



Royal Commission into Institutional Responses to Child Sexual Abuse
The Centre Against Sexual Violence Response to
Issue Paper 6 - Redress Schemes

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The Centre Against Sexual Violence Inc.

Centre Against Sexual Violence (CASV) Inc. is a community based sexual assault service which is dedicated to serving the sexual assault support, education and information needs of the Logan, Beenleigh and Beaudesert communities.

The CASV is committed to providing safe, respectful services to assist adults and young people on their path to healing; to work towards dispelling the social and cultural myths surrounding sexual violence; and to encourage the community to take responsibility for the eradication of sexual violence.

The staff, management and members of the CASV have a vision to eliminate sexual violence while providing counselling and support to the victims of this gender-based crime.

The CASV has been funded to offer counselling, information, advocacy and support to anyone (male or female) 12 years and over effected by the Royal Commission into Institutional Responses to Child Sexual Abuse.

The CASV recognises that:

- Sexual violence includes a range of unwanted behaviours including touching, sexual harassment and intimidation, coerced sexual activity, sexual assault and rape, and can include other physical and emotional violence.
- Sexual violence is about power acted out in a sexual way, and is a crime of violence which has harmful individual, social and economic costs to our community.
- The structural, economic, political and cultural values of our society give power to men, making women and children more likely to be victims of sexual violence.
- No one ever deserves to be sexually violated.
- Responsibility for sexual assault lies with the perpetrator and not with the victim, irrespective of the perpetrator's age, gender, social status, cultural background, or other circumstances surrounding the assault.

The CASV believes that victims/survivors have the right to:

- Be believed
- Be heard and supported
- Be treated with respect, dignity and understanding
- Communicate in their own language, with an interpreter if necessary
- Be given information about options
- Have control over their choices
- Have their confidentiality and privacy maintained



Introduction

The CASV appreciates the opportunity to provide input regarding 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. The CASV credits itself on being a community-based organisation which works collaboratively with staff, management committee, clients and the community members of the Logan, Beenleigh and Beaudesert regions. In developing a response to Issue Paper 6 – redress schemes feedback was sought from the CASV staff, management committee, clients and community members. Our staff feedback is based on our extensive experience in working with clients who have been the victim of childhood abuse in institutional settings some of whom have been involved in current redress schemes throughout Australia.

The CASV has considered the questions posed by The Royal Commission into Institutional Responses to Child Sexual Abuse and we believe we can offer valuable feedback in the areas of equality and eligibility, the process for applying for redress, the implementation of the scheme and ongoing support for survivors of institutional abuse. We have structured our response accordingly whilst also making reference to responses to the questions posed by The Royal Commission as indicated by a number in brackets e.g. (8).

The CASV community recognises the importance of institutions and governments addressing, or alleviating the impact of, past and future child sexual abuse in institutional contexts, including in ensuring justice for survivors through the provision of redress by institutions. We hope to offer feedback which will assist in providing an equitable and practical redress scheme that ultimately provides an opportunity for growth and a greater quality of life for those who experienced unconscionable abuse whilst in the care of institutions as children.



Issue Paper 6 - Redress Schemes Submission Questions of Interest

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?



Equality and Eligibility for Redress Schemes

The CASV believes that a redress scheme is an essential part of institutions and governments addressing and alleviating the impact of child sexual abuse in institutional contexts. However, as indicated by the Royal Commission, redress schemes to date have had quite varied rules, coverage, eligibility, validation procedures and payment calculations and scales. We believe that in order for a redress scheme to alleviate the impact of both direct and indirect abuse in institutional settings *equity*¹, in contrast to equality, needs to be ensured (2).

A number of considerations need to be included for equity to be achieved. Firstly, it needs to be recognised that ALL forms of abuses that were experienced by children in institutional care including sexual abuse need to be acknowledged and compensated, particularly in reference to Forgotten Australians². For those people who were survivors of the institutional care system, sexual abuse often occurred in conjunction with other abuses including, but not limited to, psychological, physical, emotional, educational and financial abuse (Forde, Thomason & Heilperm, 1999). Furthermore, some survivors of childhood abuse in institutions may not identify as victims of sexual abuse however, they may have experienced equally horrific atrocities which have had long-term impacts on their quality of life. For a victim of childhood abuse in an institutional care setting, but not necessarily sexual abuse, it can be incredibly invalidating and potentially harmful to only recognise and compensate childhood sexual abuse. It also should be recognised that children can be both directly or indirectly impacted by childhood out of home care institutionalisation and whilst the abuse may not have been overt, it can still have lasting impacts on the individual.

