to maintain existing therapeutic relationships.⁶²

3.63 The Department informed the committee that it was seeking to ensure continuity of care and that counselling services would be expert in this field by 'working out how the support services that are in place for this group of survivors at the moment, which have largely been to support them through the Royal Commission process, can be built upon to support people through this different process of applying for and going through that redress journey'.⁶³

3.64 A further concern raised by a number of submitters and witnesses is the issue of intergenerational trauma, and whether counselling would be extended to family members who may also be experiencing trauma. Mr Rohan Collins-Roe from VAADFA described the impact which trauma can have on a family:

[T]his national redress scheme, done properly, is one really good way of stopping what I would call generational curses dead in their tracks. Because I got abused, I take it out on my wife. Because I got abused, I take it out on my kids. I wasn't potentially a very good father to my kids. I didn't teach my boy how to be a father. He becomes a father, and he didn't listen to what I said; he watched what I did. So he goes and treats his kids bad, and then his kids get in trouble. It's not some super-spiritual oogie-boogie concept here; generational curses exist and we pass them down to our children by what we do, what happened to us, and what we do to other people.

The kinds of generational curses...multiply out by the generations very, very quickly. You start with a few thousand people, and they start having two or three or four kids and partners—there's a lot of pain going on out there.⁶⁴

Committee view

3.65 The committee concurs with the universal view expressed by submitters and witnesses that the inclusion of counselling services is of vital importance to assist survivors. The committee is aware that throughout the process of developing and negotiating the form that the Redress Scheme should take, the amount of counselling being proposed has changed and that a final view has not been formed.

3.66 The committee acknowledges the operational difficulty in providing lifetime counselling through a scheme intended to function for 10 years. Notwithstanding that, the committee is of the view that counselling should be available to survivors for as

62 The Hon Christian Porter MP, Minister for Social Services, *House of Representatives Hansard*, 26 October 2017, p. 12128.

63 Dr Roslyn Baxter, Department of Social Services, *Committee Hansard*, 16 February 2018, p. 71.

64 Mr Rohan Collins-Roe, Treasurer, VAADFA, *Committee Hansard*, 6 March 2018, p. 32.

long as individuals are being impacted by the institutional child sexual abuse they experienced. This is not necessarily delivered under the guise of the Redress Scheme.

3.67 The committee also acknowledges the intergenerational impacts that institutional child sexual abuse can have on family members of survivors. These impacts can be on partners, children, siblings and the parents of survivors.

3.68 The committee notes the Redress Scheme is limited to providing redress to the direct survivors of institutional child sexual abuse. The committee also notes the Redress Scheme Support services could be modified to include a process to identify the various forms of intergenerational trauma that can be present in families where a person was a victim of child sexual abuse, and provide a referral to existing specialist counselling and mental health services.

Direct personal responses

3.69 Part 2-6, Division 4 of the Redress Bill relates to the provision of direct personal responses from liable participating institutions following a successful application for redress where a survivor wishes to receive such a response.

3.70 The Explanatory Memorandum describes that:

The survivor will have the chance to have their abuse acknowledged, tell the personal story of the abuse they suffered and how the sexual abuse impacted them. The format of the direct personal response may include an apology, an opportunity to meet with an appropriately senior person from the relevant institution and an assurance as to the steps the institution has taken to protect children in their care against further abuse.⁶⁵

3.71 Clause 51 of the Redress Bill provides that rules may prescribe matters related to direct personal responses, such as the timeframes, form and manner in which these responses are given.⁶⁶ The Explanatory Memorandum states that these rules will 'ensure that direct personal responses are of a consistent standard for each person receiving a...response under the Scheme'.⁶⁷

3.72 Clause 52 also provides several general principles guiding the provision of direct personal responses, including:

- engagement between survivors and participating institutions, including feedback to institutions from survivors about the response;
- encouraging clarity about the content of responses and responsiveness to survivor's needs;
- outlining what should be offered to survivors in a response;
- outlining appropriate training for staff delivering a response; and

65 Explanatory Memorandum, p. 6.

66 Redress Bill, clause 51.

67 Explanatory Memorandum, p. 32.

- consideration from institutions already offering broader direct personal responses than set out by the Redress Scheme to continue offering those responses.⁶⁸

3.73 While the guiding principle under subclause 52(6) states that people delivering direct personal responses should receive training about the needs of survivors where relevant, submitters have raised concerns about the risk of re-victimisation and re-traumatisation of survivors where staff are not appropriately trained about or understanding of the survivor's needs.⁶⁹ Submitters have recommended specific areas which they believe should be required training for any person giving personal responses on behalf of an organisation, including:

- cultural awareness training;⁷⁰
- disability awareness training, including training about communicating effectively with people with disability;⁷¹ and
- trauma-informed sensitivity training about stress responses, emotional regulation, physical and emotional safety, and issues of power and control.⁷²

3.74 Young Men's Christian Associations of Australia (YMCA) have also recommended that a monitoring and compliance system should be put in place under the Redress Scheme to ensure that staff from participating institutions are appropriately trained before delivering direct personal responses.⁷³

3.75 The Department also provided some further clarification about the direct personal response framework and training for staff during the hearing on 6 March 2018:

While the direct personal response framework for how these are provided has not yet been concluded and, because we are moving, we think, very quickly to try to establish this scheme, we are necessarily having to do the pieces that we need to do in order. We certainly have principles for how we will do that but the framework itself has not yet been concluded. While that is the case, it will include things like the type of training that we expect people who are delivering a direct personal response will have and the principles that will underpin that—that it will be survivor driven, that it will be at the survivor's choice and how that is delivered. So, while that has not been concluded, I can certainly tell you that we haven't been prescriptive in saying that organisations cannot continue to talk to or deal with survivors if

68 Redress Bill, clause 52.

69 Relationships Australia, *Submission 29*, [p. 12]; Waller Legal, *Submission 52*, pp. 20–21; Young Men's Christian Associations of Australia (YMCA), *Submission 37*, pp. 9–10; among others.

