

41ST PARLIAMENT



Community Development and Justice Standing Committee

Report 6

SEEKING JUSTICE: IMPROVING OPTIONS FOR SURVIVORS OF INSTITUTIONAL CHILD ABUSE

*Volume 2: Western Australia's support for survivors, including the
National Redress Scheme*

Presented by
Dr D.J. Honey, MLA
August 2024

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Community Development and Justice Standing Committee

Seeking justice: Improving options for survivors of institutional child abuse

Volume 2: Western Australia's support for survivors, including the National Redress Scheme

Report No. 6

Presented by

Dr D.J. Honey, MLA

Laid on the Table of the Legislative Assembly on 15 August 2024

Inquiry Terms of Reference

The Community Development and Justice Standing Committee will inquire into the options available to survivors of institutional child sexual abuse in Western Australia who are seeking justice.

In particular, the Committee will consider:

1. The impact of the *Civil Liability Legislation Amendment Act (Child Sexual Abuse Actions) Act 2018* (the Act), including:
 - a. the experience of survivors who have used the civil litigation process;
 - b. the response of Government and non-government institutions to civil claims brought by survivors;
 - c. the efficiency with which courts deal with civil claims;
 - d. State monitoring and reporting on the progress and impact of the Act.
2. The effectiveness of WA's support of the National Redress Scheme, including:
 - a. the experience of survivors who have accessed the Scheme;
 - b. the response of Government and non-government institutions to the Scheme.
3. The resourcing and provision of services to support survivors in whichever path they take.
4. Other options to provide justice, resolution and/or compensation to survivors and their families, including lessons from other jurisdictions.

Chair's Foreword

On behalf of the Community Development and Justice Standing Committee, I am very proud to present the second report of our inquiry into Improving options for survivors of institutional child abuse.

The Committee decided early on that we should present our findings in two volumes. Our first report, tabled in November 2023, focused on issues that we felt needed to be treated with priority by the Government, in the hope that its recommendations could be implemented during this Parliament. We were greatly encouraged by the Government's and the Attorney General's positive responses to that report.

Inquiries are improved when they hear many voices. The Committee has benefitted from receiving evidence from a wide range of witnesses: from individuals who were subject to abuse in institutions; from the excellent support organisations assisting those victims; from Government agencies; from institutions where child abuse occurred; and from lawyers representing victims and institutions. Drawing from that wide range of evidence, some key themes emerged.

It is common for people and organisations to use the term 'historical' child abuse. It is very clear that the term 'historical' does a disservice to the victims of abuse. The impacts of abuse continue to be present – not just for the victims, but also for their extended families and friends – whether that abuse occurred yesterday or 50 years ago.

Worryingly, it is very clear that the abuse of children continues in a range of organisations. The Royal Commission shed light on this previously largely hidden topic, and that exposure led to some positive changes and reduced opportunities for institutional abuse of children. However, abuse continues.

People may intuitively think that the bow-wave of reports of previous abuse would be subsiding. In fact, it is evident that many people are only now feeling able to come forward and report that abuse. There is a high likelihood that we will see increasing numbers of reports, not reducing numbers, and both Governments and institutions need to make a greater effort to assist the victims of abuse.

No matter the number of new reports of abuse, it is very apparent that the resources that have been allocated to support and compensate victims of abuse are wholly inadequate. Resolution of abuse claims often takes years. Obtaining supporting evidence from Government agencies and institutions is often torturous and time consuming. Support services are overwhelmed. Professional support services from clinical psychologists and other appropriate specialists are equally overwhelmed, with extremely long waiting times for help.

There is no systematic effort by Government to dimension the extent of support needed by victims of abuse. Whilst Government has a sympathetic ear, the lack of reliable data limits their ability to provide appropriate support.

Disappointingly, we received credible evidence from a number of witnesses that organisations that allowed and, in some cases, enabled the abuse of children under their care are frustrating and avoiding proper compensation to victims.

