

**Submission**

To: Royal Commission into Institutional Responses to Child Sexual Abuse

From: Centres Against Sexual Assault

Subject: Issues Paper 7: Statutory victims of crime compensation schemes

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**CASA**

The Victorian CASA Forum is the peak body of the fifteen Centres Against Sexual Assault (CASA). CASA works to ensure that women, children and men who are victim/survivors of sexual assault have access to comprehensive and timely support and intervention to address their needs.

Many of our clients are the children who have been sexual assaulted by members of religious and secular institutions.

CASA also works towards the elimination of sexual violence through community and professional education, informing government policy, advocating for law reform and facilitating research to increase community understanding of the nature and incidence of sexual assault.

**Comments**

1. Compensation programs can only provide financial compensation and counselling to victims of sexual assaults, to help them with recovery but seldom (if ever) can it address the full ramifications of sexual, physical and mental abuse – psychological damage, lost opportunities for family, careers and a full life, and in the case of abuse from religious institutions, loss of faith and identity. Nevertheless, compensation and other help can provide the resources to assist victims address some of the pressing issues that they face.
2. There is no single solution for all victims of institutional sexual abuse when it comes to seeking redress. Part of the solution is an independent national compensation system that victims can access and that provides them with the resources to address serious problems associated with their abuse.
3. Any scheme should provide compensation without conditions so that victims can pursue other remedies, should they wish.
4. Any scheme needs to be national to ensure equity across Australia and equal access to the compensation payments. It also needs the statutory powers to allow it to subpoena documents that can be used to validate claims (see point 6.4 below)
5. A number of religious institutions have established independent compensation schemes, and while in some circumstances they can be valuable, they are not trusted by some victims who believe that they have a conflict of interest, are not truly independent and lack credibility. An alternative to such schemes is needed.
6. To make a national scheme effective for victims it needs the following features:

- 6.1. No preconditions should be placed on applicants, such as time limits on when the abuse occurred or a requirement that offenses have been reported to police.
- 6.2. Claims need to be presented in a non-judicial or non-adversary setting so that it is less emotionally stressful for victims. Moreover, procedures should be flexible so that they meet the specific needs of individuals.
- 6.3. Compensation should be determined in a transparent manner. Importantly, victims should access to information necessary to make informed decisions on what course of redress they wish to pursue.
- 6.4. Related to point 6.3, any compensation system depends on a credible process that corroborates complaints, which is needed to undertake the assessment. Obviously, internal documents from the institution are needed to complete this process. Unfortunately, there are instances in which, by commission or omission, institutions have not been totally open or forthcoming. Any compensation body needs the power to subpoena records to validate applications.
- 6.5. Throughout the process, counselling and other support from an independent provider should be available to victims.
- 6.6. Those with direct contact with victims should be appropriately trained so that they understand the particular circumstances of victims. Members of adjudication panels should have the appropriate professional background, training or life experience to deal with abuse victims. Similarly, those who negotiate on behalf of governments or churches should also receive training or have knowledge about the circumstances and effects of institutional child abuse.
- 6.7. Part of the healing process may involve genuine contrition from the perpetrators. The scheme should provide victims with the opportunity to meet with representative of the institution or the perpetrator should both parties be willing. For some victims, this is all they are looking for.
- 6.8. Above all, the process should avoid causing further harm.
7. Often abuse has led victims to break the law, resulting in time served in prison. Such people should be given an equal opportunity to participate in compensation programs.
8. The scope of the scheme should not just cover those that have been abused, but should provide support for family members and others that may have suffered psychological and emotional damage by witnessing physical or sexual abuse.
9. With regards to capping the scheme:
  - 9.1. It is doubtful that any compensation could fully cover the thousands of survivors of sexual abuse who have struggled with psychiatric problems and substance abuse, not to mention lost earnings, increased requirements for healthcare and other services and financial effects on family members.
  - 9.2. In May 2013, the Commonwealth Government established the Defence Abuse Reparation Scheme. It is not a payment for physical, psychological, emotional or financial loss or damage suffered by you as a result of the abuse, thus not a 'compensation' scheme. Rather, it is a payment intended as an acknowledgement that the abuse was wrong and should not have occurred, and to help you move on with your life. Successful applicants are not required to sign a confidentiality agreement or to waive their other legal rights to receive

a Reparation Payment. Any payment you receive under the Defence Abuse Reparation Scheme is completely unconditional and does not affect the applicant's right to take other action. The maximum payment under the Scheme is \$50 000. The maximum payout is for "serious sexual assault, such as a rape." This would fall within Category 4, which is concordant with the most common sexual abuse covered by the Inquiry<sup>i</sup>.

The precedent set by the Defence Abuse Reparation Scheme is worthwhile, because it allows victims to seek further compensation, but provides a simple assessment on levels of compensation, without the need to go into a lengthy process. This process may be preferable to many victims. Looking at the actual payments, this scheme covers mainly adults, and additional payments should be made in consideration that the abuse was to vulnerable children.

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<sup>i</sup> Compensation for serious sexual assault, such as a rape, is \$45,000, which is increased by \$5,000 if Defence mismanaged a complaint.

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