



Connecting Home
a service for the Stolen Generations



National
**Stolen
Generations**
Alliance

Australians for Truth, Justice and Healing

Connecting Home Limited, National Stolen Generations Alliance and

Bringing Them Home Western Australia:

Submission in response to the Royal Commission into Institutional

Responses to Child Sexual Abuse – Consultation Paper:

Redress and Civil Litigation

Revised 25 March 2015

Executive Summary/Introduction

Connecting Home Limited is an Aboriginal Service supporting the Stolen generations of South East Australia. The supports the Connecting Home Provides include the following services:

- Support work (Case Management)
- Group healing services
- Cultural awareness and education
- Community Engagement

The above services have been fundamental to the healing of the individuals and families Connecting Home has supported. This support has been through the use of person centered care whereby the services seek to assist the Stolen Generations through their journey of healing from their past whilst managing and working on aspirations for their present and future. Connecting Home see the client in the driving seat in their journey and that the supports provided give the client the tools, options and support needed to continue on the journey towards healing and achieving positive life outcomes.

Connecting Home has worked with a number of individuals on the area of making a claim in relation to the abuse and impacts of removal and institutionalisation of the Stolen Generations. It is these claims and the current requests for future claims that Connecting Home provides feedback on concerning the current consultation paper about redress. The experience of previous claims and the impact on the individuals is powerful as it provides first hand experiences of the benefits as well as the learnings with observations of how redress can be improved to facilitate the long term impact so that redress should have greater benefit to those who would receive it.

Connecting Home is also part of the Executive of the National Stolen Generations Alliance (NSGA). This Alliance is the peak body for Stolen Generations in Australia made up of members from affiliate agencies across the country. One of the affiliates of the NSGA is Bringing Them Home Western Australia. The NSGA delegates meeting held in November 2014, and the member agencies have all contributed to the views expressed in this paper.

Further to the experience of claims already made or in progress, Connecting Home also held a State Wide Forum in Victoria in September 2014 with the Stolen Generations. This forum also included discussion concerning redress and making claims concerning the impacts of removal, institutionalisation and abuse of the Stolen Generations. The feedback provided by Connecting Home will also include information collated from discussions of this forum.

The current *Royal Commission into Institutional Responses to Child Sexual Abuse* has already revealed the highly disproportionate level of Aboriginal and Torres Strait Islander children sexually assaulted in institutions while under the “protection of the State”. Many of these identify as Stolen Generations. These institutions were allowed under the auspices of the government and the majority of the Christian religious sector, to continue their crimes against Indigenous children until at least the late 1990’s. Given that the Indigenous population of Australia is essentially 3% and the Royal Commission Interim Reports indicate that more than 18%, potentially up to 29% of the victims of institutionalised sexual abuse were Aboriginal and Torres Strait Islander, it can be assumed that the State has continued its lack of vigilance for the wellbeing of First Australians despite the dismantling of earlier racist laws. This is even more tragic given the learnings from the Bringing Them Home Report should have prevented much of this if they had been enacted on by government earlier.

Most importantly, the Royal Commission, like the earlier Bringing Them Home Report, reinforces the need to deal with the long term social and emotional dysfunctions associated with institutionalised child abuse in its many dimensions and their transference into the families of the abused, particularly their children.

CONNECTING HOME LIMITED, NATIONAL STOLEN GENERATIONS ALLIANCE AND BRINGING THEM HOME WESTERN AUSTRALIA RESPONSES TO DISCUSSION ISSUES

CHAPTER 4

Principles for an effective direct personal response and the interaction between redress scheme and direct personal response.

During the completion of each claim made by a survivor of the Stolen Generations, a genuine apology to the individual that acknowledges the abuse and its impacts on them has been an important step towards the personal healing of the person at the time the claim is settled. The genuine apology contributes to closure of the process of making a claim with the hope to enable the client to move forward in their journey of healing. The NSGA and Connecting Home would see that this ought to be a cornerstone of all redress.

Further to this genuine apology, Connecting Home has found that it is important that an ongoing effective direct personal support response is required following the apology and payment of a claim. Whilst the completion of the claim and apology provides an instant feeling of closure of the matter, our experience has been that post the exchange of paper work and the receipt of payment, the survivor is left with a void of not knowing how to continue next on their journey. Connecting Home has found that clients interacting with our model of support have been able to continue their journey towards personal healing and this assists them to maintain a focus to work on their life journey and goals.

In order for there to be an effective direct personal response, it is important to complement any redress offered with such a model of care through the establishment of Connecting Home type agencies, which are not part of a larger auspice agency. These agencies would be funded as part of the overall redress scheme, and as such be sanctioned from political funding movements so that they remain viable services to meet the needs of clients receiving effective direct personal response during and following redress. It would be important considering how these survivors have been impacted that support provided is through agencies that are neutral and not associated with

historical institutions and thus not under the auspice of these groups where such ties would have an adverse effect on an individual's journey towards healing.