There was positive evidence that some organisations are making good efforts to identify and support the victims of abuse. Unfortunately, we received a lot of evidence to the contrary – of organisations appearing to make every effort to frustrate legitimate claims for compensation and even contriving ways to minimise compensation to victims. It is very hard to reconcile the behaviour of some organisations with public statements that they make in this regard.

The Committee was especially disappointed by the failure of the Christian Brothers to appear before the inquiry. Institutions run by the Christian Brothers were disproportionately over-represented in claims of child abuse. The Committee felt that they could provide a particular insight into the matters being considered by this inquiry, in particular, how victims were being supported and compensated. The Committee made every effort to accommodate the Christian Brothers, but they ultimately refused to attend, giving reasons that did not bear scrutiny.

I am proud to present this report to the Parliament and to the Government for their response. I hope that the Government will extend its positive response to our first report and support the recommendations contained in this second report.

I thank all Committee members for their excellent contributions to this report. It was a genuine privilege to be part of a Committee with such a diverse and relevant base of experience. Each member brought with them a valuable and important perspective and a genuine desire to do everything they could to improve outcomes for victims of institutional child abuse. I also thank all the witnesses who appeared before the inquiry, especially the survivors and support organisations. Your resilience and compassion is inspirational.

Lastly but no less importantly, I thank our Committee staff, Dr Alan Charlton and Ms Lisa Peterson. This is Alan's last report before his retirement. I thank him for the considerable effort he has made in this inquiry and for his service to Parliament. I wish him a happy and long retirement. We could not do our work effectively without the excellent help we have had from Alan and Lisa.



DR D.J. HONEY, MLA
CHAIR

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Executive Summary

This report concludes this Committee's inquiry into the options available for survivors of institutional child sexual abuse seeking justice. Our inquiry was launched in the Legislative Assembly on 22 June 2023 and has continued until today. In that time, we have heard from 45 different witnesses in 21 hearings; received 59 submissions; and on 30 November 2023 we tabled our first report of findings and recommendations.

As we noted in our first report, the business of committee inquiries is always built on the evidence provided to them, in this case perhaps more than ever. And as we did when we reported in Volume 1, we want to thank the many participants who engaged with our inquiry, including representative and support groups, legal professionals, institutions and government entities. We want to acknowledge the important work done by the many people and organisations providing support and services to survivors in our community. Your resilience, compassion and innovation in the face of human, logistical and financial challenges is inspiring.

Most especially, however, we again want to thank the survivors who were involved in this inquiry, whether individually or as part of organisations. We acknowledge your bravery and suffering, and your persistence in seeking justice for yourselves and for others. Thank you for your trust in the Committee process.

We began this inquiry because we were concerned that survivors of child abuse still faced substantial obstacles in their attempts to seek justice for the awful wrongs done to them. Seven years on from the conclusion of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission), after much important and significant change to the legislative and procedural approaches designed to assist survivors, much remains to be done. Even more sadly, it seems that every day the relevance of this inquiry is reinforced by new evidence that some institutions continue to resist and even obstruct survivors seeking just outcomes.

Our first report focused on several issues which we believe need to be addressed with urgency. In particular, it was concerned with improving how civil litigation operates in this area. Volume 1 of the report made 11 findings and 12 recommendations, including recommending changes to legislation, the high-level administration of the courts, and the place of permanent stays in the process.

This volume looks at the other options available to survivors of child sexual abuse, and what is needed to give them the best chances of a just outcome. While we were particularly interested in how well the National Redress Scheme (NRS) has worked, we recognise that this is a national scheme, not one operated solely by the Western Australian Government. As such, where we identified weaknesses in the system our recommendations generally provide two options: that the State Government should work with its NRS partners to remedy the situation, or the State Government should act unilaterally to support survivors living in Western Australia (WA).