70 Blue Knot Foundation, *Submission 1*, [pp. 3–4].

71 People with Disability Australia (PWDA), *Submission 16*, [pp. 5–6].

72 Blue Knot Foundation, *Submission 1*, [pp. 3–4].

73 YMCA, *Submission 37*, p. 9.

they are approaching them or if they wish to have a discussion with them. There is nothing in the material that we have provided them that suggests that they can't do those things.⁷⁴

3.76 Submitters have also noted the importance for many survivors that direct personal responses are delivered by a prominent figure within the responsible institution,⁷⁵ and this is supported in the Department's submission that a response can include 'an opportunity [for the survivor] to meet with appropriate senior persons from the relevant institution'.⁷⁶

Committee view

3.77 A direct personal response can provide an opportunity for engagement and healing between a survivor and the institution or institutions responsible for their abuse.

3.78 The committee recognises and agrees with the concerns of submitters that any staff delivering responses on behalf of participating institutions should be appropriately trained to recognise and meet the needs of survivors.

3.79 The committee is satisfied that the provisions of the Redress Bill, including the general guiding principles and the ability to prescribe rules about delivery, will ensure a high standard of responses under the Redress Scheme.

Redress for affected family members

3.80 As redress under the Redress Scheme is only for the eligible survivors, the Redress Bill does not make any provisions for redress for the family or next of kin of a survivor, except in relation to a deceased survivor who had applied to the scheme before their death.

Families of deceased survivors

3.81 Part 5-1 of the Redress Bill allows for redress in exceptional cases where a survivor dies either:

- (a) after making their application but before receiving an offer of redress (clause 113); or
- (b) after receiving an offer of redress but before accepting or declining that offer (clause 114).

3.82 While a person is not entitled to redress after their death, under these clauses and in accordance with clause 115, a redress payment should still be made to the person or persons who are entitled to the deceased person's property.

74 Dr Roslyn Baxter, Department of Social Services, *Committee Hansard*, 6 March 2018, p. 69.

75 Connecting Home, *Submission 34*, p. 7; Professor Kathleen Daly, *Submission 44*, p. 5; Relationships Australia, *Submission 29*, [p. 12].

76 Department of Social Services, *Submission 27*, p. 1.

3.83 The Law Council of Australia has recommended that, in these exceptional circumstances, the counselling and psychological services aspect of redress should also be made available to deceased applicant's family.⁷⁷

3.84 Some submitters also recommended that the Redress Scheme be expanded to allow family members to apply for redress on behalf of deceased person, particularly where the death was a direct result of the survivor's trauma.⁷⁸

Families of living survivors

3.85 As discussed earlier in this chapter, many witnesses and submitters raised concerns about intergenerational trauma and the need for counselling for the families of survivors.

3.86 A large number of submissions recommended that the families of survivors should be eligible for counselling as part of the Redress Scheme.⁷⁹ Additionally, some recommended that direct personal responses also be made available to the families of survivors as part of the healing process.⁸⁰

Other redress proposals

3.87 Submitters and witnesses to this inquiry raised ideas about services or programs which could complement the Redress Scheme to improve the lives of survivors. These included:

- A 'wrap around' case management approach taken to address the needs of survivors to liaise with and conduct referrals to health, housing, financial and family support services.
- The psychological impacts of being abused in care as a child being taken into account for survivors who are applying for the Disability Support Pension, or the establishment of a separate pension similar to the Veterans disability pension.
- A 'white card' which identifies a survivor, similar to Department of Veterans' Affairs program: this would give priority access to fully funded health care and allied health services, and can also be used to identify their needs in other program contexts, such as social security or housing.

77 Law Council of Australia, *Submission 82*, p. 24.

78 Mrs Laurel Sellers, CEO, Yorgum Aboriginal Corporation, *Committee Hansard*, 16 February 2018, p. 2; Bravehearts Foundation, *Submission 26*, [p. 3]; Relationships Australia, *Submission 29*, [p. 5]; Mr Andrew Collins, *Submission 57*, [p. 2].

79 VACCA, *Submission 36*, p. 6; Australian Association of Social Workers, *Submission 76*, p. 7; Anglicare WA, *Submission 10*, p. 5; Centre Against Sexual Violence Inc., *Submission 21*, [p. 3]; Shine Lawyers, *Submission 25*, [p. 5]; Bravehearts Foundation, *Submission 26*, [p. 3]; Maurice Blackburn Lawyers, *Submission 28*, p. 9; Angela Sdrinis Legal, *Submission 46*, p. 10; among others.

80 Australian Association of Social Workers, *Submission 76*, p. 8; Bravehearts Foundation, *Submission 26*, [p. 3]; among others.

- Prioritising on surgery wait-lists for health issues caused by abuse or neglect within out-of-home care, and other medical costs assistance such as prescriptions.
- Educational and vocational training packages.
- Ensuring that survivors do not have to take aged care places with church or institutional groups who were responsible for child sexual abuse, and are prioritised for assessment.
- Prioritising on state and territory housing wait-lists.
- Training provided to doctors and nurses on Forgotten Australians, child migrants and survivors, similar to training provided for Stolen Generations.⁸¹

Committee view

3.88 The committee received a wide range of ideas from submitters and witnesses to this inquiry about services, programs and alternative pathways for redress. While these are outside of the scope of the Redress Scheme as proposed, the committee considers that the provision of additional services and programs to complement the Redress Scheme merits further consideration.

