

Our ref: IICJBsb260625

26 June 2025

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By email: [leonie.campbell@lawcouncil.au](mailto:leonie.campbell@lawcouncil.au)

Dear Dr Popple,

## SUNSETTING OF THE NATIONAL REDRESS SCHEME

The Law Society is writing to seek the Law Council's support in advocating for the Commonwealth Government to reconsider its approach to the management of the sunsetting of the National Redress Scheme (**Scheme**) which is scheduled to occur on 30 June 2028. For the reasons set out below, we consider it prudent for there to be a five-year extension applied to the sunsetting of the scheme. The Law Society's Indigenous Issues Committee contributed to this submission.

### Background to the Scheme and current spike in applications

The Scheme was established on 1 July 2018 in response to recommendations made by the Royal Commission in their report into Institutional Responses to Child Sexual Abuse (**Royal Commission**).<sup>1</sup> It consists of the following three components:

- A counselling and psychological care component.
- A redress monetary payment.
- A 'Direct Personal Response' from each participating institution responsible for the abuse.

In the experience of our members, including those working with Aboriginal and Torres Strait Islander clients, the Scheme has been extremely valuable in assisting the healing of survivors of institutional child sexual abuse. In contrast to civil litigation, the Scheme is typically a more expeditious, less complex and less traumatic experience for survivors than pursuing civil litigation. The Scheme also offers benefits to participating institutions. Participating institutions are released from future civil actions and may benefit from the certainty provided by a structured pathway to redress.<sup>2</sup>

The Direct Personal Response component of the Scheme has been particularly beneficial. We understand this acknowledgment, which is agreed in concert with the survivor, is often a reason why survivors choose to apply

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<sup>1</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, 'Final Report – Redress and civil litigation report recommendations', 15 December 2017: [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_recommendations.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_recommendations.pdf).

<sup>2</sup> National Redress Scheme, 'Guidance for institutions', webpage: <https://www.nationalredress.gov.au/institutions-landing/guidance-institutions>.

to and accept an offer from the Redress scheme, thereby forgoing any rights that may arise under a civil common law claim, which could potentially result in a higher award of damages than the capped maximum payment of \$150,000 under the Scheme.

At the current time, survivors of institutional child sexual abuse can make an application to the Scheme until 30 June 2027. The Scheme is set to end one year later on 30 June 2028. This means that all applications under the Scheme are expected to be finalised by the Department of Social Services (**DSS**) by this time.

The Law Society has been made aware of concerns that, in recent months, there has been a sharp increase in the number of applications to the Scheme. As at 30 May 2025, 37,087 applications are yet to receive an outcome, of which 24,544 applications are estimated to be actionable by the Scheme.<sup>3</sup>

There may be several factors in addition to the upcoming sunset of the Scheme that have led to these increases. These include legislative changes enacted by the *National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024* (Cth) (**Amending Act**) which led to:

- Removing the restriction on people applying from prison.
- Refining the special assessment process for serious criminal convictions.
- Allowing applicants to provide additional information with a request for review of their redress offer.<sup>4</sup>

### **Extension of the timeframe for making applications and the sunset of the Scheme**

The report of the Joint Standing Committee on Implementation of the National Redress Scheme dated 26 November 2024 (**Joint Standing Committee Report**) recommended that the Australian Government seek agreement from state and territory governments to extend the Scheme beyond 2028, including agreement on extending existing state power referrals to the Commonwealth.<sup>5</sup> This takes into account the recommendation of the Royal Commission that, rather than a fixed closing date, the Scheme should be wound up 'when applications...reduce to a level where it would be reasonable to consider closing'.<sup>6</sup>

The Law Society supports advocacy to extend the end date of the Scheme for at least 5 years. In our view, this will assist in ensuring the integrity of the Scheme for the following reasons:

#### **1. Fair assessment of applications**

An extension of the Scheme will assist in ensuring that applications are assessed with the requisite level of diligence and care, and that procedural fairness is offered to both survivors and participating institutions.

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<sup>3</sup> National Redress Scheme, News – June 2025, Webpage: <https://www.nationalredress.gov.au/news/june-2025>.

<sup>4</sup> See *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth): s 20 ('When an application cannot be made'), s 63 ('Special assessment of applicants with serious criminal convictions') and s75(3) ('The Review').

<sup>5</sup> Joint Standing Committee on Implementation of the National Redress Scheme, 'Redress – Journey to Justice', report, 26 November 2024, Recommendation 1:

[https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000213/toc\\_pdf/RedressJourneytoJustice.pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000213/toc_pdf/RedressJourneytoJustice.pdf).

<sup>6</sup> Royal Commission into Institutional Responses to Childhood Sexual Abuse, 'Final Report – Redress and Civil Litigation Report', 2015, 38: [https://www.childabuseroyalcommission.gov.au/sites/default/files/file-list/final\\_report\\_-\\_redress\\_and\\_civil\\_litigation.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/file-list/final_report_-_redress_and_civil_litigation.pdf).

The Department of Social Services' (DSS) 2023-24 Annual Report notes that from 1 July 2023 to 30 June 2024, the Scheme finalised a total of 4,044 applications, with an average of 337 per month over the period.<sup>7</sup> However, given the steep increase in applications that are being lodged at the current time, it is unclear how the DSS intends to finalise all applications by 30 June 2028, while at the same time ensuring the process remains survivor-led and fair.