This report includes five chapters. Chapter 1 looks over the main changes that have been made, and some that have not been made, since the conclusion of the Royal Commission. It finds that an unintended consequence of important changes that have been made is that there is a complacent and potentially harmful view that ‘the situation’ of institutional child abuse has been resolved by the Royal Commission. It recommends that all parties must accept that more needs to be done to support survivors. It also recommends that institutions should make public the names and placement histories of all people who have been found to be abusers while attached to those institutions.

Chapter 2 deals with WA’s participation in the NRS. We find that the processing time for NRS applications take twice as long on average as anticipated, and that State-controlled information requests take about six months rather than the legislated 45 days. We recommend the development and proper resourcing of formal procedures and practices to prioritise information requests from survivors of institutional child sexual abuse. We also recommend more formal assessment of how well survivors are being supported in their search for justice, and the development of a dedicated outreach program focusing on survivor needs.

Chapter 3 looks at eligibility for services and support. We found that the NRS cut-off date of 1 July 2018 unfairly excludes people from seeking justice. We recommend that the State should either work with its partners to extend participation in the Scheme or develop its own scheme for people abused in more recent times. We also supported the recent move to allow survivors with serious criminal records to participate in the Scheme, but recommended that work be done to support those people access the Scheme.

Chapter 4 deals with the specific challenges facing Aboriginal survivors in WA. We found that Aboriginal people make up two-thirds of applicants to the NRS but lack sufficient specific support services to assist them. We also found that WA Government decisions not to make some Aboriginal children wards of the State had unintentionally disenfranchised them from the NRS, and recommend that the WA Government rectify this.

Chapter 5 looks at the support services available to survivors. We found that the range of support services was inadequate to meet the needs of all survivors, and that existing services were underfunded. We recommended that: funding for support services be reviewed to ensure certainty and sustainability for providers and their staff; the State Government act urgently to address shortages of skilled workers in the sector; and the State Government fund the establishment of a dedicated trauma centre that provides psychosocial care, and gender-specific services in WA.

Ministerial Response

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Community Development and Justice Standing Committee directs that the Attorney General report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.

Findings and Recommendations

Chapter 1 – Seven years on from the Royal Commission

Finding 1

Page 1

The Committee continues to support the findings and recommendations of its first report into this inquiry. The findings and recommendations made in this second volume should be taken in addition to and in concert with those from its first report.

Finding 2

Page 3

There is a complacent and potentially harmful view that ‘the situation’ of institutional child abuse has been resolved by the Royal Commission.

Finding 3

Page 4

The use of the term ‘historical’ in relation to child sexual abuse contributes to the notion that child sexual abuse, especially in institutions, is an issue that is in the past and that has been resolved. In reality, child sexual abuse is still a live issue. Perpetrators are still alive, people who covered up the abuse are still alive, and importantly victim/survivors seeking justice are still alive. A child abused today will on average take over 20 years to disclose.

Recommendation 1

Page 4

That the State Government and the non-government sector no longer use the term ‘historical’ to describe child sexual abuse.

Recommendation 2

Page 4

That all parties with responsibilities to survivors of child sexual abuse must accept that much more needs to be done to provide justice to those survivors. Most importantly, those parties include:

- State and Commonwealth governments in the whole and through their constituent departments and entities; including in their roles as administrators, regulators, funders, or providers of information;
- Religious organisations, including local parishes, dioceses or other administrative units, including in their roles as providers of care, education, and information for survivors or administrative bodies; and
- Any other institutions and organisations that provide services, care or support to survivors.

Finding 4

Page 8

So far the Christian Brothers have been the defendant in 778 claims for compensation for child sexual abuse in WA across their schools and institutions, and 41 claims are yet to be resolved. These numbers do not include victims who have chosen to seek compensation through the National Redress Scheme. The Christian Brothers declined to provide any information about the abusers as requested by the Committee including how many, if any, of the Brothers had been referred to the Police for investigation. Appendix 4 includes the questions sent to the Christian Brothers.

