



# Tuart Place

## Growing Strong Together

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Government of Western Australia  
Department for Child Protection  
and Family Support



## Submission by Tuart Place to the Royal Commission into Institutional Responses to Child Sexual Abuse *Issues Paper 6: Redress Schemes*

### **Tuart Place**

Set up by care survivors themselves and run in partnership with them, Tuart Place has a client cohort largely comprised of people who participated in the Redress WA scheme, which operated between 2008 and 2011. Indeed, Tuart Place itself grew from the support mechanisms established because of that scheme.

After supporting many participants with professional standards processes with various organisations and religious congregations in WA, Tuart Place has developed considerable knowledge in the area of redress for people who experienced childhood sexual and other abuse in institutional settings. Given this experience, the Tuart Place submission on Issues Paper 6 addresses Item 2: Important features in making redress schemes more effective for claimants and institutions.

This submission begins with a summary of the key features of an effective scheme and then explains them in greater detail. More background is offered about the history of Tuart Place and the relevant roles and experiences of staff and supporters in this and other organisations. An Afterword deals with the current situation and possibilities arising from the work of the Royal Commission.

### ***Summary of key features of an effective and respectful redress scheme***

#### **A. Before opening the Scheme**

- **A1. Call centre infrastructure:** suitably trained staff are ready to triage incoming calls and respond effectively to the heightened emotion and sense of urgency that are inevitable outcomes of announcing a redress scheme.
- **A2. Publicity strategy:** effective mechanisms and networks for publicising the scheme have been identified, and effectively convey information in a range of formats and media.
- **A3. Access to records:** mechanisms are in place to ensure that applicants have timely access to any documents necessary to assist the preparation of their applications, and applicants have access to the same information used by those assessing their claims.
- **A4. Infrastructure to support applicants:** appropriate and accessible support services offering assistance catered to the individual applicant's needs during the application process are in place, including counselling, therapeutic support groups, support to access documents, and practical assistance to prepare applications.
- **A5. Data-collection infrastructure:** the application form is matched with data-collection mechanisms to facilitate reporting on the number, type, site(s), significance, impact and other key indicators of the issues reported by applicants.
- **A6. Participant engagement:** there are mechanisms for participant engagement and leadership in which applicants have opportunities for meaningful and ongoing input to the scheme, and the chance to develop local-level networks that support healing and recovery.

- *A7. After-care for applicants:* after-care mechanisms for applicants are included in the scheme's design and budget (see 'E', below).

#### B. Assessment

- *B1. Assessment mechanisms:* transparent assessment mechanisms informed by a standardised schedule of damages are developed, publicised and utilised.
- *B2. Managing expectations:* faith with participants is maintained by keeping commitments in terms of funding and compensation levels available to applicants.
- *B3. Clarity around separation of financial and non-financial redress:* the pastoral, interpersonal process of acknowledgement and apology is protected from being damaged by potential dissatisfaction with a financial offer by using a panel of stakeholders to assess the level of payment to be offered.

#### C. Financial Redress

- *C1. Include non-cash benefits:* non-cash benefits such as the equivalent of private health care access to medical and dental services are included.
- *C2. Legal representation:* applicants who elect to have legal representation are able to choose from a panel of lawyers skilled in mediation and non-adversarial approaches. Lawyers are not present at apology meetings.

#### D. Apology

- *D1. Applicant-led process:* applicants have a choice of options for how to receive a formal apology.
- *D2. Demonstration of concern:* an option for applicants to participate in an in-person meeting with a senior representative of the relevant institution, or a professionally qualified, high-level representative of the scheme itself, is included.

#### E. After-care

- *E1. Debriefing for applicants:* mechanisms are available for applicants to participate in debriefing after they have disclosed and documented their childhood abuse, and the likelihood of re-traumatisation is openly acknowledged.
- *E2. Provision of support for applicants:* counselling and therapeutic support groups are provided for applicants who have completed their redress process, recognising that participation in such schemes is often just the start of a recovery process.
- *E3. Scheme timeline and applicant expectations:* the process of receiving, assessing and concluding each application is completed in as timely a manner as possible, keeping applicants well informed.
- *E4. Extraordinary applications:* the scheme is kept open for people who may wish to apply after the original round, as they come to a level of knowledge or healing where they are ready to seek a form of redress.

