



Submission to the Joint Standing Committee on the National Redress Scheme - 2023

Australian Catholic Redress Limited (ACRL)

Australian Catholic Bishops Conference (ACBC)

Australian Catholic Safeguarding Limited (ACSL)

Catholic Social Services Australia (CSSA)

Contents

Summary of Recommendations.....	4
Introduction	4
Response to selected Terms of Reference.....	7
1.(a) Applications for redress from persons with disability	7
1.(b) Applications for redress from First Nations people.....	8
2. Availability of data and information	8
4. Availability of legal advice for survivors and their advocates	10
5. Other Matters.....	11
Independent Decision Makers	11
Fraudulent Claims.....	12
Improving the take up and Quality of Direct Personal Responses.	12
Effect of the protected information provisions in legislation	13
CONCLUSION.....	13

Terms of Reference (ToR)

That pursuant to Paragraph 1 (a) of the Committee's resolution of appointment, the Committee inquire into and report upon:

1. Applications for redress from:
 - a. Persons with disability
 - b. First Nations people
2. Availability of data and information relating to applicants listed in Paragraph (1) above, including:
 - a. Total applications received compared to the number of applications expected when the Scheme commenced.
 - b. Possible reasons why current application trends could vary from expectations.
 - c. Time taken to process applications and pay compensation to applicants.
 - d. Whether applicants with disability had a disability at the time of their abuse or whether it was acquired later in life.
 - e. Other relevant trends and data.
3. Strategies that could assist applicants listed in Paragraph (1) to access the Scheme.
4. Availability of legal advice for survivors and their advocates and, in addition:
 - a. Quality of legal advice.
 - b. Opportunities for Scheme applicants to consider available legal options and to exercise their own choices.
 - c. Strategies to minimise instances of alleged claim farming or excessive fees.
5. The performance and effectiveness of support services for Scheme applicants, including:
 - a. Accessibility.
 - b. Resourcing and funding levels.
6. Whether 'Part 4-3 – Protecting information under the scheme' in the National Redress Scheme for Child Sexual Abuse Act 2018 (Cth) enables the Scheme to operate to its greatest potential.
7. Any other relevant matters.

Australian Catholic Redress Limited (ACRL) is the vehicle through which Diocesan Catholic entities participate in and engage with the National Redress Scheme. Australian Catholic Redress Ltd provides a single access point for interaction between the Scheme and dioceses – and the approximately 5,500 Catholic sites for which they are (or have been) responsible. ACRL is the formal representative of Church authorities in the Scheme. The company also helps ensure all diocesan obligations under the Scheme are met, including the delivery of a personal direct response (if requested).

The Australian Catholic Bishops Conference (the Conference) is a permanent institution of the Catholic Church in Australia and is the instrumentality used by the Australian Catholic bishops to act nationally and address issues of national significance. The Bishops Commission for Professional Standards and Safeguarding is one of several commissions established by the Conference to address important issues both within the Church and in the broader Australian community. The Commission has policy responsibility for participation in the National Redress Scheme, at a national level, along with professional standards and the safeguarding of children and adults at risk.

Australian Catholic Safeguarding Limited (**ACSL**) was formed by the Catholic church to support the adoption of a national, consistent, and church-wide approach to safeguarding children and vulnerable adults. It provides a range of services including professional development and mandatory safeguarding training, oversight of national regulatory regimes, audit and review services and the management of the movement of Catholic clergy through the Australian Catholic Ministry Register. ACSL also provides an independent mechanism for the review of outcomes of investigations of abuse, through the National Appeals Tribunal. ACSL operates with autonomy and independence from the Catholic authorities which collectively fund the core functions of ACSL.

Catholic Social Services Australia (CSSA) is the Catholic Church's national peak body for organisations that deliver its social services ministry. Membership is drawn from organisations operating under the authority of a diocesan bishop or a religious order and from Catholic lay associations. CSSA works with the member network, the Bishops of Australia, leaders of Religious Institutes, and the broader Church, partnering with like-minded Catholic agencies including Caritas, Catholic Health Australia, the National Catholic Education Commission, and St Vincent de Paul Society.