Secondly, survivors of direct and indirect childhood institutional abuse should be able to access an equitable redress scheme in Australia regardless of which institution/s they experienced. Currently, some of the institutions where abuse occurred no longer exist, do not have the financial means necessary or may not be willing to provide reasonable compensation to survivors of childhood abuse. We feel that an equitable redress scheme should be implemented where all Australian States and Territories and existing institutions should be mandated to contribute to a national redress scheme that can be equitably accessed by individuals who experienced abuse in institutional care settings (4, 8). This scheme should be mandatory for all institutions where any evidence of childhood abuse has occurred (6). Shortfall of adequate funding from institutions both past and current should be covered by the government (8).

Thirdly, the most difficult aspect of the redress scheme conundrum is how we can most sensitively ensure equity for survivors of childhood institutional abuse. Given the complexity, insensitivity and impossibility of equating a financial retribution payment to an abuse/s, we suggest that an equitable approach would be one which involves understanding the survivor's current life circumstances and tailoring a redress intervention based on the assistance the individual needs to move forward, create

¹ Equity involves trying to understand and give individuals *what they need* to achieve an improved quality of life whilst equality, aims to ensure that individuals gets the same things without consideration for what each individual actually needs. Like equity, equality promotes fairness and justice, but it is only effective if everyone starts from the same place and needs the same things. Individuals who have experienced abuse in an institutionalised context do not necessarily start from the same place or have the same needs.

² Forgotten Australians are survivors of the institutional care system, which was the prevailing form of out-of-home care for children in Australia during the 20th century (Alliance for Forgotten Australians, 2008).



opportunity and to have a greater quality of life. The CASV recognises that some survivors have achieved a greater quality of life relative to others. This may be because they were able to benefit from protective factors such as increased social support, financial stability, counselling, government assistance education or secure attachment in early life. We recognise that survivors of childhood abuse in institutional care settings may require varying forms and amounts of redress due to these mitigating and mediating factors. We believe that an equitable redress scheme is one that recognises that childhood abuse can impact on each individual differently and seeks to compensate in recognition of what each individual needs to achieve an improved quality of life. Also of relevance is that survivors will have different ideas about what moving forward means to them. We believe that the Royal Commission and Federal Government should work collaboratively with survivors to develop a redress scheme that is tailored to individual need with the flexibility for change as the individual grows. The ultimate goal of a redress scheme should be to increase the individual's quality of life as perceived by them (3).

Implementation of a Redress Scheme

The CASV believes that there should be a number of considerations in the implementation of a redress scheme for survivors of abuse within institutional care in Australia. Foremost, it is important that the redress scheme establishment, implementation and review is a transparent process (2). Individuals who have experienced abuse in childhood often have an understandable mistrust for people in positions of authority and only a transparent process can alleviate some of this mistrust. Survivors of abuse in institutional care should also be consulted in this process. Their opinions need to be actively sought on a one on one basis by the Royal Commission and other support services, as there are many barriers for survivors of abuse in providing their thoughts and opinions. Furthermore, given the high rate of Aboriginal and Torres Strait Islander people who have been affected by childhood abuse within institutional care settings, Aboriginal and Torres Strait Islander communities should be consulted throughout the redress scheme establishment, implementation and review process. Aboriginal and Torres Strait Islander cultural capability and input is essential.

The CASV has a strong value of applying a collaborative approach to working with our clients. We believe that working collaboratively with survivors in determining their individual needs, goals for moving forward and how redress can facilitate these, would be highly beneficial and client-focused (8). The Victims Assist Queensland (VAQ) model for financial compensation involves funding specific needs (e.g. medical costs, counselling) as well as a recognition payment for pain and suffering (Victim Assist Queensland, 2010). An extended version of this model of compensation, which includes funding for education, quality food, appropriate housing, employment, opportunities for community engagement, healthy exercise and aged care which is sensitive to the psychological impacts of childhood institutionalised care would be beneficial (3). VAQ also provides a "Special Assistance - Recognition Payment" which provides recognition of pain and suffering. If a similar lump sum cash payment is provided to victims of childhood abuse within institutional care settings we recommend that this is in conjunction with financial guidance (3).

If a claimant has already received some financial compensation for the abuse through one or more existing schemes, this financial compensation should be taken into account in any new scheme. However, prior financial compensation should not prevent a survivor from applying for redress in any future scheme. The emphasis for a new redress scheme should always be on how survivors of



abuse can be best supported to achieve personal goals and improvements in quality of life. We do not believe that previous redress schemes have appropriately considered the future impacts of compensation for the individual, but have instead, focused on trying to “compensate” past atrocities (12). Furthermore, there should be no payment clause which prevents people from talking about what has happened to them or how much compensation they received. It should be up to the recipient of the reparation to choose to disclose or not disclose this information. Seeking redress or compensation through a redress scheme should also be optional for claimants (7).