#### **Discussion of key features**

Some of the features outlined above are probably self-evident, for example: having a basic infrastructure in place before announcing the scheme; ensuring adequate access to any documents required; and providing professional services such as counselling, support groups, and assistance to enable applicants to document their abuse and the effects of the abuse.

In the discussion below, we identify some of the less obvious factors in the design of an effective redress scheme and comment on some key issues in this sector, including assessment of financial reparation, participant engagement and the significance of apologies. While this submission focuses

on Item 2—effective redress schemes, some of the following discussion also touches on points raised in other Items listed in Issues Paper 6.

### ***Apology and acknowledgement***

The majority of survivors of childhood sexual abuse will never receive a formal apology or official acknowledgement of their abuse; in this regard, survivors of abuse in Australian institutional settings who have access to such mechanisms are relatively ‘fortunate’. When delivered well, these measures can be experienced by survivors as extremely positive and, sometimes, life changing.

A number of Redress WA applicants described a sense of relief after they received a formal letter of apology from the WA Premier, which satisfied a need to feel acknowledged and believed. Some people framed their letters, and others showed them to their families as evidence of their childhood trauma and abuse. Not everyone was happy with their apology letter, however, and a common complaint has been that the apology was not personalised, that is, it did not respond to individual experiences.

Based on observation of numerous face-to-face apologies delivered in meetings organised by the professional standards agencies in WA, it is clear that a personalised apology and the opportunity for dialogue with representatives of the particular institution have considerable capacity to generate positive outcomes for survivors of abuse. While face-to-face meetings are not everyone’s preference, and some participants state very clearly that they do not want an apology, many participants in these meetings report feeling satisfied with the personal interaction, feeling ‘heard’, no longer feeling ‘scared’ of nuns or brothers, and feeling that those present genuinely cared about their experiences and were sorry for what had happened to them.

The features of the process most commonly identified as helpful are: the opportunity to be heard and to ask questions; the personal acknowledgement of childhood trauma and abuse; and the face-to-face apology. The relational aspect of the meeting appears to be the key to its success. Survivors can recognise authenticity and genuine compassion and, when they observe this in the institutional representative and perceive the apology to be sincere, it can provide a helpful source of validation.

The more senior the representative, the better, as an apology from a leader carries more weight than an apology from a lower level staff member. For example, when survivors of abuse learn that the Anglican Archbishop is happy to come to Tuart Place to hear their complaint and offer a personal apology, it sends a message that their experiences matter to the Anglican Church, and the Church’s ‘top person’ is not only aware of the complaint but would like to respond in person.

In our view, a best practice model of redress would incorporate the *option* for survivors to have an in-person meeting with a senior representative of the relevant organisation. In cases where the organisation no longer exists, a high-level representative of the scheme itself could be available to meet with survivors and hear their complaint.

### ***Financial reparation***

The concept of assessing the harm of child sexual abuse in financial terms is fraught, and there is not even consensus on appropriate terminology. In our experience, one of the major drawbacks of a system that only offers financial payment as a response to childhood sexual abuse is that it sets up an expectation that ‘the solution’ to recovery lies outside the survivor, and that payment by an external entity can heal the injuries. Other problems we have observed are: lump sum payments can result in vulnerable recipients being targeted and ‘fleeced’; some people with substance abuse problems have relapsed and spent all the money very quickly—leaving them feeling worse than before; the awarding of inconsistent payment levels—particularly within families—has led to ill-

feeling and conflict; and, with specific regard to the Redress WA scheme, whatever payment level was received, 'it should have been double'.

However, financial payment is the most widely accepted model of redress available to people in our society, and it would be a necessary feature of any redress scheme that may be established in this sector. There are also a number of reasons why it is helpful to make financial payments to victims: it provides a concrete symbol of an institution's apology and regret; it can be helpful in practical terms, particularly for people living on low incomes; and there is also a sense of 'justice' in an institution's having to 'pay' in a way that directly benefits the victim.