Summary of Recommendations

That the Operator:

1. Invests in a new communications campaign to promote the National Redress Scheme to organisations working with under-represented groups of participants.
2. Undertakes a User Experience exercise with survivors to revise the application process to be trauma informed, survivor-focused, and culturally appropriate and, meet the diversity of survivors' needs in relation to disability, gender, sexuality, culture, and language.
3. Supports and promotes end-to-end support services that are funded through the Scheme.
4. Invests in its capacity to investigate fraudulent claims and improve the integrity of the system.
5. Undertakes regular and stronger engagement with institutions around data collection, differences between Scheme's legislation and State and Territory legislation, the protected information provisions of the legislation, and the link between support services and law firms.
Provides updated advice on applications that remain pending and consider providing guidance to applicants on how long an application can remain open before being closed.

Introduction

1. The Catholic Church in Australia takes full responsibility for the harm caused by the tragic history of child sexual abuse by clergy, religious and lay church workers. The failings of Church personnel who offended grievously and the failings of Church leaders who responded wrongly – or not at all – have harmed victims, survivors, their families, and their supporters, and have led to a loss of trust in the Church. These same failings have hurt the community of the Church and disillusioned many in society.
2. The Church reaffirms its sorrow for the physical, emotional, and spiritual wounds, often lifelong, that victims and survivors have suffered, and renews its commitment to building a better future.
3. The Church has learned much about how to respond to victims and survivors, and it continues to learn. In a particular way, the Church has learned from victims and survivors themselves and acknowledges with gratitude all who have come forward

and disclosed or reported the abuse they have suffered. Their courage is helping the Church to respond to them in better ways and to create safer Catholic communities.

4. The Catholic Church has long been a strong supporter of a national redress scheme. This position was endorsed by multiple Church leaders, bishops, and religious congregational heads, throughout the course of the Royal Commission into Institutional Responses to Child Sexual Abuse.
5. The Catholic Church welcomed the establishment of a National Redress Scheme (the Scheme) and appreciated the opportunity to be consulted on the design and operation of the Scheme.
6. All 35 Catholic archdioceses, dioceses, eparchies and ordinariates are participating in the Scheme. All Catholic institutions named in the Royal Commission data survey have joined the Scheme. ACRL takes responsibility for approximately 5500 sites listed on the Scheme's participating institution database.
7. Currently 72 Catholic Religious Institutions have joined the Scheme, with another three in the process. The participation of religious institutes in the Scheme represents more than the number of the institutes, as it also includes hundreds of organisations providing education, health, aged care, and other social services for which religious institutes have been responsible currently or in the past.
8. We acknowledge the continuing work of this Joint Standing Committee in reviewing the implementation of the Scheme and note that the Terms of Reference for this Inquiry have a strong focus on the applicants in the Scheme. Institutions are central to the success of the Scheme, including as first responders to Requests For Information, and in the delivery of the Direct Personal Response (DPR).
9. The Catholic organisations we represent, are committed to ensuring the Scheme offers a pathway to redress for survivors of institutional child sexual abuse which is trauma-informed, provides independent decision-making and consistency of outcomes.
10. We welcome the opportunity to provide this submission to the Inquiry and are willing to attend the Committee in person to address the issues raised both within this Submission and the Discussion Paper.
11. This submission represents the contributions of many Catholic organisations that have been engaged in responding to the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse and the responses to the recommendations made to the Catholic Church. The Scheme forms part of the restorative measures implemented to provide support and reparation for the trauma endured by victims of abuse and their families.

12. While Australian Catholic Redress Limited has direct responsibility for engaging with government on the administration of the Scheme, the other entities party to this submission bring together a trauma-informed response required to support victims and survivors throughout their lives. Many survivors are using services provided by Catholic social services agencies, and many Religious Institutions have engaged with the victims and survivors of abuse to develop programs of healing and care.
13. In their response to the Royal Commission Report, Catholic leaders committed to reform Church practices:
14. *“The bishops and leaders of religious orders pledge today: Never again. There will be no cover-up. There will be no transferring of people accused of abuse. There will be no placing the reputation of the Church above the safety of children.”*
15. The Catholic Church has established a new National Response Protocol which outlines a nationally consistent approach for handling complaints of sexual abuse and other misconduct, creating the best outcomes for people bringing forward complaints and those responsible for responding to them.
16. The National Catholic Safeguarding Standards, which align with the National Child Safe Principles and the legislative and regulatory frameworks of State and Territory governments have also been adopted across the Catholic church. There is a three-year audit and review program for all Catholic authorities that are engaged with children and vulnerable adults, and a professional development program that supports cultural change and embedded safeguarding practices. ACSL provides these services and manages the 1300 referral number for victims, survivors, and advocates.
17. The Scheme is a critical part of the restorative justice measures recommended by the Royal Commission. We commend the Joint Committee for focusing in this Inquiry on how to improve survivor participation and experience with the Scheme. We believe it is important to facilitate greater access for people who are likely to be eligible and are not aware of the Scheme, or who unable to access it because of its complexity. This requires a revised and public communication strategy to be developed to promote the Scheme to potential participants.
18. Recommendation 3.5 of the Kruk Second Year Review Report (which was accepted by the Australian Government) was that the government provide end-to-end support for survivors, acknowledging the inherent trauma involved in making the application. We support this recommendation because we are so aware of the stress and trauma involved in the journey of bringing an application for redress.
19. We believe that survivors who are encouraged to use only support services that are approved and funded through the Scheme will receive better outcomes. The Scheme’s website provides links to the funded support groups. However, there is no explanation that these supports are trained to be able to listen to their stories,