Finding 5**Page 10**

The Christian Brothers did not cooperate with this inquiry for reasons that are not credible. The Christian Brothers featured heavily in the shocking findings of the Royal Commission. If the Christian Brothers were genuine in their statements of concern for victims of abuse, they would have fully cooperated with the Committee to improve victim outcomes. The Christian Brothers' failure to cooperate makes it difficult not to conclude that they are simply trying to hide information and avoid public scrutiny of the abuse of children under their care, putting the needs of their organisation and limiting their financial liability above the needs of survivors.

Finding 6**Page 11**

The complicated construction of the various parts of the Catholic Church makes it difficult for people to know where to seek assistance, or where responsibility lies. While church administration is not a matter for Parliament to amend, the complex institutional and administrative arrangements of the Church can make it seem like responsibility is continually being avoided. These arrangements can also make it difficult for survivors to find the appropriate channel to provide the assistance they need. While religious organisations in general and the various parts of the Catholic Church, in particular, are clear they can delineate between their organisational and moral authority, this view is not shared widely, particularly not by survivors.

Finding 7**Page 11**

Seven years after the last report of the Royal Commission, some religious organisations, in particular parts of the Catholic Church, are still putting their survival and their institutional and financial wellbeing ahead of the needs of the people their members abused.

Recommendation 3**Page 12**

That in addition to accepting that more must be done, responsible organisations and entities must prioritise the needs of survivors above and beyond the protection and preservation of those organisations and entities.

Recommendation 4**Page 12**

That where institutions accept that known abusers have operated in their institution, the identities of those abusers should be listed on those institutions' websites in clearly defined and easily accessible areas, which should also include policy statements about child safety. These lists should include but not be limited to individuals:

- who have been criminally convicted for child sexual abuse;
- where the institution has accepted or been found to have civil liability for child sexual abuse;
- where the institution has paid compensation to a survivor whether or not the institution has formally accepted or been found liable for child sexual abuse; and
- whose actions have led to successful National Redress Scheme applications.

Recommendation 5**Page 13**

That the State Government build a centralised publicly accessible list of known abusers, based on the information gathered in response to Recommendation 3. Whichever Minister leads this action should also liaise with institutions to assist them compile their own information.

Recommendation 6**Page 14**

That where institutions accept that abusers have operated in their institution, they should conduct active outreach to publicise information about where and when the abuser worked, to afford other potential victims the opportunity to come forward.

Chapter 2 – Western Australia’s participation in the NRS Scheme**Finding 8****Page 18**

Since its establishment, the Western Australian Government has spent \$171 million in administering and supporting the National Redress Scheme. Of that, \$150 million has been paid in 2,200 redress payments.

Finding 9**Page 21**

The processing of information requests from survivors takes too long, increasing the potential harm to survivors and their families:

- Applications to the National Redress Scheme on average take 12 months to finalise, more than twice the intended timeframe; and
- Freedom of Information requests to the Department of Communities on average take six months to finalise, much more than the legislated expectation of 45 days.

Finding 10**Page 22**

There are no formalised policies or procedures to prioritise Freedom of Information applications relating to information sought by survivors of institutional child sexual abuse.

Recommendation 7**Page 22**

That the Attorney General develop clear procedures, supported by any necessary legislative amendment and adequate resourcing, to require that agencies prioritise Freedom of Information requests relating to institutional child sexual abuse, especially those from people preparing to apply to the National Redress Scheme.

Finding 11**Page 24**

The State Government does not undertake any evaluation of Western Australian survivors’ experience in applying for redress through the National Redress Scheme, and only measures its performance in relation to cost per claim made under the Scheme and timeliness of response to Requests for Information.

Recommendation 8**Page 24**

That the Minister for Child Protection should formally evaluate how well people in Western Australia who have survived institutional child abuse are being supported to seek just outcomes for the harm done to them, with an emphasis on the quality and availability of supports.

Finding 12**Page 27**

There is no specific outreach program in Western Australia designed to inform survivors of their options to seek just outcomes for the abuse done to them. We note that Queensland ran an outreach program, and has consequently had the highest number of National Redress Scheme applications.