One additional form of redress that would be of great benefit to people abused in out-of-home care is improved access to medical and dental treatment, and the concept of a 'care leavers' health benefit card' is widely viewed as an appropriate form of support for this population group. This measure would address a key need, particularly among older care leavers, who suffer a greater degree of medical, dental and mental health problems than the general community and who often rely on Centrelink payments as their sole source of support.

### ***Legal involvement in mediation processes***

Opportunities for reconciliation and healing appear to be lost when interpersonal communication between the survivor and the institutional representative is channelled through a lawyer. Apart from rare exceptions, legal intervention in this sector tends to focus solely on achieving the largest possible financial settlement for the client; conversation between the parties is discouraged; and little 'value' is perceived in reconciliation and personal healing. The presence of lawyers in this arena can also result in institutions' adopting a defensive, adversarial approach to assessing complaints, which is most unhelpful and is re-traumatising to those who come forward.

With regard to mediations held under the Towards Healing protocol, it is our understanding that these meetings have operated differently and generally more effectively in Western Australia than in other States, largely due to the absence of lawyers and insurance agents. Complaints have been accepted at face value, and survivors have not been subjected to forensic, insurance-style investigations. Mediations have provided an opportunity for survivors to have a conversation with institutional representatives, in a supported and safe environment. Legal input may have been sought in regard to a Deed of Settlement.

An obvious potential hazard of this model is that participants may be offered a smaller financial settlement if they are not represented by a lawyer during the mediation process, and this issue has been highlighted in recent Royal Commission hearings. For this reason, we believe the most viable option would be to develop a model in which the pastoral, interpersonal process is separated from the financial aspect of the process, and the level of any financial settlement to be offered is determined by a panel of stakeholders using transparent mechanisms underpinned by a standardised schedule of damages. Separation of these two parts of the process protects the pastoral aspect from being compromised by potential dissatisfaction with a financial offer, and increases opportunities for reconciliation and recovery.

### ***Transparency and accountability***

One of the most common grievances voiced by people who were unhappy with the outcome of a Towards Healing or Redress WA process is that the level of payment they were offered was *unfair*. At the time when Redress payments were being distributed in WA, applicants often said that they couldn't understand why they had been offered a particular amount of money. An explanation of how payment levels are assessed went a long way towards helping people understand why they may have been offered a particular payment level.

If individual payments to survivors are to be offered through any type of redress process, it is essential that participants can access information about how their payment level was assessed. People then understand that assessments are based on factors that include length of time within an institution, the types of abuse and neglect experienced, the number of offenders, the length of time the abuse occurred, the type of relationship between the victim and offender (in relation to power imbalance and/or duty of care), negative impacts arising from the abuse, types of impacts, severity of impacts, etcetera. This type of assessment model is sometimes criticised for being ‘impersonal’ or ‘detached’; however, it leaves far less room for grievance and misapprehension than subjective assessments in which the mechanisms of assessment are invisible.

### ***Keeping faith with applicants***

Unfortunately, the payment reduction in the Redress WA scheme—which was announced after applicants had already disclosed and documented their childhood trauma and abuse—has continued to overshadow the positive outcomes of the scheme. If the maximum payment had been \$45,000 from the outset, there would have been less of a problem, but lowering the level after applicants had engaged in a process on the understanding that the top payment was \$80,000 left many people feeling betrayed and devalued. Some very sad stories emerged of redress applicants owing lawyers more than they received; taking out loans they couldn’t afford; or making promises to their families which they couldn’t fulfil. Our observation of the great majority of applicants we met was that the primary goal was to have their abuse acknowledged and believed, and that it was ‘not about the money’. However, as soon as the payments were cut, the money and what it symbolised became a central issue.

### ***Meaningful participant engagement and opportunities for recovery***

It is difficult, if not impossible, for large bureaucracies to respond effectively to human emotion and the dynamics of the interpersonal sphere. The greatest risk in establishing a national redress scheme for survivors of abuse in institutional settings is that applicants will feel re-abused by an institutional process that is oblivious to their personal and emotional needs, and in which they once again feel powerless and insignificant.