Specific groups accessing the Redress Scheme

3.89 Submitters and witnesses discussed the needs of particularly vulnerable groups who will be accessing the Redress Scheme, in particular Aboriginal and Torres Strait Islander people, people with disability and child applicants.

Aboriginal and Torres Strait Islander survivors

3.90 Submitters and witnesses raised the need to ensure the Redress Scheme was culturally appropriate for Aboriginal and Torres Strait Islander survivors.

3.91 The Victorian Aboriginal Legal Service (VALS) noted there were significant language barriers for Aboriginal and Torres Strait Islander survivors in seeking appropriate legal advice, and this should be taken into account in determining deadlines for providing information or accepting an offer of redress.⁸²

3.92 National Aboriginal and Torres Strait Islander Legal Services (NATSILS) noted the need for a specific communication strategy for Aboriginal and Torres Strait Islander peoples' communities:

We strongly support the proposition that there should be specific strategies for Aboriginal and Torres Strait Islander communities and for regional and

81 See for example: Anglicare WA, *Submission 10*, p. 5; Berry Street, *Submission 58*, p. 9; Ms Mary Brownlee, *Submission 45*; Ms Ellen Bucello, private capacity, *Committee Hansard*, 6 March 2018; Mr Andrew Collins, *Submission 57.1*; Law Council of Australian, *Submission 82*, p. 22; Ms Carol Ronken, Bravehearts Foundation, *Committee Hansard*, 16 February 2018, p. 20; Mr Duncan Storrar, *Committee Hansard*, 16 February 2018, pp. 48–49 and Victorian Kids in Care Advocacy Service, *Submission 41*.

82 Mr Alistair McKeitch, Senior Project and Policy Officer, VALS, *Committee Hansard*, 6 March 2018, p. 4.

remote communities. Additional funding for community legal education will ensure the development of effective and culturally appropriate written materials, websites, social media content, use of local radio, information, DVDs, community forums and, importantly, outreach. This needs to occur in regional and remote communities as well as urban areas. Specific funding to enable material to be produced in various Aboriginal languages would be an essential aspect of this education and awareness raising component.⁸³

3.93 VALS also noted the need for specific communication strategies for Aboriginal and Torres Strait Islander peoples' communities, and suggested:

Given that many Aboriginal and Torres Strait Islander people do not have stable accommodation, or are at times homeless, incarcerated, at medical appointments or attending to funeral or other family business, it will be necessary for ATSILS to act as a potential point of correspondence for clients.

Localised community networks are a major asset held by the ATSILS that will prove vital to ensure that Aboriginal and Torres Strait Islander survivors will have the highest chance of accessing redress by receiving and understanding any correspondence related to their application.⁸⁴

3.94 VACCA noted that the criminal exclusion provisions may disproportionately impact Aboriginal and Torres Strait Islander survivors, due to the overrepresentation of Aboriginal people in the justice and prison systems.⁸⁵

3.95 Multiple submitters and witnesses argued that, as non-sexual physical abuse is taken into account in assessing the redress payment amount, cultural abuse should also be taken into account:

The sexual abuse of Aboriginal children must be seen in tandem with the cultural abuse that occurred when children were removed on the basis of their Aboriginality, deliberately ensuring disconnection from family, community, culture and land—removing critical, protective and resilient features from Aboriginal children.⁸⁶

People with disability

3.96 Communication barriers for people with disability was raised by People with Disability Australia (PWDA), which noted that requires supports 'could include independent individual advocates, interpreters, augmentative or alternative communication devices, or other decision-making supports'. PWDA pointed out the

83 Ms Karly Warner, NATSILS, *Committee Hansard*, 6 March 2018, p. 7.

84 VALS, *Submission 14*, p. 6.

85 Ms Megan Van Den Berg, Executive Manager, Royal Commission into Institutional Responses to Child Sexual Abuse Support Service, VACCA, *Committee Hansard*, 6 March 2018, p. 2. This issue was also raised by the Law Council of Australia and VALS.

86 Ms Megan Van Den Berg, VACCA, *Committee Hansard*, 6 March 2018, p. 2. This issue was also raised by VALS.

importance of ensuring good access to the Redress Scheme for 'people with disability who have experienced numerous barriers when attempting to access other justice system responses'.⁸⁷

3.97 Children and Young People with Disability Australia (CYDA) agreed with this view, and submitted 'it is critical to ensure that all elements of the Scheme are accessible to people with disability. This includes specific supports to access information and support regarding the Scheme and during the application and response stages'.⁸⁸ CYDA recommended a review be undertaken to ensure all aspects of the Redress Scheme is accessible to people with disability.⁸⁹

3.98 PWDA also recommended that Redress Scheme staff should receive 'trauma informed disability awareness training and education', submitting:

This training would emphasise the importance of clear communication and using plain English, even when the topic at hand is quite complex. This would help to communicate what the Redress Scheme is, how decisions are made, and what the process involves. This may in turn help to manage the expectations of survivors with disability enquiring about the Redress Scheme.⁹⁰

3.99 PWDA further recommended that where people providing direct personal responses will be required to have received cultural awareness training, sensitivity training and training about the nature and impact of child sexual abuse and the needs of survivors, these individuals should also receive disability awareness training.⁹¹

3.100 The Department noted to the committee that existing Royal Commission services, which would be incorporated into the Redress Scheme, included some specialist services that work with Indigenous people, in remote areas and with people with a disability.⁹²