extract the correct information, or ask the relevant questions and make sure what's been put down is accurate and appropriate for their case. We are dismayed by the emergence of intermediaries preying on vulnerable people by charging significant fees to support them in preparing an application. It is an actuarial scheme, and the language used throughout the documentation and guidance is laden with legal language and terminology that is often overwhelming.

20. We know that many find the initial outbound call they receive from the Scheme particularly difficult and the time taken between stages of application and assessment before an offer is finally made can be years.

Response to selected Terms of Reference

1.(a) Applications for redress from persons with disability

21. The Kruk Review has identified that the uptake from people living with a disability is lower than expected by the Operator, and that only 30% of survivors currently receive support from funded support services during the application process.
 21. There are several factors that contribute to this low level of participation:
 22. First is the low level of awareness of the Scheme, identified in the Kruk Review. There has been little mainstream publicity about the Scheme, and there is a significant opportunity for a more 'joined-up' and trauma-informed approach to victim care, which shares communications between agencies and services, including to the national disability services community and the wider public.
 23. Second, is the definition of 'disability'. This is not clearly outlined in the guidance material, so that there is often confusion as to whether the applicant has a disability that is directly related to, or as a consequence of their experience, or is an age-related disability.
 24. Third, the veracity of the data is influenced by the application process. The application form and guidance material are not in an accessible format, and the process through MyGov continues to be very intimidating for many with poor literacy or computer literacy skills, or who have experienced adverse interaction relating to payments.
 25. Fourth, Institutions do not receive information that identifies a survivor as having a disability, or that they are an Aboriginal or Torres Strait Islander person. This information is usually drawn out during the information gathering stage to develop a support plan, and often in an indirect way. Our Catholic social services agencies working in disability and aged care report that they are commonly providing advice to carers, families, and guardians, about the scope of the Scheme and their eligibility

for support through the Scheme, especially for survivors who were in abused in disability specific institutions and may not be aware that those institutions are covered by the Scheme.

1.(b) Applications for redress from First Nations people

26. The Catholic network has no verifiable data on the participation of First Nations people in the Scheme. Our services have reported that there is a low level of awareness of the scheme, that the experience of applying for the Scheme is daunting, and that there is some confusion about this scheme and the other redress or compensation schemes. We note, however that DSS reported in 2021-22 those two of every five applicants, up from two in nine, were Aboriginal and Torres Strait Islander people.
27. Our social services agencies who are providing psychosocial and other supports to survivors, report that the time taken for potential participants to be ready to consider redress can be lengthy, that the experience is often traumatic and re-triggering and gathering evidence can be difficult.
28. The lack of readily accessible information and, culturally appropriate and safe support services contribute to ongoing trauma and poor survivor experience, and we support the recommendations made in the Review to provide greater counselling support throughout the application process.

2. Availability of data and information

29. The publicly available data provides little insight into the extent to which the Scheme is addressing the projected needs of survivors and care givers. Our agencies report that the format of statistics provided to them by DSS vary from year to year and it is difficult to compare what is being reported.
30. Modelling of the Scheme for the Royal Commission estimated the number of participants in the scheme would be 60,000 people. In 2020, the Scheme's actuarial advice revised the original Royal Commission estimate downwards, from 60,000 to 40,000. This reduction was based on:
 - Participation by responsible institutions.
 - The number and characteristics of Scheme applicants to date.
 - The impact of recent changes in the law that has made it easier to pursue civil claims.

