

## ***Chapter 2 Structural Issues***

- We seek the views of the Australian Government and state and territory governments on whether they favour a single, national redress scheme led by the Australian Government or an alternative approach.
- We welcome submissions on whether we should recommend redress processes and outcomes for future institutional child sexual abuse.

As stated in our submission responding to the Royal Commission's *Issues Paper 6 – Redress Schemes*, the Victorian Commission for Children and Young People (CCYP) is supportive of the establishment of a child friendly, single, national redress scheme, believing this would offer many benefits to victims and the community. Such a scheme has the particular benefits of being perceived to be independent of state run institutions, being more accessible to survivors who may have moved interstate or live in a border area, or experienced abuse at an organization with assets or services located throughout Australia. A national scheme also offers the benefit of ease of information sharing, and transparency and accountability, which will assist in meeting the primary goal of survivors that any redress scheme be 'fair' in terms of allowing equal access and equal treatment for survivors.

Whilst there is hope that the substantial work of the Royal Commission will reduce the likelihood of further incidents of institutional child sexual abuse, it would be naïve to assume that this behaviour would be eliminated, either currently or in the future. The CCYP is currently conducting a systemic inquiry into the sexual abuse and exploitation of children and young people living in residential care in Victoria. Although it might be expected that institutional procedures for prevention and detection of child sexual abuse will improve, and that support services will be responsive to the survivor's needs as a matter of course, alternative remedies will also be required. The obstacles encountered in undertaking civil litigation will be likely to continue making this an unviable option for many survivors, making redress processes an important alternative.

## ***Chapter 4 Direct Personal Response***

- We welcome submissions that discuss the issues raised in Chapter 4, including the principles for an effective direct personal response and the interaction between a redress scheme and direct personal response.

### ***Principles for Direct Personal Response***

As discussed in Chapter 4, it is felt that the principles which underpin an effective direct personal response should include:

- Recognition that a personal response can only come from the institution.
- Child friendly and age appropriate processes should be integral to the response provided.
- The role of an advocate/representative in the process should be a mandatory consideration.
- The power imbalance that led to the abuse must not be replicated in any dealings the institution has with the survivor, who must dictate the terms.

- Any interaction between the institution and the survivor should only occur in accordance with the wishes of the survivor, including the way in which this is to occur.
- The institution must clearly state what they are willing to offer and ensure that this can be provided, and have a mechanism for the survivor to make a complaint if this does not occur.
- Minimum requirements essential for an institution to provide upon request by the survivor are an apology, an opportunity to meet with a senior representative of the institution, and an assurance as to steps taken to protect against further abuse.
- Great care must be taken that the apology is genuine, solely focussed on improving the survivor's wellbeing and meeting their psychological needs, and not reinforcing the power imbalance in any way or absolving the offender.
- The institution needs to be aware that a carefully considered and delivered apology can have a significant positive impact upon the healing of the survivor.
- The survivor should be able to specify if they want either or both in terms of a personal, private apology from the offender either face-to-face or as a letter, or an official, public apology which is permanently recorded in some way.
- Institutions should consider the basic elements to be included in the content of an apology including *recognition, responsibility, reasons, regret, redress and release*.
- The recognition element of the apology should include the three components of a description of the wrong experienced by the subject of the apology, a clear and unequivocal recognition that the action or inaction was wrong, and an acknowledgement of the harm inflicted upon the affected person.
- The institution needs to strive to develop a genuine understanding and insight into the wrong and harm experienced by the survivor.
- The institution must be sensitive to the survivor's wishes in terms of the detail of the abuse to be provided in an apology, especially when this is to be in a written form.
- A full apology must take responsibility for the wrong and the harm caused.
- An effective apology should include an explanation of the reasons for or cause of the problem, whilst taking care not to excuse or justify the problem.
- In order to effectively convey regret, demonstrating sincerity, the institution must carefully consider the factors of the content, form and means of communication of the apology.
- Redress needs to include a statement of action that the institution has, or will be, taking to address the issue, such as an assurance or undertaking that the abuse will not occur again.
- It must be recognized that the survivor needs to prescribe how much detail is required in this assurance.
- A request for forgiveness or release from blame may assist in the reconciliation of the relationship, as the power imbalance may be rectified to some degree.
- For Aboriginal people, an apology must be considerate of harm that is spiritual, social, emotional wellbeing and intergenerational.

