



ISSUES PAPER 6

RELEASED 23 APRIL 2014

REDRESS SCHEMES

ISSUE

The Terms of Reference require the Royal Commission to inquire into what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse in institutional contexts, including in ensuring justice for victims through the provision of redress by institutions. 'Redress' means remedy or compensation, and it can include financial compensation, provision of services, recognition and apologies and the like.

The Royal Commission is considering the effectiveness of redress schemes or processes established by governments or institutions to offer compensation and/or services to those who suffer child sexual abuse in institutional contexts.

All states and territories have established statutory victims of crime compensation schemes, and some states have established schemes specifically for those who experienced abuse in some institutions. Some non-government institutions also offer redress schemes or processes, including for example the Catholic Church's *Towards Healing*, which was the subject of Issues Paper 2. Redress schemes have also operated overseas, including government and non-government schemes.

Redress schemes in Australia and overseas have taken a variety of forms. Some schemes are quite small, applying to former residents of only one institution, while others are larger schemes applying across a group of related institutions, and some have been established as statutory schemes. The schemes have also had quite varied rules, including about coverage, eligibility, validation procedures and payment calculation and scales.

The Royal Commission now seeks submissions on redress schemes and their effectiveness.

Redress provided through statutory victims of crime compensation schemes will be considered in a separate Issues Paper. The Royal Commission has already obtained input about the effectiveness of civil litigation systems in resolving claims for damages against institutions in the civil courts and possible reforms to civil litigation systems through Issues Paper 5.

Submissions from those who have been involved in redress schemes in relation to child sexual abuse in institutional contexts, whether as a claimant, institution, service provider, representative of a party or stakeholder or professional organisation, are particularly welcome.

SUBMISSIONS

Submissions are sought from interested individuals and government and non-government organisations on this issue. Of particular interest to the Royal Commission is:

1. What are the advantages and disadvantages of redress schemes as a means of providing redress or compensation to those who suffer child sexual abuse in institutional contexts, particularly in comparison to claims for damages made in civil litigation systems?
2. What features are important for making redress schemes effective for claimants and institutions? What features make redress schemes less effective or more difficult for claimants and institutions?
3. What forms of redress should be offered through redress schemes? Should there be group benefits available to, say, all former residents of a residential institution where abuse was widespread? What should be the balance between individual and group redress?
4. What are the advantages and disadvantages of establishing a national redress scheme covering all institutions in relation to child sexual abuse claims? If there was such a scheme, should government institutions (including state and territory institutions) be part of that scheme? How and by whom should such a scheme be funded?
5. If institutions have established internal redress schemes, should all or any part of the decision-making of the scheme be independent of the institution? Should the schemes be subject to any external oversight? If so, what?
6. Should establishing or participating in redress schemes be optional or mandatory for institutions?
7. Should seeking redress or compensation through a redress scheme be optional for claimants? Should claimants retain the ability to pursue civil litigation if they wish?
8. How should fairness be determined in redress schemes when some institutions have more assets than others? How should fairness and consistency between survivors be achieved in these circumstances? What should be the position if the institution has ceased to operate and has no clear successor institution?
9. What are the advantages and disadvantages of offering compensation through a redress scheme which is calculated on the same basis that damages are awarded by courts in civil litigation systems? Should affordability for institutions be taken into account? If so, how?
10. Given that the sexual abuse of children mostly occurs where there are no witnesses, what level of verification or proof should be required under a redress scheme to establish that a claimant has been sexually abused? How should institutions be involved in verifying or contesting claims for compensation?
11. What sort of support should be available for claimants when participating in a redress scheme? Should counselling and legal advice be provided by any redress scheme? If so, should there be any limits on such services?
12. If a claimant has already received some financial compensation for the abuse through one or more existing schemes or other processes, should the financial compensation already received be taken into account in any new scheme?

Submissions are welcomed on any aspects of redress schemes as they affect claims for compensation by people who suffer child sexual abuse in institutional contexts.

Submissions will be made public unless the person making the submission requests that it not be made public or the Royal Commission considers it should not be made public. That will usually only occur for reasons associated with fairness.

Submissions should be made by **Monday 2 June 2014**, preferably electronically, to solicitor@childabuseroyalcommission.gov.au, otherwise in writing to GPO Box 5283, Sydney NSW 2001