31. Financial advice commissioned by the Review estimated that the Scheme would only receive 32,300 applications, based on data from the first two years of operation. However, this estimate is based on the current uptake, which has involved limited Scheme promotion, and does not factor in the impacts of the institutions joining the Scheme as of December 2020.
32. DSS data into the fourth year of the Scheme's operation demonstrates that awareness of the Scheme has diminished since the Royal Commission Report. The lack of publicity for the Scheme since its implementation has led to delays in applications, claims and payments. Of the 7051 applications received in the first 2 years of the Scheme, 6,118 applications were finalised, 285 outcomes advised to applicants who were still considering the offer and 548 applications have yet to progress to an outcome.
33. The latest data indicates that the rate at which decisions and payments are being made has not changed dramatically since 2020 and 2021. However, 2022 and 2023 has seen a noticeable increase in applications.

As of December 2022, the Scheme:

- had received **21,197** applications.
- made **11,750** decisions (through the Scheme's Independent Decision Makers (IDMs) — including 10,750 payments, totalling approximately \$908 million, with an average of \$87,955.
- made 1,234 advance payments since their introduction in September 2021.
- issued **11,548** outcomes, of which 11,217 applicants (representing 97% of all outcomes issued) are eligible for redress and 331 (representing 3% of all outcomes issued) are ineligible.
- was progressing 9,793 applications.
- had 2,215 applications that are on hold or paused, including 2,053 where further information is required, at the request of the applicant or nominee, or where there are difficulties in contacting the applicant, and 162 due to an institution not yet participating in the scheme.
- had finalised 10,750 applications.
- had 45 IDMs actively making decisions.

(Source DSS Update 19 Dec 2022)

34. Data issued by DSS shows that 159 applications made between 1 July 2018 and 31 December 2021 are still pending. These pending applications remain open until they are withdrawn by action of the applicant. There are also 351 applications in a pending state from 2022. Some applications are left pending while the applicants

explore the making of a civil claim. For other applications, ACRL has no information from DSS other than they are still active.

35. This large number of unresolved cases may have consequences should finalisation be left until towards the end of the Scheme in 2028, if these cases are not resolved by the close of applications on 30 June 2027. We recommend, therefore that the Operator provide updated advice on applications that remain pending and consider providing guidance to applicants on how long an application can remain open before being closed.

36. While DSS reports that the average time for an application to be acted upon by the Scheme is 7.6 months, our agencies report many cases of much longer timeframes, especially when participants have not engaged with experienced and funded support agencies.

4. Availability of legal advice for survivors and their advocates

37. It is important that survivors of abuse are provided with sound legal advice and options for pursuing reparation for the abuse they have endured. We are aware that the Operator has changed the need for continuous extensions for applications that are not yet finalised and they have chosen to just leave all applications open. This is of concern, and it would be preferable if the applicants were told that their applications were being closed but if they had any new information or have made up their mind about their offers, they may be able to reopen their claims, to provide applicants with every opportunity for redress.

38. ACSL receives hundreds of calls each year from survivors and advocates seeking information about their options. We act as a referral agency to support services including those funded through the Scheme. We also manage inquiries about access to records of the former National Catholic Office of Professional Standards.

39. In recent months the number of requests for information from survivors or their legal representatives has increased significantly, as the statute of limitations on historic cases of abuse has been lifted in jurisdictions. In two recent incidences, survivors have reported to ACSL that they were preparing Redress applications but ‘their solicitor wanted them to request their individual files so that other witnesses could be identified to help substantiate a civil claim which would pay more than a redress payment.’ Survivors should pursue every legal avenue available to them if they wish, but there is a risk some law firms may take advantage of survivors. The ABC has reported on survivors who thought they were dealing with government funded lawyers only to find they had signed over a proportion of their redress payment to a law firm.

40. The practice of law firms discouraging potential applicants to the Scheme erodes the understanding of the intention of establishing the Scheme and warrants positive

strategies by the Scheme to advertise the advantages intended by the then Government.

41. We also have concerns about the practice of 'claims farming'. Claims harvesting has been legislated against in Queensland. It refers to legal firms previously benefitting from investigators being able to source possible clients and being remunerated in some way by way of a "finder's" fee or consideration. Late night advertising by compensation lawyers targeting vulnerable people directly with a 'no win no fee' tag line is an overt example. Trawling through victim's files for other potential clients is another example of identifying further potential claimants.
43. ACSL responds to subpoenas for documents for civil cases. In recent months, some legal firms are demanding unredacted files, which include the names and details of people other than the claimant, without a consent order that would preclude them from tabling those documents into the public domain and without the knowledge or permission of other survivors. It is important therefore, that the Scheme is considered, both in its own right, and as part of the wider legal system.