It would also be important that organisations already involved in direct personal responses to survivors are given the ability to continue to offer forms of direct personal response that are culturally appropriate and complement the process of redress and enhance the survivor's journey towards healing such as those with Connecting Home provide.

Chapter 5

Looking at the principles for counselling and psychological care, existing services and service gaps and the principles for supporting counselling and psychological care through redress.

Focusing on:

The reflective effectiveness and efficiency of the options in meeting survivor's needs

To meet the needs of the survivor in relation to counselling and psychological care, Connecting Home has found that it is important to approach support more broadly to include the family considering the intergenerational impacts of the removal, institutionalisation and abuse of survivors. Connecting Home works with the whole family and sees the direct impact on the survivor when they understand the impact of their personal journey on the rest of their family. The survivor can become stuck on the impacts on their family and unable move on their own journey to achieve their own personal goals.

Connecting Home suggests that the redress scheme considers other effective models that have already acknowledged the intergenerational impacts of trauma through supporting families, and therefore supports the survivor. We have been observing the positive impacts of services provided to families and ex service men and women through the Department of Veteran Affairs. Introduced primarily for Vietnam Veterans and their families, the family counselling services and other complementary services have expanded to other veterans and their families. There has been an acknowledgement of the impact of the experience of the veteran on their family, this in turn has seen positive outcomes for both the family and the veteran. Frequently through its Indigenous Veterans Centre, Connecting Home sees that there would be a benefit of the availability of a direct service for family members of the Stolen Generations so that the impacts on these families are also

being addressed which in turn would also provide a direct healing effect on the survivor and associated guilt of the impact of removal and subsequent sexual abuse on their own family.

Further to the introduction of counselling for families as modelled through the Department of Veteran Affairs, we also suggest the Gold Card scheme for the provision of services. This provision of health care and culturally appropriate healing models of care would then be established through a dedicated stand-alone Australian Government scheme. The provision of such a scheme through a Gold Card type model would provide flexibility to different models of therapeutic support that would be appropriate to the individual's healing needs. Further to this and as seen with the Gold Card model within the Department of Veteran Affairs, such a scheme would also address gaps in expertise and geographical and cultural gaps, particularly if the Connecting Home model were set up nationwide to support clients to access these services using this scheme.

One particular area where a separate scheme can be established to be provided through a separate trust fund would be for funerals. A common goal for survivors seeking to make a claim is to have money available for their funerals so as to not burden family members with these costs when they pass away. Within the Stolen Generations community, having funds for a culturally appropriate and dignified funeral is a large issue given the associated costs of funerals and the inability to save this money whilst attempt to manage daily basic needs. A trust fund that enables payment for funerals would be complementary to the other mentioned schemes and would have a healing impact on family members left behind without the burden of seeking payment of the funeral.

Chapter 6 & 7

- The assessment of monetary payments, including possible tables or matrices, factors and values
- The average and maximum monetary payments that should be available through redress
- Whether an option for payments by instalments would be taken up by many survivors and whether it should be offered by a redress scheme
- The treatment of past monetary payments under a new redress scheme.
- Eligibility for redress, including the connection required between the institution and the abuse and the types of abuse that should be included
- The appropriate standard of proof
- Whether or not deeds of release should be required.

Connecting Home sees the recommended matrix for payment of redress as an appropriate model for the assessment of monetary payments to be made to survivors. Connecting Home suggest that the development of a similar matrix should be considered or incorporated into a pre-payment assessment to determine whether there is a need for the option of payment in instalments (i.e. increased centrelink payments) rather than as a lump sum. To date, all claims that Connecting Home has been involved in as the support agency has seen monetary payments paid in lump sums quickly spent and used on other coping strategies such as gambling, alcohol and drug use. We have also seen that payments can be completely and quickly spent supporting other family members to whom survivors feel obligated to financially support given the guilt that the impact their removal has had on other family members.

Connecting Home has found that survivors who have not been able to manage their money in the past or have not previously experienced having larger amounts of money have not been able to manage lump sum payments made and find they are quickly back to where they started prior to receiving the payout. Whilst Connecting Home acknowledges not all survivors will be in the position of not being able to manage a lump sum payment, to leave this to the choice of the survivor who will be unable to have an objective view on whether they could manage a lump sum payment or not, seems to set the person up for yet another abuse and its added guilt.

Through our experience of supporting people, that post payment can if the funds are not well managed have a further damaging effect on some people, and indeed increase their trauma, rather than reduce it. People have expressed that they feel worse after they have realised that they have spend the funds without changing their life circumstances. This is no reflection on the capacity of survivors, but a direct result of the pressure people feel after receiving a larger amount of funds than they had ever received before.

Further to this, survivors who have already completed common law claims and received monetary payments should remain eligible to apply under this new scheme with previous payments taken into account. Those previous claims were settled (from our experience) in an adversarial manner, with

the survivor pressured into receiving very minimal and below reasonable payments. In most cases we are aware of previous payments may well relate to other injuries from removal and abuse, and not the harder to prove sexual assault.