For this reason, it is important to provide opportunities for survivors to have meaningful and ongoing engagement in the consultation, planning, design, governance and operation of a redress scheme. A tokenistic model of ‘consumer representation’ will not work in this instance and would be an opportunity lost. As demonstrated by the experience of Tuart Place<sup>1</sup> and other participant-led initiatives, the greatest opportunities for recovery and healing are found in places that offer Safety, Connection, Opportunity and Hope; and, wherever possible, these opportunities should be created at a local level for people who take part in a redress scheme.

The importance of this attribute cannot be overemphasised, and Australia has the opportunity to lead the way in establishing a redress scheme that not only distributes money, but offers its participants real opportunities for growth and recovery. How inspiring it would be to see an Australian scheme set up in such a way that the participants feel that it really is ‘about them’; that their input is valued; and in which they are not only offered opportunities to access quality professional support, but have the option to grow into roles of peer mentoring and leadership.

In addition to the obvious potential benefits for participants, this model works on a number of other levels. For those who work in this area, there is nothing so rewarding as standing alongside a person

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<sup>1</sup> Bailey, S. and School of Population Health, Social Work and Social Policy (2014). *Tuart Place: Providing support of substance for care leavers in Western Australia*. Faculty of Medicine, Dentistry and Health Sciences, University of Western Australia, Perth (p.28).

as they travel the journey from victim to survivor, to reach the stage where they become a helper of others. For those in positions of leadership with responsibility for making hard financial decisions, this represents a cost-effective model that is well recognised for its capacity to save money in the human services sector. For the institutions in which children were abused and neglected, this model provides a wealth of potential opportunities to offer reconciliation and restorative justice to those who were harmed.

***Aftercare: identifying and addressing the impacts of the process***

Any process involving a focus on childhood abuse takes a toll on its participants. Survivors of abuse often cope by trying not to think about the abuse, and a redress process requires them to do the opposite of this.

Revisiting one's childhood abuse through adult eyes in a supportive and safe environment appears to be an essential part of recovery; however, documenting the details of childhood abuse and identifying negative effects for a redress application invites people to inhabit a victim role. Research evidence is consistent with our observations that stress and re-traumatisation can lead to an increase in emotional dysfunction, relationship problems and offending behaviours. It is therefore important that when a Redress (or Royal Commission, or Senate inquiry, or Towards Healing) process concludes, survivors are offered support to re-orient their self-perception and to re-focus on resilience and other attributes that enabled them to survive and cope with the abuse.

Survivors are often unaware of the impact of disclosing childhood abuse, and they typically blame themselves for feeling bad during the process and after it has concluded. It is therefore helpful for counsellors and support people to identify and name this issue, i.e.: "You have just been through a process that focused on your worst experiences and how badly you have been affected, so it might be helpful for us to have a different conversation now...".

It is very important for survivors to have access to counselling during and after a redress process, as such initiatives are often just the start of a *potential* process of healing and recovery. We have heard many, many times that a person has 'not felt the same since the Redress scheme', and that it opened a 'can of worms' that won't go away. The potential for significant impacts to arise from participation in a redress or Royal Commission process is easy to overlook and should not be underestimated.

***Background: The WA Redress Scheme, CBERS Redress Service and the founding of Tuart Place***

Redress WA operated between 2008 and 2011 and received almost 6,000 applications from people who reported childhood abuse and neglect in State-governed care. CBERS Redress Service (CRS) was the primary support agency funded by the Department for Communities during the Redress WA scheme; it provided assistance to over 800 Redress applicants and submitted more than 500 individual applications. Forms of assistance provided by CRS included: counselling; support groups; support to access personal records; the use of clinical assessment tools measuring impacts of trauma and abuse (DASS 21 and PTSD-Checklist); documentation of abuse and impacts of abuse; debriefing and 're-orienting' clients after the Redress application process; and individual advocacy and support to appeal assessment decisions.