Child applicants

3.101 YMCA submitted that the use of the assessment matrix and the civil liability release are of particular relevance when considering the applications of minors for redress. YMCA submitted that the assessment of abuse severity, the scheme operator is required to consider issues such as 'permanent or non-permanent physical injury; infertility; mental health problems such as chronic PTSD; substance abuse; sexual dysfunction; chronic unemployment; and difficulty with intimacy'. YMCA contends a 'determination with respect to these impacts cannot be made in the circumstances of a minor applying for redress. The potential long-term impacts of child sexual abuse

87 PWDA, *Submission 16*, p. 2.

88 Children and Young People with Disability Australia (CYDA), *Submission 50*, pp. 3–4.

89 CYDA, *Submission 50*, pp. 3–4.

90 PWDA, *Submission 16*, p. 3.

91 PWDA, *Submission 16*, p. 5.

92 Dr Roslyn Baxter, Department of Social Services, *Committee Hansard*, 16 February 2018, p. 71.

such as the elements to be considered in making an assessment as to impact cannot be fully realised, known or identified until adulthood'.⁹³

3.102 YMCA further submitted that executing a deed of release against future civil proceedings 'prevents child recipients of redress from seeking damages for future impact through civil proceedings, at a time when the future impact cannot be known'.⁹⁴ YMCA has recommended including a provision that will exempt minors from the requirement to provide a deed of release when accepting an offer of redress.⁹⁵

Defence veterans

3.103 VAADFA raised a number of issues with the Redress Scheme concerning former defence force members and their applications for redress.

3.104 VAADFA discussed the issue whereby former child sexual abuse compensation payments are intended to be subtracted from the Redress Scheme payment total. VAADFA submitted that Defence Abuse Response Task Force (Defence Abuse) payments should not be subtracted from the final Redress Scheme payment for a number of reasons. Firstly, VAADFA submitted the Defence Abuse Reparation Scheme Guidelines limit the power to take the Defence Abuse payments into account when assessing other forms of compensation or damages to only be exercised by a tribunal or court.⁹⁶

3.105 VAADFA further pointed out that the Defence Abuse payments covered issues outside of the Redress Scheme, and were not apportioned. It would therefore be impossible to correctly determine what proportion of the Defence Abuse payment would be relevant to subtract from a Redress Scheme payment.⁹⁷

Supports to access the Redress Scheme

3.106 The Redress Bill contains provisions to ensure survivors are provided with legal advice throughout the application process. Additionally, survivors will have access to support services and financial advice. The Australian Government has announced it will contribute \$130 million to fund redress support services, legal support services, and financial support services.⁹⁸ These are discussed below.

Redress Support Services

3.107 The aim of the Redress Support Services (RSS) is for survivors to have timely and flexible access to trauma-informed and culturally appropriate support services while engaging with the Scheme. The Department has submitted that the Australian

93 YMCA, *Submission 37*, p. 4.

94 YMCA, *Submission 37*, pp. 4–5.

95 YMCA, *Submission 37*, p. 5.

96 VAADFA, *Submission 22*, p. 1.

97 VAADFA, *Submission 22*, p. 4.

98 Department of Social Services, *Submission 27*, p. 11.

Government funded RSS will be run by community-based providers with the relevant skills and experience in supporting survivors of institutional child sexual abuse. Support will be provided during the application and assessment period, following receipt of the application outcome, and where required, continue to support the survivor if they seek review of the determination of their application. RSS will also refer applicants to appropriate services such as legal support organisations which provide help in accessing records, and other community-based supports.⁹⁹

Legal advice

3.108 Many submitters and witnesses discussed the need for legal advice to be provided to survivors throughout the application process.

3.109 The Department submitted that Legal Support Services will 'provide survivors with access to free, trauma-informed, culturally appropriate and expert legal advice throughout the Scheme' and these would be available at four key stages of the application process:

- prior to application so survivors understand eligibility requirements and the application process of the Scheme;
- during the completion of a survivor's application;
- after a survivor has received an offer or redress and elects to seek an internal review; and
- on the effect of signing the acceptance document, which contains the release of future civil liability for participating responsible institutions and its impact on the prospect of future litigation.¹⁰⁰

3.110 Multiple submitters and witnesses raised the need to ensure the funded legal advice provided applicants with legal advice on their options for civil litigation as an alternative to redress, not just advice regarding the impact to future civil litigation should the applicant sign a deed of release.¹⁰¹

3.111 As outlined above, the Department submitted the legal advice will include advice on how the acceptance of an offer of redress would 'impact on the prospect of future litigation'.¹⁰²

3.112 Shine Lawyers submitted that many survivors would need assistance in preparing their applications due to a 'limited level of literacy coupled with alcohol and other substance abuse' and argued the 'consequences of consulting lawyers only

99 Department of Social Services, *Submission 27*, p. 11.

100 Department of Social Services, *Submission 27*, p. 12.

101 See for example: Mr Alistair McKeitch, VALS, *Committee Hansard*, 6 March 2018, p. 4; Angela Sdrinis Legal, *Submission 45*, p. 4.

102 Department of Social Services, *Submission 27*, p. 12.

towards the end of a matter is that survivors may lose the opportunity to present parts of their story which might have resulted in a higher payment'.¹⁰³

3.113 However, as outlined above, the Department has provided advice that the legal advice service is intended to provide advice at key points throughout the application process, including 'during the completion of a survivors application'.¹⁰⁴

3.114 The Department further submitted it will seek contributions of \$1000 per successful application from responsible institutions.¹⁰⁵

Committee view

3.115 The committee recognises the extensive evidence received from submitters and witnesses on the importance of good quality, independent legal advice. The committee is satisfied that appropriate legal supports will be made available to applicants throughout the key stages of the Redress Scheme application process. Confirming the commitment to independent legal advice, this legal advice service has been funded up front by the Australian Government.