Connecting Home agrees that an appropriate scheme should not be subject to a fixed closing date providing the ability for survivors to be able to address the scheme when ready given this is part of the survivor's healing journey. In conjunction with this Connecting Home has experienced the difficulty of survivors who have made claims and providing standards of proof of the abuse that has occurred. Connecting Home suggests a model that would remove the onus of proof on the survivor given the type of abuse and the impact it will have had on the survivor. Typically there is no documented evidence of the abuse and survivors are so traumatised by events or have used other coping strategies to block out memories of the abuse that they have trouble providing suitable evidence to the burden of proof required.

Given the presence of this Royal Commission, and other Commissions both nationally and internationally, it should be considered to assume abuse in care based on the bodies of evidence already present. An example would be of the studied and investigated abuse in a particular institution – rather than seeking a standard of proof that the survivor was abused in this institution, an assumption is made that if a survivor was in that institution then they were abused and the matrix for monetary payments would be used to assess the type of payment made.

Connecting Home also provides feedback in relation to decision making on a claim. Rather than encouraging survivors to have an additional consultation with their support service or community legal centre before deciding whether or not to accept an offer, this step in the process should be mandatory. It is important that there is all available opportunity to consult and discuss the claim so that the survivor can make an informed choice about the payment being made.

Deeds of release is an important matter for consideration given many survivors who have already made claims where required to sign such agreements when completing those claims. It would be important that any deed of release considered for signing factor in the following issues:

- The deed of release does not limit the survivor and their family member to access any counselling and psychological care once monetary payments is completed
- Should redress be in relation to sexual abuse, the deed of release does not prohibit the survivor to make future claims in relation to other injuries not included in this redress such as other medical, physical or psychological abuse should there be schemes in the future directly related to these types of other injuries.

Chapter 10

- Options for reforming limitation periods and whether any changes should apply retrospectively
- The options for reforming the duty of institutions and whether any changes should apply retrospectively
- How to address difficulties in identifying a proper defendant in faith-based institutions with statutory property trusts
- Whether the difficulties in identifying a proper defendant arise in respect of institutions other than faith-based institutions and how these difficulties should be addressed
- Whether governments and non-government institutions should adopt principles for how they will handle civil litigation in relation to child sexual abuse claims
- Whether any changes may have adverse effects and the reasons for them

The state of Victoria has recently made changes to statute of limitation periods following the betrayal of Trust report of the State inquiry into the abuse of children in care. Statute of limitations periods need to be reformed nationally and should apply retrospectively so that survivors are not limited by age to make a claim for redress. It is important to note that many survivors are not ready until their adulthood to address the abuse they endured or may not have recognised what had happened to them was a betrayal of their trust when they were a child. Others may have been threatened to remain quiet and do not address what has happened to them until they feel safe to do so or are ready to trust and disclose their story.

It should also be addressed that some survivors continue to have issues with accessing their files and documents, which impacts any burden of proof. It is important here to consider the duty of institutions to release documentation and for it to be made available to survivors under the Freedom of Information Act (or Privacy Legislation) so that survivors can use these files as part of their healing journey.

Faith-Based Institutions with statutory property trusts need to be reviewed nationally given difficulties with including such institutions in any redress schemes. Such institutions need to be registered with the ACNC or similar body in a similar manner as other institutions and Aboriginal organisations. It is important that faith based institutions are legally set up, governed and monitored in the same way as other organisations who complete the same work and support as they do despite the presence of a faith perspective.

Conclusion

In conclusion, based on our experience in supporting survivors we have considered that there are some very powerful models that should be considered for implementation. What seems of most importance to Connecting Home and the National Stolen Generations Alliance, is that redress is a cornerstone of any healing for this group of people. It seems evident that apologies given without tangible and life changing follow-up can become hollow.

The importance of sectioning an amount of funds for redress so that future political manipulation is impossible seems critical. The establishment of broad based and self governed support agencies using an holistic model of support not hindered by funding silos or poor image juxtaposition with their auspice is possibly as important as the monetary payment.

Utilising a number of trust like funding pools for things such as funerals, medical gold card, holistic whole of family counselling and a monetary payment seems to the NSGA and Connecting Home to be models that will progress all survivors journey of healing.

Whilst Connecting Home and the NSGA are focussed on survivors of the Stolen Generations, we feel that the measures we have discussed in our submission would be applicable across all survivors. Connecting Home and the NSGA acknowledge that sexual abuse occurred to all groups who were institutionalised and in many ways the outcomes of those abuses are universal.

Finally, we believe that should redress be made, that there are very clear statements made about what the redress is for. One of the dangers would be that people do not understand that their redress is solely for the sexual abuse they suffered, and not for their inappropriate removal. Whilst we point to all of the other Enquiries, Commissions and other reviews into not only the Stolen Generations, but Forgotten Australians, Institutional Care for people with Disabilities, Aged Care and other institutional reviews, we can only urge in the strongest way that any redress recommendations be advocated as the most important start to assist survivors, and therefore becomes as mandatory for government to implement.