



Royal Commission into Institutional Responses to Child Sexual Abuse
The Centre Against Sexual Violence Response to
Consultation Paper: Redress and Civil Litigation

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Address: 5/13 - 21 Mayes Ave, Logan Central Q 4114 Post: PO Box 243, Woodridge Q 4114
Tel: 07) 3808 3299 Fax 07) 3808 9900 Email: admin@casv.com.au Web: www.casv.org.au



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 organisation provides safe, respectful services to assist adults and young people by delivering 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. All services provided utilise a client-centered approach to trauma informed care through a gendered analysis. Community engagement to dispel social and cultural myths surrounding sexual violence; along with encouraging the community to take responsibility for the eradication of sexual violence, is also an important part of the work carried out at the centre.

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; and
- have their confidentiality and privacy maintained



Introduction

The CASV appreciated the opportunity to respond to the consultation paper: redress and civil litigation released by the Royal Commission in January, 2015. We trust that feedback obtained from clients attending the CASV will provide a valuable contribution to the Royal Commission redress and civil litigation process.

Direct Personal Response

Survivors of child sexual abuse have advised that it is important that a redress scheme involves the opportunity to receive acknowledgement of the abuse that occurred and the profound impact it has had on the survivor, a genuine apology, and an account of the steps that the institution has taken to prevent such abuse happening again. We whole-heartedly agree with the principles for an effective direct personal response outlined in the consultation paper. These include:

- Re-engagement between the survivor and institution should only occur if desired by the survivor.
- Transparency by the institution as to what they can and will offer by way of a direct personal response at a minimum should include: an apology, an opportunity to meet with a senior representative of the institution and assurances to take measures to prevent further abuse.
- Responsiveness to the survivor's individual needs.
- Responses should be offered by representatives of the institution who have accessed training about the impacts of child sexual abuse and the needs of the survivor, and cultural capability training.
- Institutions should be cognizant of, and make a record of feedback from the survivor.

In addition to these recommendations the survivor should be consulted about who they would feel comfortable attending the meeting and where the meeting takes place. An independent support person should always be offered to the survivor. We further recommend, that a survivor be given the option to have a support person attend on their behalf.

The CASV agrees that a direct personal response between the survivor and the institution should be facilitated by an independent redress scheme.

Counselling and Psychological Care

The consultation paper further documents the importance of counselling and psychological care as part of a redress scheme. As a specialist-sexual assault counselling service, the CASV believes that the principles for counselling and psychological care are well considered. These include:

- Counselling should be available throughout a survivor's life on an episodic basis.
- Survivors should be afforded flexibility and choice.
- As each complex trauma survivor's needs are varied and complex, there should be no fixed limits of services provided to a survivor.
- Counsellors and psychologists should have appropriate experience and professional training for working with complex trauma clients.
- Ongoing assessment and review is necessary.
- Family members of survivors should be able to access counselling where appropriate.



In our experience as a specialist sexual assault counselling service, client trauma experiences vary widely and affect survivors differently. Services that are flexible; model appropriate boundaries; work collaboratively with the survivor; and ensure that the client's safety is paramount, are key to working with survivors of complex trauma. Services need to ensure that the counselling staff are supported to actively engage in trauma-specialised professional development and receive adequate supervision where ongoing case reviews can take place.

The CASV provides specialist counselling and support for females aged 12 years and over in the Logan, Beenleigh and Beaudesert regions who have experienced both recent and past sexual assault. Contrary to the information provided in the consultation paper, the CASV also currently provides specialist counselling and support to both men and women who have been affected by the Royal Commission into Institutional Responses to Child Sexual Abuse. Like other specialist sexual assault services, the CASV provides quality, medium to long-term care that is sensitive to the complex trauma suffered by clients. The funding provided to the CASV through the Royal Commission has afforded us the opportunity for the service to provide shorter wait times for adult survivors of sexual abuse. The CASV has always ensured that survivors of both recent and past sexual abuse can access medium to long-term counselling.

We believe it is important to offer clients a choice of where they would like to access counselling services. Specialist sexual assault services are best placed to support survivors of complex trauma involving sexual abuse. Sexual assault counsellors are highly experienced in working with complex trauma. The CASV staff are well supported to access ongoing professional development, adequate peer support and supervision to manage complex cases.

Specialist sexual assault services can also offer clients specialist support (e.g. financial assistance to access counselling), client needs focused group work, a warm referral network and a sense of community. The CASV places a strong focus on developing a service that is warm, welcoming, safe and sensitive to complex client needs. Specialist sexual assault services are often under-funded and resource limited as highlighted in the consultation paper (p.120). A redress scheme which supplements existing funding of community-based specialist sexual assault services would enable more survivors of past sexual abuse to access specialist-trained counsellors in a safe and supportive counselling environment.

Feedback that the CASV has received from our client affected by the Royal Commission into Institutional Responses to Child Sexual Abuse includes;

"I love coming here. It makes me feel safe and when I leave I feel good about myself and strong."

"It's been a blessing. I don't know what I would do without your help."

"In the beginning I came for my daughter and didn't realise that CASV would have benefited me as much as it has."

"It's the space and time to share. The rooms feel calm and welcoming. You can be still here."