3.116 The committee particularly notes that applicants will receive legal advice on the impact that accepting a Redress Scheme payment will have on civil litigation options.

Financial advice

3.117 The need for financial advice to be provided to Redress Scheme applicants was raised by a number of witnesses and submitters. Connecting Home Limited submitted that:

Vulnerable survivors should have the availability and option to access financial counselling and support in relation to offers made that are then accepted. Survivors are not obligated to take up the offer as they may not require financial advisement however due to the traumatization of the process may find it extremely beneficial to have this support.¹⁰⁶

3.118 CLAN strongly agreed with this view, and submitted that because of 'poor treatment and neglect in child welfare, a large number of Care Leavers did not receive adequate schooling, if any'.¹⁰⁷ CLAN recommended 'it is vital for Care Leavers and survivors of abuse that are receiving Redress, to have access to financial counselling if they wish. A large number of Care Leavers are receiving Centrelink Support

103 Shine Lawyers, *Submission 25*, p. 7.

104 Department of Social Services, *Submission 27*, p. 12.

105 Department of Social Services, *Submission 27*, p. 12.

106 Connecting Home Limited, *Submission 37*, p. 5. See also: Professor Kathleen Daly, *Submission 44*, p. 7; Mr Mark Glasson, Anglicare WA, *Committee Hansard*, 16 February 2018, p. 31; knowmore legal service, *Submission 31*, p. 42; VALS, *Submission 14*, p. 3.

107 CLAN, *Submission 60*, p. 9.

Payments as a means of survival, and for many, large sums of money will be a foreign feeling'.¹⁰⁸

3.119 The Department has submitted that the Redress Scheme 'will support referrals for survivors to access existing Commonwealth funded financial counsellors. Survivors will also have access to information about how to deal with large sums of money through the MoneySmart website and redress website'.¹⁰⁹

Communication strategies

3.120 An important mechanism to assist survivors to access the Redress Scheme raised by submitters and witnesses was an appropriate communication strategy. This was raised as a particular concern for vulnerable groups, such as Aboriginal and Torres Strait Islander peoples' communities, remote communities, people with disabilities, people with low literacy and people with functional communication barriers such as a lack of regular phone access.¹¹⁰

3.121 Anglicare WA pointed to the experience in the Western Australian redress scheme, Redress WA, where many people did not hear about the scheme and failed to apply in time.¹¹¹

3.122 It was noted that in relation to the Commonwealth Redress Scheme, many survivors misunderstand the scheme at this point. Dr Philippa White of Tuart Place told the committee:

The announcement of a redress scheme has certainly raised expectations. I'll mention just two of many recent examples. One was last week, when we received a call from a former Redress WA client, who had suffered terrible sexual abuse as a child at Wandering Mission. She was phoning in to give us her new bank deposit details so she could receive her payment under the Commonwealth scheme. She would not or could not accept that there is no redress scheme for her at the moment. Another caller asked to speak to our head office, because, clearly, we hadn't heard about the new redress scheme starting in July this year. There is a redress scheme starting in July, but it's currently funded for less than two per cent of the potential applicants. This fine print message isn't getting through. It's a serious problem, and we'd like to talk about how to deal with it later.¹¹²

3.123 Professor Daly also noted the importance of open communication between various support services and the scheme operator:

108 CLAN, *Submission 60*, p. 9.

109 Department of Social Services, *Submission 27*, p. 12.

110 Law Council of Australia, *Submission 82*, p. 29; South Australian Commissioner for Victims Rights, *Submission 72*, p. 4; VALS, *Submission 14*, p. 6; Waller Legal, *Submission 52*, pp. 17–18.

111 Mr Mark Glasson, Anglicare WA, *Committee Hansard*, 16 February 2018, p. 26.

112 Dr Philippa White, Tuart Place, *Committee Hansard*, 16 February 2018, p. 23.

During the early phases of implementation, there must be open lines of communication, including complaints and feedback, by legal and support services to the operator on these requirements. This information flow, along with posted information on a website, will provide a measure of transparency and accountability. It will also aid the operator's receiving strong applications.¹¹³

3.124 The Department told the committee that the communication materials being planned 'will be a range of materials that has been informed by some research we have been doing with survivor groups about what those materials should cover and what kind of language and format they should be in'.¹¹⁴

Deeds of release

3.125 Under clause 40 of the Redress Bill, a person who accepts an offer of redress will be required to release responsible participating institutions from liability for the sexual abuse (and related non-sexual abuse) for which redress is being provided.¹¹⁵

3.126 This deed of release will prevent the survivor, either as an individual or within a group, from bringing or continuing any civil claim against those responsible institutions relating only to that abuse.¹¹⁶

3.127 The Minister has stated the importance of including a deed of release provision within the Redress Bill to ensure participation by non-government institutions (NGIs) in the Redress Scheme:

The deed of release is perhaps the most important feature in terms of encouraging those critical institutions to opt in to the scheme and thus it is a mechanism by which we can ensure greater coverage for survivors as without it institutions may be exposed to paying compensation through civil litigation in addition to providing redress under the scheme and so might decline to opt in to the scheme.