#### *Meetings with Senior Representatives*

Meetings with senior institutional representatives also perform a range of functions, including the opportunity for the survivor to tell their story, to be heard, and to receive a personal apology from a representative of the institution. To assist the voice of children and young people to be heard, the services of an advocate may need to be employed. The seniority of the representative shows the matter is treated as important, as well as the need that the survivor feels respected in their interaction. The issue of whether institutional representatives should wear uniforms should be

canvassed with survivors prior to the meeting, along with arrangements about the location of the meeting and whether the survivor wishes to have a support person accompany them.

Survivors may highly value the opportunity to be provided assurances that the abuse cannot happen again due to steps being taken, either in a written apology and/or as part of a meeting with senior representative of the institution. In some cases, the survivor may want particular assurances in relation to their abuser and ensuring this person cannot have access to children. The institution will have to consider carefully beforehand what may be said in this situation, particularly in the event that an investigation or disciplinary process is current.

#### *Other Requests*

Institutions need to be open to hearing from survivors about what they want, and innovative in how they may be able to achieve this, including seeking support from other services. In circumstances where survivors raise issues regarding the naming of buildings or other facilities, or the placement of statutes or other memorials honouring an individual who has later been named as an abuser, the institution should find ways to remove such recognition in acknowledgement of the distress caused.

#### *Broader Range of Direct Personal Responses*

It is important that institutions that have already been offering a broader range of direct personal responses to survivors and others should continue this practice. These services might cover needs-based financial assistance, memorials, reunions and support groups, family tracing services and family reunions, and pastoral care. The lessons to be learned by institutions currently providing out of home care for children are very salient, regardless of any experience of abuse, in terms of family and social connection and the requirement of comprehensive record keeping to facilitate this. Faith-based institutions and State and Territory governments need to anticipate the demand for access to care records, both for survivors to understand and reclaim their histories and identities and to support claims for redress or civil litigation. These agencies may also be called upon to assist survivors to trace family members and to facilitate family reunions. There may also be a desire for memory projects which record and publicly communicate survivors' experiences, such as through yearbooks, photo albums and collections of survivors' accounts of their experiences. This process enables the survivors to have a voice and place their account on the public record.

#### *Collective Redress*

For those survivors who identify as part of a specific group, there may be a wish for a collective form of direct personal response such memorials or plaques at important sites, commemorative events, group reunions and collective or group healing therapies. It is important that extensive consultation be conducted with survivors in order for an appropriate memorial to be constructed. The institution may have a role to play in supporting reunions and commemorative events which may also offer an opportunity for reconciliation.

The recognition that Indigenous survivors were also subjected to policies of forced removal from their families resulting in dislocation from kin, country and culture, which compounded the impact of institutional child sexual abuse provides a context for consideration for additional forms of direct personal response. Collective redress in the form of traditional healing to assist in reconnection with culture, family and community and reduce the isolation of individuals within the group is acknowledged to be very important in addressing intergenerational trauma and improved social and emotional wellbeing. It may be appropriate that 'blended healing' which combines therapeutic counselling with traditional healing and other cultural practices offers a response for diverse needs. This may also be achieved through Indigenous organizations working with other support services facilitated by funding assistance from the institution.

### *Training of Institutional Representatives*

It is critically important that all institutional representatives that will have any interactions with survivors need to receive appropriate trauma-informed care training. This training can have a positive impact on the culture of the institution, flavouring support services to be more effective and prevent re-traumatization of the vulnerable people using them. It is also essential that institutional staff who are providing a direct personal response to Indigenous survivors should receive cultural awareness and competency training to ensure they can engage appropriately with both survivors and their communities.

### *Feedback for Institutions*

Institutions should be open to hearing feedback to ensure their direct personal response is as effective as possible in terms of improvement of processes and services such as staff training and resource allocation or the identification of additional needs. This support might be extended in some instances to provision of services for survivors' family members or the broader community, especially in Indigenous communities where the impact of abuse may have been community-wide.

