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The Solicitor
Royal Commission into Institutional Response
to Child Sexual Abuse

Dear Sir/Madam

Submission in respect of Redress Schemes

I thank the Commissioners for inviting submissions in respect of Redress Schemes.

Since the establishment of the Commission I have been approached by over one hundred individuals who have expressed their interest in pursuing compensation should some form of redress scheme be established as a result of the Commission's recommendations.

In essence, my submission is that the Commission ought consider a recommendation that a board similar to the Irish Residential Institutions Redress Board be established.

No doubt the Commission is already well familiar with the Board, the reasons for its establishment, the way in which it was established and the manner in which it operated. I do not propose to therefore make comment on those matters.

However, I did act for a number of people living in Australia who made applications to that Board and based on that experience I am able to make a number of observations in relation to the operation of the Board and the experience of applicants involved in its processes.

My observations may be summarised as follows;-

- The Act setting up the Board in effect did away with issues otherwise very relevant to the usual litigation process, such as limitation periods, proof of legal identity of responsible institutions and like matters. Such as approach is to be applauded;
- The process was relatively non-intrusive. Whilst the Commission will no doubt be aware that any reliving of traumatic events by those who have suffered can be painful and traumatic, the Boards processes limited that unfortunate consequence to a minimum. Applicants were required to provide a detailed statement, and to undergo psychological evaluation, but beyond that were rarely required to do anything more;
- Applicants overwhelmingly believed that they had been given an opportunity to be heard;
- Applicants overwhelmingly believed that they had been treated in a decent, humane and caring fashion, and for many there was a sense of being believed for the first time;
- To some applicants it gave a sense of closure;

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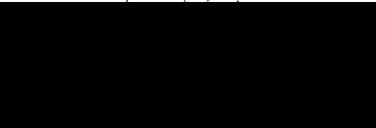
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- The compensation awarded to applicants gave them a sense of being vindicated, and also went some way to assisting applicants whose lives had been forever changed for the worse as a result of their experiences and in many cases had their ability to earn an income adversely affected;
 - The Board paid for all legal expenses and of course this was beneficial for applicants.

May I also make the following observations/comments:-

- 1) I believe that any compensation scheme should be funded by the Federal government, but the government enabled to obtain contribution from the offending institutions;
- 2) That the level of verificational proof required under any redress scheme be low, to the satisfaction of the Board and not to the satisfaction of the offending institution. Whilst I believe the offending institution ought be entitled to make comment or submissions to the redress scheme, those should be only one of the matters that Board takes into account. Further, it would be my respectful recommendation that if an offending institution contests an allegation that the scheme ultimately finds to have occurred, then the offending institution be required to pay a penalty, such as a multiple of the compensation awarded and that penalty be used as part of the funding of the scheme;
- 3) That persons who have already received compensation and who have signed a Release still be entitled to make application to the redress scheme. Almost all persons who have approached my firm who have already received compensation from an institution believe that they have been either intimidated, coerced or morally blackmailed into agreeing to compromise their claims for what would otherwise appear to be amounts that did not truly represent their full entitlement; and
- 4) That the proposed redress scheme be optional and that claimants retain the ability to pursue civil litigation if they wish, but the legislation surrounding civil litigation in this particular area be radically modified to overcome limitations issues, corporate identity issues and the like.

I would be most happy to further assist the Commission in any way that the Commission may deem appropriate.

Yours faithfully
MADDENS LAWYERS



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