The release will never preclude any criminal liabilities of the institution or alleged perpetrator, nor provide release in relation to any other abuse outside the scope of the scheme.¹¹⁷

3.128 The Minister also explained that a previously signed deed of release would not exclude a survivor from making an application under this Redress Scheme:

A survivor may have previously signed a deed of release for money received in relation to institutional child sexual abuse. Importantly, the rules of the scheme will contain, as a foundational principle for entry, that

113 Professor Kathleen Daly, *Submission 44*, p. 6.

114 Dr Roslyn Baxter, Department of Social Services, *Committee Hansard*, 6 March 2018, p. 68.

115 Redress Bill, clause 40.

116 Explanatory Memorandum, p. 29.

117 The Hon Christian Porter MP, Minister for Social Services, [House of Representatives Hansard](#), 26 October 2017, p. 12131.

institutions will need to waive reliance on a prior deed of release signed by a survivor.¹¹⁸

3.129 Some submitters raised concerns about the operation of the deed of release and whether it sufficiently considers matters of future liability, particularly in relation to individuals associated with the responsible institution,¹¹⁹ while a small number of submitters did not support the inclusion of deed of release provisions in the scheme.¹²⁰

3.130 However, the Department has confirmed that the Redress Scheme's approach to releasing civil liability aligns with the recommendations of the Royal Commission.¹²¹

Committee view

3.131 Noting that some survivors have received very low payments from institutions in past redress schemes, the committee is pleased by the Minister's comments that past deeds of release will be waived by participating institutions and that these survivors will be included by the Redress Scheme.

Reviews

3.132 The Redress Scheme is proposed with a provision allowing for an independent internal review of decisions, but no provision allowing for external merits review and a bar on judicial review. Decisions made by the scheme operator will not be eligible for review in the Administrative Appeals Tribunal or eligible for appeal in the court system, either by individual applicants or by the responsible institution.¹²²

3.133 In its submission, the Department affirmed that it was the Advisory Council's recommendation that survivors be provided access to an 'internal review process, but no rights to external merits of judicial review'.¹²³ The Department's submission provided that, in summary, the proposed limitation of external merits and judicial review is intended to ensure the Redress Scheme is not legalistic in nature, as such a scheme could be expensive, time consuming and could re-traumatise survivors.¹²⁴

3.134 The Parliamentary Joint Committee on Human Rights (Human Rights committee) considered that the reasoning presented in the Explanatory Memorandum, regarding the objective of preventing the re-traumatisation of survivors, 'is likely to be

118 The Hon Christian Porter MP, Minister for Social Services, *House of Representatives Hansard*, 26 October 2017, p. 12131.

119 Scouts Australia, *Submission 35*, p. 3; Anglican Church of Australia, the Salvation Army and Uniting Church in Australia, *Submission 30*, p. 2; Truth Justice and Healing Council, *Submission 79*, p. 11.

120 Victorian Kid in Care Advocacy Service, *Submission 41*, p. 2; Berry Street, *Submission 58*, p. 7; Historical Abuse Network, *Submission 64*, [p. 3].

121 Department of Social Services, *Submission 27*, p. 8.

122 Parliamentary Joint Committee on Human Rights, *Report 2 of 2018*, pp. 94–95.

123 Department of Social Services, *Submission 27*, p. 9.

124 Department of Social Services, *Submission 27*, p. 9.

a legitimate objective under international human rights law'. However, the Human Rights committee questioned whether preventing survivors from accessing external merits or judicial review—in instances where the survivors themselves may choose to do so—would be an effective means of preventing the re-traumatisation of survivors.¹²⁵ These concerns are discussed further below.

Internal review

3.135 Under proposed section 87 of the Bill, a Redress Scheme applicant may request an internal review of the decision which will be undertaken by the Redress Scheme operator, or an independent decision-maker with appropriately delegated power. The Explanatory Memorandum highlights the proposed independence of this internal review mechanism:

To ensure full independence, neither the Operator nor independent decision-maker is permitted to have been involved in the making of the decision under review.¹²⁶

3.136 The Senate Standing Committee for the Scrutiny of Bills (Scrutiny committee) reviewed the provisions allowing for internal review of a decision of the scheme operator. The Scrutiny committee found that proposed subclause 88(3) limits the review to the information and documents that were available to the person who made the original determination. Conversely, merits review, such as at the Administrative Appeals Tribunal, allows for the consideration of material that was not before the original decision maker.¹²⁷

3.137 In response to the Scrutiny committee, the Minister provided context relevant to the Consequential Bill's judicial review exemptions:

The [Independent Advisory Council on Redress] recommended the Scheme provide survivors with access to an internal review process, but no rights to external merits or judicial review as they considered that providing survivors with external review would be overly legalistic, time consuming, expensive and would risk further harm to survivors.¹²⁸

3.138 The Scrutiny committee noted the Minister's statement that the above limit on new information was included to reduce the administrative burden on individuals and associated re-traumatisation of survivors, and to reduce high operational costs which might preclude broad opt in from jurisdictions and NGIs. However, the Scrutiny committee recommended that additional information should be allowed to be considered during the internal review process.¹²⁹

125 Parliamentary Joint Committee on Human Rights, *Report 13 of 2017*, p. 15.

126 Explanatory Memorandum, p. 66.

127 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 15 of 2017*, p. 28.

128 Parliamentary Joint Committee on Human Rights, *Report 13 of 2017: Ministerial responses*, pp. 10–11.

129 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 15 of 2017*, p. 31.

