
From:
Sent: Tuesday, 10 March 2015 7:47 AM
To: redress
Subject: response to consultation paper on Redress and civil litigation

Dear Commisioners

I have been a support person for Ms (nee) who attended a private session in Brisbane. I am Ms GP and counsellor for more than a decade.

I wish to highlight what I think are important issues in the consideration of redress, which seemed to command little attention to date.

1. On the amount of "damages".

Everyone who watches the news or reads a newspaper is aware of the sorts of damage amounts awarded by courts for physical injuries. To me and others, many of these amounts seem excessive in regard to the injury sustained. But for victims of child abuse, we only seem to be talking about treatment costs and exgratia payments of relatively small sums.

I understand it is difficult to quantify to potential of an abuse survivor, should they not have been abused. I'm sure someone somewhere could have a go at it.

Babies and children who suffer physical harm or permanent disability are easier to sympathise with. Recent awards have measured in the millions. People suffering from mental illness and permanent disability are harder to sympathise with, because we can't see their suffering. We especially do not account for those who commit suicide.

The starting point for negotiation on compensation should be at the high end of possible damage awards, as the accepted result of negotiations is generally accepted to be somewhere in between the starting points.

Some of the institutions who have protected abuse survivors have considerable assets. Why should we not start talking about considerable compensation for some survivors?

At the very minimum, one should properly account for the opportunity cost of attending for psychological treatment. This is easily quantifiable in terms of time required to be taken off work to travel to/from sessions as well as the time of the sessions themselves.

Moving forwards, it is the quantum of damages payable which will determine the risk which institutions are exposed to which will likely be carried by their insurers. Insurance will provide ongoing funding for future damages and payment of such insurance will ensure availability of compensation for future survivors.

2. On civil litigation and criminal prosecutions

Civil litigation might be the legally correct pathway to pursue institutions, but this is especially difficult for survivors of childhood sexual abuse. It is difficult to obtaining evidence of historical sexual crimes. It is difficult for survivors to navigate the legal system. They seem always at a disadvantage when compared with the legal teams retained by the institutions in protection of their assets.

Perhaps consideration should be given to establishing funds or an organisation who could act for survivors.

Considering recent high-profile prosecutions of perpetrators of child abuse, could victims of crime compensation be adjusted to provide appropriate compensation for those victims?

Why should protection of a perpetrators of childhood sexual abuse not be a criminal act?

3. Beyond the survivor to their family

What appears to me to be a special consideration in the case of survivors of childhood sexual abuse is the psychological harm that comes to children of a mentally ill parent.

It is unclear to me how the law deals with this case. I wonder if it has ever been considered before.

It is clear in my treatment of Ms [redacted] that she has been impaired in her parenting ability as a younger adult. She is well aware of this. It has affected the mental health of her children. Child development literature describes the importance of parenting in early childhood as a basis for long-term mental health and resilience. It is harder to know how her children might have turned out should she not have been abused as a child. Ms [redacted] has given away a lot of her ex-gratia payments to her children. But the relatively small sums are small compensation for people with an impaired sense of self which will be with them for their lifetime.

Yours sincerely