5. Other Matters

44. The Royal Commission recommended a national redress scheme that is survivor-focused, trauma informed and accessible to all survivors. The experience of our organisations' involvement in the Scheme is that much can be done to improve the experience and engagement of survivors and the responding institutions with the Scheme. Furthermore, we recommend changes that can increase transparency within the Scheme and which we believe will address some of the unintended consequences of the Scheme that are linked to DSS policy and the Scheme's enabling legislation.
45. We acknowledge the improvements that have come with adoption by Government of some of the Review recommendations. However, we urge greater engagement and consultation with Institutions to ascertain what is working and what is not, as the Scheme will not survive without participation by institutions.

Independent Decision Makers

46. We acknowledge that changes have been put in place to improve the experience of applicants seeking to participate in the Scheme. However, much more needs to be done. We commend the Government for injecting \$15m into the scheme to address the backlog of applications, and the commitment to recruit additional Independent Decision Makers to improve the process. Both applicants and responding institutions need greater transparency and consistency in the decision-making by the IDMs, and indeed by the Operator.

Part 2—Amount of redress payment

5 Amount of redress payment

(1) The amount of a redress payment for a person is worked out using the following table as described in subsection (2):

Amount of redress payment					
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Kind of sexual abuse of the person	Recognition of sexual abuse	Recognition of impact of sexual abuse	Recognition of related non-sexual abuse	Recognition person was institutionally vulnerable	Recognition of extreme circumstances of sexual abuse
1 Penetrative abuse	\$70,000	\$20,000	\$5,000	\$5,000	\$50,000
2 Contact abuse	\$30,000	\$10,000	\$5,000	\$5,000	Nil
3 Exposure abuse	\$5,000	\$5,000	\$5,000	\$5,000	Nil

47. Much has been written about the matrix upon which decisions are made in respect of a financial response to an application. The matrix continues to be problematic and further guidance and training is required for Independent Assessors. There continue to be inconsistencies in the decisions made in respect of a financial response to the application with one religious institute reporting that the incidence of claimed penetration has escalated out of proportion to earlier applications.

Fraudulent Claims

48. DSS has acknowledged that the potential for fraudulent claims exists and advised that there is active monitoring for these claims. Again, we do not want to deny any survivor of abuse access to redress reparation. However, there are opportunities to improve the integrity of the system and reduce gaming, by increasing the resources to the fraud team, and checking ‘bulk’ claimants with replicated claims, which should not be automatically assessed as meeting the threshold of ‘reasonable likelihood’.

49. The Kruk Review highlights the need to improve the counselling and psychological care component of the Scheme. This is not sufficiently survivor-focused or trauma-informed and does not reflect the principles of availability, accessibility, acceptability and high-quality care.

Improving the take up and Quality of Direct Personal Responses.

50. Although there is a very high initial rate of interest from survivors in pursuing a direct personal response, the very low uptake of direct personal responses and apologies does in part reflect the stress of undertaking the whole Redress process. Once survivors have accepted the payment offer, many just want it all to be over and a direct response is less important. Through the process of preparing

statements and claims, counselling and support, many survivors tell us that the process has helped their healing journey, and that they hold the perpetrator responsible, not the current leadership of the institution.

Effect of the protected information provisions in legislation

51. While we are conscious of the importance of protecting the personal information of applicants to the Scheme, our experience is that there is a need to address conflict between the protected information provisions of the Scheme and the reportable conduct provisions under State and territory laws. This conflict can sometimes cause great difficulty for personnel who must deal with Scheme's applications.
52. The protected information provisions lack a mechanism to enable procedural fairness to be accorded to an alleged abuser who is still alive and remains in an active role with a diocese, when this is the first time he or she is identified as a potential perpetrator of sexual abuse.
53. At the same time, the Scheme does not currently provide services to support applicants whose report activates a Child Safe report.

CONCLUSION

54. The National Redress Scheme represents an important mechanism for providing reparation to the many children who were sexually abused in Australian institutions while holding those institutions to account for this abuse. We acknowledge the involvement of abuse perpetrators in Catholic Institutions and the trauma that has created for so many people.
55. The Catholic organisations and institutions we represent are committed to ensuring the Scheme offers a pathway to redress for survivors of institutional child sexual abuse which is trauma-informed, provides independent decision-making and consistency of outcomes.