3.139 Maurice Blackburn Lawyers also suggested that subclause 88(3) may restrict the review of new information at the internal review stage, submitting that the 'clause is silent on a review process for circumstances where new information is necessary to the delivery of justice – for example, if incorrect information was inadvertently given to the Operator during the initial application, or if circumstances have changed during the decision making period'.¹³⁰

3.140 VACCA also raised the need for the internal review process to be culturally-informed.¹³¹

3.141 Angela Sdrinis Legal raised a number of concerns and recommended the internal review process should: take no more than 90 days, ensure that a redress offer cannot be reduced on review and allow the applicant a period of 60 days to make submissions if the applicant so wishes.¹³²

3.142 NATSILS was supportive of the goal to create a review process 'which reduces the exposure of survivors to overly legalistic, time consuming, expensive procedures' but had concern with the 'absence of transparency and accountability available through internal review processes'. NATSILS recommended a complaints mechanism be available 'for ensuring accountability with regard to internal review processes'.¹³³

3.143 Additionally, the Truth Justice and Healing Council argued that participating institutions should have a right to seek a review of decisions particularly to review the determination of responsibility.¹³⁴

External merits review

3.144 In responding to concerns about the lack of provision for review by the Administrative Appeals Tribunal, the Minister pointed to the expertise that independent decision makers will have in matters relating to institutional child sexual abuse:

Members of the Administrative Appeals Tribunal are appointed based on their judicial experience, not recruited for the skillset and understanding of the survivor cohort that will be required of Independent Decision Makers. The Administrative Appeals Tribunal must make a legally correct or preferable decision, while Independent Decision Makers will make decisions on applications with highly variable levels of detail and without strict legislative guidance on what weight should be applied to the information they do receive...Utilising the Administrative Appeals

130 Maurice Blackburn Lawyers, *Submission 28*, p. 10. This was also raised as an issue of concern by CYDA, the Commonwealth Ombudsman, VACCA and Waller Legal.

131 VACCA, *Submission 36*, p. 9.

132 Angela Sdrinis Legal, *Submission 46*, pp. 2–3.

133 NATSILS, *Submission 68*, p. 4.

134 Truth Justice and Healing Council, *Submission 79*, p. 15.

Tribunal for merits review under the Scheme risks inappropriately imposing a legalistic lens on a non-legalistic decision making process.¹³⁵

3.145 The Human Rights committee found 'the internal review mechanism may be capable of ensuring that survivors have adequate opportunities to have their rights and obligations determined in a manner that is compatible with the right to a fair hearing', but recommended this mechanism be monitored.¹³⁶

3.146 The Australian Lawyers Alliance argued that the lack of external review could cause harm to survivors:

A survivor who believes that a decision has been wrongly made according to the law, and cannot appeal that decision to an external tribunal, is likely to feel that the powerful are again operating to rob them of their rights.¹³⁷

3.147 Angela Sdrinis Legal recommended that should an external review by the Administrative Appeals Tribunal not be allowed, then a review could be undertaken by the Commonwealth Ombudsman.¹³⁸ The Commonwealth Ombudsman noted he has existing jurisdiction to receive complaints about the administration of the Redress Scheme.¹³⁹

3.148 Australian Lawyers for Human Rights (ALHR) questioned the entire premise of 'protecting survivors' being used as a basis for restricting external review citing the following issues:

(a) In the situation where the Operator rejects the applicant's claim that they have been subject to sexual abuse, then it would appear that the applicant is not a survivor in which case recourse to an external review will not be harmful to them as a survivor;

(b) it is illogical to deny a right to an external review on the basis of time and cost where the refusal then means that expensive, time-consuming litigation is the only other option open to the applicant;

(c) it is not for the Independent Advisory Council but for the applicant to make the call as to which of various options would be more harmful to them as a survivor.¹⁴⁰

3.149 ALHR argued it would be reasonable to exclude external review where there has been the acceptance of an application, but not where an application has been rejected.¹⁴¹

135 Parliamentary Joint Committee on Human Rights, *Report 2 of 2018*, p. 96.

136 Parliamentary Joint Committee on Human Rights, *Report 2 of 2018*, p. 96.

137 Australian Lawyers Alliance, *Submission 47*, p. 13.

138 Angela Sdrinis Legal, *Submission 46*, pp. 2–3. This was also recommended as an alternative by the Australian Lawyers Alliance.

139 Commonwealth Ombudsman, *Submission 69*, p. 4.

140 Australian Lawyers for Human Rights, *Submission 49*, p. 3.

141 Australian Lawyers for Human Rights, *Submission 49*, p. 3.

Judicial review

3.150 The provision barring judicial review is contained in the Consequential Bill, which seeks to amend the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) to insert paragraph (zg) to Schedule 1 which, in effect, will exempt decisions made under the Redress Scheme from being subject to judicial review under that Act.¹⁴²

3.151 The Explanatory Memorandum stipulates that decisions under the scheme will not be subject to judicial review under the ADJR Act as:

...the [Redress] Scheme is not intended to be legalistic in nature and is intended as an alternative to civil litigation with a low evidentiary burden.¹⁴³

3.152 The Explanatory Memorandum reasons that the 'protections of the ADJR Act are unlikely to be required' because the Redress Scheme's 'reasonable likelihood' threshold is a lower burden of proof than a civil litigation process, resulting in a survivor being 'more likely' to access redress.¹⁴⁴

3.153 The Scrutiny committee reviewed the exclusion of decisions made under the redress scheme from judicial review under the ADJR Act. The Scrutiny committee noted that the ADJR Act is beneficial legislation and drew scrutiny concerns to the attention of senators, considering that 'from a scrutiny perspective, the proliferation of exclusions from the ADJR Act should be avoided'.¹⁴⁵

3.154 The Human Rights committee reported that the Consequential Bill's proposed exemption of a form of judicial review may 'limit the right to a fair hearing, as it limits survivors opportunities to have their rights and obligations determined by an independent and impartial tribunal'.¹⁴⁶

3.155 Advice was sought from the Minister by the Human Rights committee regarding whether the removal of judicial review pursues a legitimate objective with reference to compatibility of the measure with the right to a fair hearing.¹⁴⁷ The Minister explained that redress is not intended to be a legal process:

The Scheme has taken many steps to ensure that all aspects are developed in accordance with a trauma-informed approach and the judicial review process has not been developed for these reasons. If judicial review avenues were available, many survivors may have unrealistic expectations of what could be achieved given the low evidentiary barrier to entry to the Scheme

142 Consequential Bill, Schedule 2.

143 Explanatory Memorandum, p. 64.

144 Explanatory Memorandum, p. 65.

145 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 13 of 2017*, pp. 20–21.