During the Redress WA scheme, CRS organised and facilitated training sessions for contract workers and developed reporting templates that were used by CRS contractors and those working for other funded support services. CRS also developed templates for providing information to the media, which were adopted by the Department for Communities and, with CRS's permission, were used by other Redress support service providers.

When it became apparent that evidence and psychiatric reports prepared for the Slater and Gordon class action against the Christian Brothers could provide crucial evidence for Redress applications, CRS established a Memorandum of Understanding with the WA Institutions Reconciliation Trust (WAIRT), via former Trustee Barry MacKinnon, in regard to the release of this material. Documents were accessed on behalf of approximately 35 men and were used to support their redress applications. CRS then facilitated contact between Barry MacKinnon and the Department for Communities so that a wider group of applicants could access their WAIRT reports.

When it was announced, on 28<sup>th</sup> July 2009, that the maximum payment under Redress WA would be reduced from \$80,000 to \$45,000, CRS advocated strongly against this decision and also agreed to support and publicise a series of protest rallies at WA Parliament House, in response to an overwhelming amount of feedback from distressed applicants.

During the Redress scheme, CRS introduced a therapeutic support group for applicants, which was an immediate success and became an important source of support for many people. Demand for this service was such that the Department for Communities provided ongoing funding for CRS support groups to continue after the scheme closed, until 30th June 2011. CRS then sought funding to continue the groups for another year and a half, and this was provided by three religious past providers—the Christian Brothers, the Sisters of Mercy and the Sisters of Nazareth.

Subsequent funding by Lotterywest and the WA State Government enabled the establishment of an ongoing resource centre catering to a broader group of care leavers, and providing a wider range of services. This initiative was driven and governed by Forgotten Australians Coming Together (FACT) Inc, an organisation of care leavers led by Bindoon ex-resident and former child migrant Laurie Humphreys JP, supported by key professionals in the field such as Dr Maria Harries AM.

When Tuart Place commenced operation at the beginning of 2012, a large proportion of former clients of CBERS and CRS elected to continue accessing services and receiving information from the new agency. The great majority of Tuart Place's 1100+ client group are therefore former participants in the Redress WA scheme. Redress WA had significant outcomes for many of these clients—some positive, some not. For many people, the redress application process was just the start of a much longer process of integrating traumatic childhood memories and coming to terms with their broader life experiences. Much of the post-Redress work has involved helping people consolidate the psychological gains made during the process of disclosing their abuse and having it acknowledged by an external entity.

### ***Afterword***

It seems intuitive that the Royal Commission is perhaps less likely to hear from people who are happy with the outcome of a redress scheme or a professional standards process such as Towards Healing or the Anglican Church's Pastoral Care and Assistance program, and it is important to recognise that these initiatives have worked well for a considerable number of participants. This observation is in no way intended to diminish the evidence of those who have come forward with very serious and valid criticisms and complaints arising from their personal experiences.

When a redress process goes wrong, it can go very wrong, with devastating consequences for the victim. If even a well-run complaints process can be traumatic for participants, it is not hard to imagine the level of trauma suffered by people who come forward with a complaint and are left feeling disbelieved, disrespected, interrogated and re-abused. This is the current experience of two men who suffered horrific childhood sexual abuse in overseas institutions—one in Singapore and one in England. These survivors have been subjected to appalling re-abuse during their respective quests for acknowledgement of their abuse, and they are being effectively 'stonewalled' by the

institutions. We continue to seek better outcomes on behalf of these men, but the impact of the process on both continues to be devastating.

In Australia, we are fortunate to have some formal mechanisms by which survivors of abuse in institutional settings can bring forward complaints and often have them appropriately recognised and responded to. If people are not happy with the response, they can usually access mechanisms of review and appeal. It is disturbing to know that such mechanisms are not available in all 'developed' countries.

It is to be hoped that, in addition to encouraging the development of a leading-edge model of institutional response within Australia, the findings of this Royal Commission might have some impact in the international arena, leading other countries to similarly examine and improve their own institutional responses to child sexual abuse.

*Report prepared by Dr Philippa White, Director of Tuart Place, on behalf of Tuart Place. 26 June 2014*