Processes for applying for Redress Schemes

The process of applying for redress should be transparent, supportive, accessible and easy to understand (2). As mentioned in the previous section, it is important that redress scheme processes are transparent, including the application process. Clients should be given information about what they can apply for and also be given the opportunity to amend their application throughout the process. Furthermore, it is important that the application process is easy to understand. Many people who grew up in out-of-home care institutions had limited access to education and survivors of childhood abuse may have had their capacity to retain information limited due to high levels of anxiety and other developmental delays.

The application process should be accessible through a variety of mediums such as written, auditory and Auslan. Trauma-specialised workers should be accessible by phone, email and in writing for survivors of abuse and their support workers to assist with completing redress applications. Aboriginal and Torres Strait Islander community members should be consulted in developing application processes and forms so that individuals who identify as Aboriginal and Torres Strait Islander have an equal opportunity to access and apply for redress.

We believe that survivors should be encouraged to seek ongoing support from trauma-specialised counsellors who are funded through the Royal Commission and/or Department of Social Services (11). Applying for redress can be a traumatic and retriggering experience for survivors and it is essential that individuals are offered support in this process. Free legal advice should also be provided to survivors of childhood institutional abuse on an ongoing basis (11).

We would also recommend that the application process does not require the survivor to recount their abuse story in any level of detail. The re-telling of a survivor’s story can cause great distress and can trigger the survivor. It is important that it is the individual’s choice of whether to divulge traumatic experiences and the possibility of greater retribution should not hinge on the survivor recounting their traumatic experiences in detail. The CASV staff have worked with clients who recounted their trauma history in the Forde Enquiry (Queensland) and experienced re-traumatisation through this process (1). We would also recommend that little emphasis is placed on the individual having to “prove” that they were the survivor of abuse as it is incredibly difficult to obtain evidence and is invalidating and re-traumatising for a survivor to have to do this (10). With the claimant’s permission, the redress body may seek to find evidence that the person was in an institutional care facility whilst being sensitive to the fact that records omit details and were sometimes lost. Most importantly, survivors of abuse in institutional care should be believed. Finally, seeking compensation through a redress scheme should be optional for claimants (7) but mandatory for institutions (6).



Ongoing Support

There should be ongoing support offered to survivors of abuse in institutional care settings for both the individual and as a group (3). Due to the complex and the systemic nature of the abuse suffered, survivors have highly complex needs which requires ongoing support. Furthermore, as this abuse was suffered during childhood, many survivors have had profound disruptions to their stage of development and are still suffering the effects. Repercussions may include difficulties in establishing and maintaining healthy relationships, a lack of feelings of trust and security, a lack of social skills, engaging in risk behaviours, poor physical health and mental illness issues (Alliance for Forgotten Australians, 2008). For these reasons, we believe that survivors of abuse in institutional care should have access to ongoing free counselling, health care and legal advice (11).

We believe that existing trauma-specialised counselling services should be funded through a redress scheme to provide long term counselling for abuse survivors. Where appropriate services do not exist, specialist services should be established. Brokerage of counselling services could also be used for rural or remote areas and where survivors have a pre-existing therapeutic relationship with a counsellor, social worker or psychologist.

Abuse survivors should be able to access redress throughout their life as their circumstances change with the purpose of providing the necessary means to improve their quality of life. For example, individuals who grew up in institutionalised out-of-home care and experienced abuse have an understandable fear about being “re-institutionalised” as an elderly person. This may not be relevant to the survivor when they initially apply for retribution but may affect the person later in life. We would like to see a set of funds available for these survivors to access throughout their lifetime.

Conclusions

The CASV community recognises the importance of institutions and governments addressing, or alleviating the impact of past and future child sexual abuse in institutional contexts, including in ensuring justice for survivors through the provision of redress by institutions. We believe that the focus of a redress scheme should be improving the quality of life for survivors. We also feel that for a redress scheme to be effective equity is paramount. Furthermore, we believe that all forms of abuses that were experienced by children in institutional care including sexual abuse need to be acknowledged and compensated. It is important that the redress scheme establishment, implementation and review is a transparent process and that survivors are given the opportunity to work collaboratively with government in a redress process. Aboriginal and Torres Strait Islander communities should also be consulted in the establishment of a redress scheme to ensure equity and access for all people. The process for applying for redress should be transparent, supportive, accessible, and easy to understand and, should not cause further re-traumatisation to survivors. Finally, we believe that survivors of abuse within institutional settings should be able to access ongoing support including counselling, health care and legal services throughout their lives to ensure continued growth and opportunity.



References

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