146 Parliamentary Joint Committee on Human Rights, *Report 13 of 2017*, p. 15.

147 Parliamentary Joint Committee on Human Rights, *Report 13 of 2017*, p. 16.

compared to civil litigation, and that therefore the judicial review process is likely to re-traumatise a survivor.¹⁴⁸

3.156 The effect of Schedule 3 of the Consequential Bill to exempt judicial review under the ADJR Act was also the subject of some concern amongst submitters.

3.157 The Australian Human Rights Commission (AHRC) recommended that the Commonwealth Government amend the Consequential Bill to permit judicial review under the ADJR Act.¹⁴⁹

3.158 The AHRC explained that whilst the Consequential Bill, as drafted, excludes judicial review under the ADJR Act, survivors may still seek to access judicial review 'through the more complex and cumbersome avenue protected by the Constitution'.¹⁵⁰ This was also noted by the Human Rights committee in its report.¹⁵¹ The AHRC highlighted the importance of judicial review:

It is central to the rule of law, as well as international human rights law, that judicial review is readily available to ensure that the executive branch of government acts lawfully. There is a clear public interest, as well as a personal interest, in there being a clear and simple means of ensuring that the Scheme acts lawfully. By excluding access to the ADJR Act, this would not exclude judicial review altogether; rather, it would simply make it harder for an individual to correct that legal error.¹⁵²

3.159 Other submitters also suggested that the Consequential Bill should include provisions for judicial review.¹⁵³

Committee view

3.160 The committee notes the concerns of submitters and witnesses around the lack of traditional forms of external review, such as administrative review in a tribunal or judicial review. The committee is also very aware of the overarching goal of the Redress Scheme to be an alternative to civil litigation, with a lower burden of proof and a lower burden of 'legalistic process' on applicants. The committee further notes the comments from the Minister, that a costly administrative process may become a barrier to universal opting-in from jurisdictions and relevant NGIs.

3.161 The committee notes the findings of the Joint Parliamentary Committee on Human Rights, which looked at this issue in depth and found that the proposed internal review mechanism was capable of achieving the dual goal of a reduced legal burden on applicants, while providing the appropriate checks and balance of independent review.

148 Parliamentary Joint Committee on Human Rights, *Report 2 of 2018*, p. 95.

149 Australian Human Rights Commission (AHRC), *Submission 32*, p. 4.

150 AHRC, *Submission 32*, p. 12.

151 Parliamentary Joint Committee on Human Rights, *Report 2 of 2018*, p. 96.

152 AHRC, *Submission 32*, p. 12.

153 See: Waller Legal, *Submission 52*, p. 22; Australia Lawyers Alliance, *Submission 47*, p. 13.

3.162 The committee believes the goal of reducing the legal burden on applicants could be achieved by ensuring the internal review process contained within the legislation is an effective substitute for external review and is appropriately robust and transparent.

3.163 The committee further notes that while the legislation requires the internal review to be undertaken by an 'independent decision maker', it does not provide a restrictive definition of what constitutes an 'independent decision maker'.

Reporting to Parliament

3.164 Clause 122 of the Redress Bill sets out provisions for an annual report to Parliament on the operation of the Redress Scheme.

3.165 In accordance with these provisions, the annual report must:

- (a) be presented as soon as practicable after the end of each financial year;
- (b) provide information on the failure of institutions to provide information to the scheme operator as required under section 70;
- (c) provide information on the failure of institutions to deliver direct personal responses as directed under subsection 50(1); and
- (d) comply with any other requirements for annual reporting prescribed by rules.¹⁵⁴

3.166 The Explanatory Memorandum notes that allowing for 'rules to be made...will allow the Operator to specify matters that may be of interest to Parliament that arise over the 10 year course of the Scheme'.¹⁵⁵

3.167 Submitters have recommended that data about the operation of the Redress Scheme also be reported annually, particularly data relating to the number of applications received, offers made, offers accepted or declined, processing times, and payments made under the scheme.¹⁵⁶ This reflects the recommendation of the Royal Commission relating to the publication of annual data for a redress scheme.¹⁵⁷

Committee view

3.168 The committee agrees with recommendations from submitters that data relating to applications and offers made under the scheme should be included in each annual report. The Department should consider the Royal Commission's recommendations about data reporting in deciding what data should be reported.

3.169 Given that the redress payment amount has been a point of significant discussion and debate, providing data about the average payment provided under the

154 Redress Bill, clause 122.

155 Explanatory Memorandum, p. 60.

156 Maurice Blackburn Lawyers, *Submission 28*, p. 12; Professor Kathleen Daly, *Submission 44*, p. 7; Truth Justice and Healing Council, *Submission 79*, p. 21.

157 Royal Commission Redress Report, September 2015, p. 74.

scheme each year would offer an opportunity to assess whether payments are meeting the levels modelled when the assessment matrix was developed and whether any adjustments should be made to ensure that the average payment is as close as possible to the \$76 000 quoted by the Department.