Recommendation 9**Page 27**

That the State Government fund the Commissioner for Victims of Crime to develop and implement a dedicated outreach program, focused on the needs of survivors, to inform their decisions on seeking justice, including providing guidance on the financial implications of all options. This work should be informed by the learnings from Queensland.

Chapter 3 – Eligibility for services and support**Finding 13****Page 30**

The 1 July 2018 cut-off date for access to the National Redress Scheme unfairly excludes people from seeking justice for abuse done to them after that date.

Recommendation 10**Page 30**

That the State Government work with the Commonwealth to extend participation of the National Redress Scheme to people who were abused in institutions after 1 July 2018. Failing that, Western Australia should develop its own redress scheme to cover those people.

Finding 14**Page 31**

Excluding prisoners or people with serious criminal records from the National Redress Scheme was unfair and likely self-defeating. We are pleased that the situation has been rectified in April 2024. However, there is still much to be done to ensure those people are effectively supported to engage with the Scheme.

Recommendation 11**Page 31**

That the State Government work with the National Redress Scheme to ensure that people in prison or exiting prison have sufficient access to support services to allow them to successfully apply to the National Redress Scheme, or to choose to take action in the civil courts.

Chapter 4 – Challenges for Aboriginal people seeking justice

Finding 15

Page 34

Aboriginal people in Western Australia are overrepresented in the National Redress Scheme. They make up two-thirds of applications to the Scheme from the State, but are not supported by sufficient culturally appropriate or Aboriginal Community-Controlled support services.

Recommendation 12

Page 34

That the State Government work with the National Redress Scheme to ensure there are sufficient and specific services to support Aboriginal people in Western Australia seeking to use the National Redress Scheme, and if this cannot be achieved, fund such services itself.

Finding 16

Page 36

An unknown number of people who were placed by the State into family care are ineligible for the National Redress Scheme because the State Government did not make them wards of the State. The lived experience and case records of these people shows the State monitored their placements and made significant decisions about their care and living arrangements. However, they are currently unable to gain redress or seek justice except through the civil courts. This issue disproportionately impacts Aboriginal people.

Recommendation 13

Page 36

That the State Government ensure that anyone excluded from the National Redress Scheme by an administrative decision not to make them wards of the State and place them in family care should be:

- able to access the Scheme; or
- provided by the State with financial redress and support as if they were eligible for the Scheme. Depending on the numbers involved, this might require the State to develop its own redress scheme for those people.

Finding 17

Page 38

There is a realistic concern that Aboriginal people might be targeted by ‘claim farmers’ whose actions might result in them making costly choices about seeking just outcomes for abuse done to them.

Recommendation 14

Page 38

That the Attorney General introduce or amend existing legislation, to make it illegal for anyone to give or receive money or a commission for a claim referral or potential claim referral.

Chapter 5 – Support services for survivors

Finding 18

Page 41

The impacts of child sexual abuse on survivors are complex, varied and in many cases enduring. As such, appropriate specialist support services are integral in helping survivors manage those impacts.

Finding 19

Page 41

The provision of timely, adequate and trauma informed support services to assist survivors through the redress process is essential for survivors to navigate the justice process and help minimise re-traumatisation of the survivor.

Finding 20

Page 44

Survivors and service providers presented clear evidence that the service system is inadequate, with long waiting lists and insecure funding. But we found there has been no detailed analysis by the State Government of any gaps in support services or service delivery for survivors in Western Australia. The lack of analysis makes it impossible for the State to fully understand if the current distribution of services is adequate and appropriate.

Recommendation 15

Page 44

That the Minister for Child Protection initiate a full-scale analysis of support services for survivors of institutional child sexual abuse to provide detailed information on how people in Western Australia are being supported, and adjust funding accordingly, either through the National Redress Scheme or independent and in addition to it.

Finding 21

Page 46

Support services currently operating in Western Australia do not have sufficient resources to adequately support the needs of survivors of institutional child sexual abuse resulting in a reduction of the number of hours of counselling services on offer.