### *Interaction between a Redress Scheme and Direct Personal Response*

A direct personal response can only be provided by the institution and not on their behalf by an independent redress scheme. However, in acknowledgement that it may be too traumatic for the survivor to have direct contact with the institution, but they may wish for a written apology, there may well be a role for an independent redress scheme to act as an intermediary to facilitate this. The intermediary may also assist in facilitating the provision of a direct personal response through exchanging contact details. This would require safeguards that the institutional staff were trained in responding appropriately to survivors and the institution would actually provide the services offered, otherwise this would also negatively reflect upon the intermediary.

## **Chapter 5 Counselling and Psychological Care**

- We welcome submissions that discuss the issues raised in Chapter 5, including the principles for counselling and psychological care, existing services and service gaps and the principles for supporting counselling and psychological care through redress.

In particular:

- we seek the views of the Australian Government and state and territory governments on options for expanding the public provision of counselling and psychological care for survivors
- we welcome submissions on the relative effectiveness and efficiency of the options in meeting survivor's needs.

Work undertaken by the CCYP supports the observation that children and young people who are survivors have very variable needs for counselling and psychological care, which will be episodic and unpredictable, and potentially triggered by specific events, which the survivors themselves will be unlikely to be able to forecast. This makes it very difficult to predict the degree and timing of support that may be required throughout the survivor's life. Furthermore, survivors are less likely than the general population to have the means to provide funds for this purpose given their lower earning potential due to poorer educational outcomes and employment prospects, health problems and harmful behaviours which may be associated with their experience of childhood sexual abuse.

These issues experienced by survivors may also have a profound impact on their families as they may self-harm and attempt suicide, have relationship impairments resulting from trust and intimacy difficulties and become concerned about the role modelling they are providing for their children, in the event that they feel secure enough to have any children. Survivors may have also become

socially isolated and homeless, contributing further to a loss of cultural connection with their community. Therefore, it is imperative that survivors have access to a diverse range of programs and services to increase the opportunity that their needs can be effectively matched to an appropriate practitioner with the right capabilities to work with complex trauma clients.

It is recognized that each individual will react differently to their experience of abuse as a consequence of many different factors including the child's individual temperament, their prior life experiences, the presence of a supportive, significant other in their life and the nature and context of the abuse experience itself. This means that there is no way to accurately measure the proportional severity of the abuse impact according to a set formula and allocate counselling and psychological care accordingly. In similar fashion, a medical model approach which seeks to simply address survivors' symptoms and cure them through short term interventions, without exploring the cause of their trauma, is an insufficient response to the complex trauma related needs of survivors. It is essential that the practitioner allows the client to lead and to provide details of the actual abuse at a time and to the extent that the client wishes to do so, to prevent the counselling being re-traumatizing.

Although it should be acknowledged that the client must be ready for counselling to be effective, there may be a particular role for counselling at the time of leaving care, utilizing the central organizing principle that it is assumed that there is the possibility of trauma in the lives of all clients. Counselling provision at this time is suggested in light of studies indicating it can help survivors to understand their abuse history and the dynamics of child sexual abuse in new ways. Counselling can also authenticate their experiences, and challenge and change long standing guilt-based beliefs of responsibility and culpability when clients are assisted to view the vulnerabilities and limitations of the child they were within the abusive context created by an older, more physically powerful and psychologically dominant offender. It might also be hoped that counselling would offer care leavers greater capacity to understand themselves, including their emotions, reactions, behaviours and beliefs, in deeper ways and learn to connect to the self and to the body in new and positive ways, allowing a smoother transition to their life beyond care.

Provision of counselling may also be critical for females especially around the time of pregnancy and childbirth which can act as triggers for memories of childhood sexual abuse, or for parents of either gender when their children approach the age at which they were abused. Parents may also worry about their own potential to become an abuser or be unable to develop healthy attachments with their children due to their experience of abuse. Timely interventions at these trigger points may assist in providing protection against the transmission of intergenerational trauma for the next cohort of children.