"As always something to look forward to, and to get up for. I've received some good ideas of coping. Also bought me to meet some new people. It's a nice day out at CASV."



The CASV has developed numerous strong relationships within the community. However, in agreement with the consultation paper (p. 121), there has been difficulty in engaging with general practitioners. It is recommended that the redress scheme incorporate a referral service that can inform survivors of available services; assist in assessing their individual needs; and provides warm referrals to services that are best placed to meet these needs.

Monetary Payments

The CASV's initial response to Issue Paper 6 – Redress Schemes, highlighted the complexity of trying to quantify an equitable monetary payment for survivors of sexual abuse within institutions. The CASV provided feedback to inform a monetary payment to survivors that would alleviate the impact of both direct and indirect abuse in institutional settings, rather than focusing on a monetary payment that would recognise the specific wrongs that a person has suffered. This highlighted the difference between equality and equity¹. However, it is important to acknowledge the legal complexities of a redress scheme. Providing equitable compensation to a survivor may be more relevant to a civil litigation that can wholly consider the direct and indirect impacts of institutionalisation for an individual. Feedback from most survivors to the Royal Commission was that they want to receive a lump-sum payment. It is important that the survivor's wishes receive preference in the commission's response to redress.

Offering free financial advice/counselling that is widely advertised and publicised would also be important so that survivors are provided with advice on managing large amounts of money if they feel that this would be helpful. Additional funding through a redress scheme for financial counselling services is necessary given recent cuts within the Department of Social Services to existing financial counselling services². Financial counsellors can work collaboratively with clients to ensure that any monetary payments received are of greatest benefit to the client.

Any payment made in a future redress scheme must consider any monetary payments previously received by the survivor. However, all survivors should be eligible to access a national redress scheme regardless of their involvement with previous redress schemes.

Redress Scheme Processes

Survivors should have an equal opportunity to access redress regardless of the institution/s in which they experienced abuse. We also concur that the redress scheme should be open-ended with no fixed closing time. There is significant evidence from previous enquires (e.g. The Forde Enquiry) of survivors missing out on funding because of this barrier. The scheme should be widely publicised, promoted and accessible to people who may be more difficult to reach such as Aboriginal and Torres Strait Islander survivors, incarcerated persons, young people, culturally and linguistically diverse survivors and people with a disability.

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 Funding cuts to Department of Social Services financial counselling services were advised by the Australian Council of Social Services.



As outlined in the response paper, the application process should be simple and support services should be funded to assist clients in a timely manner in the application process. Decisions about redress should be made independent of any institutions, with a test of reasonable likelihood considered sufficient as a standard of proof. Further to being offered free financial counselling before any payment is received, free and accessible legal advice should be offered to all applicants before they accept an offer. In the CASV's initial response to Issue Paper 6 – Redress Schemes, the importance of delivering a transparent and accountable redress scheme was highlighted. It is imperative that no confidentiality obligation be imposed on the survivor as part of the acceptance of a monetary payment.

Funding Redress

As stated in the consultation paper, funding for a redress scheme would need to include counselling, monetary payments and administrative costs. It is necessary for financial advice/counselling and legal advice to be funded through a redress scheme. Institutions where abuse has occurred should be held accountable financially and bear a significant cost of a redress scheme. The Australian Government needs to take responsibility for any shortfall in funding for institutions that no longer exist or do not have adequate funds available for a national redress scheme. As sexual abuse in institutional care is a nation-wide issue, a nation-wide scheme is most appropriate.

Interim Arrangements

A large number of survivors are ageing and are at greater risk of physical health issues, therefore it is imperative that implementation of a redress scheme is done promptly. Survivors are dying while they wait for a fair and equitable redress scheme to be implemented. Some of the clients that the CASV works with are fearful that they will not live to see the implementation of a national redress scheme in Australia. The Australia Government needs to act quickly in implementing the Royal Commission recommendations.

In the interim, it is imperative that counselling services which have supported those affected by the Royal Commission be continued until a redress scheme is implemented. This will allow for the continuation of essential counselling, advocacy and support needed by survivors.

Civil Litigation

While a redress scheme will provide greater access to monetary payments for survivors, claimants should also have the opportunity to pursue civil litigation against their perpetrator/s and negligent institutions. Civil litigation may provide survivors with an opportunity to access a monetary payment that could better meet their individual needs as a result of the impact of the direct and indirect abuse. For civil litigation to be a more accessible option for survivors, limitation periods for actions relating to child sexual abuse need to be removed retrospectively. Institutions need to be held liable for abuse when negligence by the institution can be established.



Conclusions

The CASV has provided feedback in response to the Consultation Paper: Redress and Civil Litigation. In particular, it is important that a redress scheme supplement funding for existing specialist trauma-informed counselling services for survivors. It is also necessary for financial advice/counselling and legal advice be funded to complement any monetary payments made to survivors. The CASV strongly implores that the recommendations of the Royal Commission are acted on swiftly and that interim arrangements are made for the ongoing counselling and support of survivors. The Commission has thoroughly considered the issues relevant to a redress scheme and we trust that additional comments provided by the CASV will be valuable in establishing final recommendations.