The 2024-25 Budget provided funding for new and expanded services to recruit additional Independent Decision Makers.<sup>8</sup> However, it is unclear whether these measures will be enough to address the steep increases in applications. Further, we note that the Joint Standing Committee Report flagged ongoing concerns with the training provided to Independent Decision Makers.<sup>9</sup> We are concerned that if a new, untrained cohort is recruited in these final stages of the Scheme, the quality and integrity of their decisions may be jeopardised due to unreasonable time pressures and a lack of experience. Our members have already reported that decisions are being made in a more legalistic manner in recent months (e.g., rejection of applications on the basis of minor date inconsistencies in the statement made by the survivor), which is concerning given the survivor focus of the Scheme to date, and the fact that the burden of proof is not the balance of probabilities, as occurs in civil litigation, but instead "reasonable likelihood".<sup>10</sup>

In our view, it is unjust for both survivors and institutions that applications made at the latter stages of the Scheme's operations may be treated unequally than those received earlier. Given the success of the Scheme to date, it is vital that its integrity is retained.

## *2. Ensuring a survivor-led approach*

We understand from our members that, in recent months, many Scheme applicants have been sent letters requesting further information so that their applications can progress.

We are concerned that the proposed sunset of the Scheme in 2028 will mean that applicants are placed under undue pressure to respond to these letters in short timeframes. In the experience of our members, these requests for further particulars, while often warranted for reasons of procedural fairness, can cause distress to survivors, who may think that their application is not believed and may be rejected. As noted in the Joint Standing Committee report: 'Thinking about redress or asking for redress can be confronting and overwhelming'.<sup>11</sup>

While the 2024-25 Budget committed a funding envelope of \$26.1m over four years for the delivery of a new targeted support service to assist applicants to obtain the information required<sup>12</sup>, we suggest that this process cannot and should not be rushed. In the experience of our members, some survivors, if placed under unrealistic deadlines, will choose to abandon their application all together.

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<sup>7</sup> Department of Social Services, 'Annual Report 2023–24', 84: <https://www.dss.gov.au/system/files/documents/2024-11/dss-annual-report-2023-24.pdf>.

<sup>8</sup> Ibid., 114.

<sup>9</sup> 'Redress – Journey to Justice' (above n 5), 7.

<sup>10</sup> *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth) s 12.

<sup>11</sup> 'Redress – Journey to Justice' (above n 5), 3.

<sup>12</sup> The Hon Amanda Rishworth MP, 'Strengthening support for redress applicants', media release, 24 May 2024: <https://ministers.dss.gov.au/media-releases/14791>.

Survivor organisations have also noted with us that the applications currently before them are of greater complexity than those made at the commencement of the scheme. In their experience, the initial tranche of applications was often made by survivors who had participated in the Royal Commission and were connected to psychological supports. The current applications, however, are from survivors who may only be beginning the process of disclosure, and therefore need greater time to prepare their applications and be connected with the right supports. In the experience of survivor organisations, it can take 12 to 14 months to prepare an application in such cases.

Further, the Amending Act means that many survivors are now applying from prison. The difficulties of communicating and taking instructions from prisoners are well known and, from a logistical perspective, it takes far more time to support a prisoner through the application process.

### *3. Providing institutions with greater certainty*

We suggest that an extension of the Scheme would be welcomed by many institutions, given that their participation offers greater certainty from a financial perspective than being exposed to civil litigation claims. This is particularly the case given the redress monetary payment is capped and institutions can forecast the extent of their potential liability with greater ease.

### *4. Knowledge of Scheme among survivors*

In the experience of our members, there are many survivors who may not have knowledge of the deadlines for making an application to the Scheme. This is particularly the case for survivors with limited literacy, or those living in remote communities without access to Internet and other services.

We are concerned that the Government has not identified a coordinated way in which it can reach these cohorts to inform them of the closing of the Scheme, or support them adequately if they choose to make an application.

Aboriginal and/or Torres Strait Islander Community-Controlled Organisations (**ACCOs**) would be best placed to work with potential claimants. We suggest that Government should prioritise funding to ACCOs to increase awareness of the scheme to Aboriginal and Torres Strait Islander in line with Priority Reform 2 of the National Agreement on Closing the Gap.

## **Next steps**

We understand that advocating for the extension of the Scheme will be a complex process, given that it requires political agreement among federal, state and territory governments. This is because to become a participating institution in the Scheme, each States/Territory was required to refer power to the Commonwealth for the purposes of s 51(xxxvii) of the Constitution.<sup>13</sup>

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<sup>13</sup> See, for example, National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018 (NSW).



THE LAW SOCIETY  
OF NEW SOUTH WALES

In preparing this letter, the Law Society has had the benefit of speaking to Prue Gregory OAM, Policy, Advocacy & Stakeholder Relations Manager at Survivors and Mates Support Network and previously Principal Lawyer at Knowmore, the legal assistance scheme established to provide advice for survivors of child sexual abuse. Ms Gregory has indicated that she would be pleased to speak to the Law Council, if it decided to undertake advocacy on this issue. She suggested that an advocacy approach whereby constituent bodies agree to lobby their State/Territory Government to extend their power referrals to the Commonwealth may be most effective. In particular, she suggested that each constituent body look at the benefits of the Redress Scheme in relation to particular institutions in their jurisdiction, and the way in which the Scheme has facilitated healing for survivors.

The Law Society would be most pleased in assisting with this work and looks forward to discussing it with the Law Council. Questions at first instance may be directed to Sophie Bathurst, Senior Policy Lawyer, at (02) 9926 0285 or [Sophie.Bathurst@lawsociety.com.au](mailto:Sophie.Bathurst@lawsociety.com.au).

Yours sincerely

**Jennifer Ball**  
President