Counselling and psychological care supported through redress should have the capacity to be sufficiently flexible to meet the needs of children of all age groups and young adults, and offer a means to assist parents or guardians to make informed choices that will best meet the therapeutic needs of the child. A treatment plan should be developed and regular assessment and review of progress towards treatment goals is essential, but there should be no fixed limit on the number of counselling sessions available to a survivor per episode of care. Family members should also have access to counselling sessions as required, given their importance in supporting the healing of the individual member, especially in the case of non-offending caregivers of children and significant others in the lives of children and young people.

To ensure practitioners have the right capabilities, an accreditation process should be conducted by a range of professional and peak bodies acting as accreditors, but using an agreed upon national standard for capability assessment to achieve consistency. Those professionals with the right

capabilities should then be listed on a database, held by the redress scheme, to enable easy identification by referring practitioners and clients. When the issue of cost is raised in terms of funding large numbers of individuals and some family members to receive counselling and psychological care for an extended period of time, the hidden costs of the past reluctance to address and prevent this trauma should be factored into the discussion. For example, the research cited that revealed the survivors of child sexual abuse make up a higher proportion of clients of mental health services when compared with the general population would seem to be just the tip of the iceberg. If prevention and earlier intervention were more effective in reducing the incidence of childhood sexual abuse, the future funds saved in areas of mental health service provision, educational disengagement, under employment and loss of productivity, and the criminal justice system, can only be imagined.

### Options

The importance of diversity in programs and services available is of paramount importance to clients, and therefore a redress scheme should aim to provide funding for counselling and psychological care that supplements existing programs and services funded by the Australian Government. A stand-alone scheme directly providing counselling and psychological care would not assist in achieving this aim, as it would be counterproductive through pressuring governments as the significant funders to redirect funding from existing programs and services. As an alternative, provision of funding rather than direct service provision, would allow innovative measures such as financial support for appropriate training programs for professionals to improve their capabilities, or increasing service provision by those already with capabilities, including Indigenous practitioners, in regional and remote areas. Funding could also be provided to establish and maintain a database of practitioners who were assessed as having the right capabilities to treat survivors of complex trauma. Cultural awareness training for practitioners who have capabilities for this work could also be offered to enable effective practice with Indigenous survivors and their communities.

Consistent with the Terms of Reference of the Royal Commission, it would seem most appropriate that institutions, as an element of redress, should fund the provision of counselling and psychological care to supplement services and fill gaps, in acknowledgment of the greater burden of survivors seeking support. It is very important that state and territory governments and institutions take responsibility for funding the counselling and psychological care of survivors who were harmed whilst in their care. The funding institutions should be required to contribute an amount per survivor for counselling and psychological care, upon the survivor being assessed as eligible under a redress scheme. The amounts paid by the institutions should be pooled and used as required to supplement existing services and fill service gaps to ensure survivors' remaining needs for counselling and psychological care are met. For example, the redress scheme would fund provision of services to survivors of historical child sexual abuse in an institutional context who wished to access services through a specialist sexual assault service, but would ordinarily be placed on a waiting list behind those who had experienced more recent sexual abuse.

The inherent difficulties in the proposed reforms to Medicare which would either restrict eligibility to those survivors of child sexual abuse which occurred in an institutional context, or broaden the eligibility to all survivors of child sexual abuse, both breaching the principle of universality of access to Medicare, suggest these alternatives may not be viable. However, perhaps a different option would be the development of a stand-alone Australian Government scheme for survivors of child sexual abuse in an institutional context that might still make use of Medicare's extensive existing infrastructure to the greatest extent possible. This would take advantage of the familiarity of Medicare to survivors and the accessibility of service provision. Of the three examples of stand-alone Australian Government schemes that provide special access to counselling and psychological services, it is felt that the Veterans and Veterans' Families Counselling Services (VVCS) may most

closely approximate the type of issues and services required by child sexual abuse survivors and their family and community members and this could be used as a model for service provision.

The option of a trust fund which would need to be funded by institutions is not seen as a preferable alternative given the risk of under-funding by the contributing institutions would eventually fall upon the survivors if there were insufficient funds to meet their needs for counselling and psychological care. However, the acknowledged benefit of a trust fund in potentially allowing a greater variety of funding arrangements to provide innovative and flexible services could perhaps also be achieved through institutional funding of redress to supplement existing services and service gaps when used creatively.