Finding 22

Page 46

Notwithstanding the shortfalls in service delivery, we want to recognise the strengths of survivors, whose resilience and compassion has been demonstrated over decades, including the capacity to advocate for others who have been impacted by child sexual abuse.

Finding 23

Page 47

The short-term model used by the State Government to fund support services works against the provision of secure and effective supports for survivors. It:

- works against support services securing long-term accommodation;
- limits the ability to provide long-term employment security, which in turn leads to high staff turnover that negatively impacts client relationships; and
- diminishes the chances of survivors being properly supported to seek justice for wrongs done to them.

Recommendation 16**Page 48**

That the State Government ensure that funding models for support services for survivors of institutional child abuse are improved, to provide more certainty and stability to providers and their staff. This should include longer-term funding, offering grants rather than short-term contracts, and supporting accommodation requirements for preferred providers.

Recommendation 17**Page 49**

That the State Government take urgent action to address the shortage of skilled workers in the community services sector. This should include considering subsidising professional training for social workers and other support workers.

Finding 24**Page 51**

There are several weaknesses in the provision of support services for survivors of child abuse in Western Australia:

- There is no support provided to people whose applications to the National Redress Scheme are unsuccessful;
- There is no ongoing counselling or psychological support provided to survivors once they have exhausted that provided through the National Redress Scheme process; and
- There is no ongoing counselling or psychological support provided to survivors that choose to pursue civil litigation rather than participate in the National Redress Scheme.

Recommendation 18**Page 51**

That the State Government work with the Commonwealth to increase options for support services for survivors. This should include:

- funding ongoing counselling services for survivors once they leave the National Redress Scheme; and
- funding counselling services for survivors who choose to seek compensation through the civil courts in a similar manner to that available under the National Redress Scheme.

Finding 25**Page 52**

Western Australia lacks:

- a dedicated complex trauma centre providing psychosocial care; and
- sufficient well-resourced gender-specific support services.

This leaves many survivors of abuse without the best avenue for support.

Recommendation 19**Page 52**

That the State Government fund the establishment of a dedicated complex trauma centre that provides psychosocial care, and also ensure there are sufficient well-resourced gender-specific support services in Western Australia.

Recommendation 20**Page 53**

That the WA Government:

- Invites SAMSN to facilitate the establishment of a gender-specific service in Western Australia to allow it to offer immediate services to Western Australian victim/survivors. This should include SAMSN bringing local victim/survivor groups such as Survivors of Child Abuse in the planning and operation of the WA program; and
- Provide long-term funding for this service.

Finding 26**Page 54**

Tuart Place is a valuable support service to survivors of institutional child sexual abuse in Western Australia, but it is currently being evicted from its premises, owned by the Christian Brothers, and at serious risk of having to cease operations if it is unable to find new suitable accommodation.

Recommendation 21**Page 54**

That the State Government urgently works with Tuart Place to ensure it can find sustainable long-term accommodation to enable it to continue to provide its valuable services.

Chapter 1

Seven years on from the Royal Commission

- 1.1 This chapter provides an overview of the major changes that have been made, and some that have not, since the finalisation of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). Part of that overview involves the work of this Committee through this inquiry, which resulted in a first report that we presented to Parliament in November 2023.

The Committee's first report

- 1.2 This inquiry began on 22 June 2023. Having heard from 27 witnesses and taken 49 submissions, we tabled the first volume of our report on 30 November 2023.¹ That report, *Seeking Justice: Improving options for survivors of institutional child abuse Volume 1: Legislative and high-level administrative matters*, made 11 findings and 12 recommendations (listed in full in Appendix 2). As we discussed in that report, the Committee was determined to carry on and assess the impact of the National Redress Scheme and the State's role in supporting survivors of institutional child abuse. That determination forms the basis of this second report.
- 1.3 While this report adds to the first, we want to begin by saying that the findings and recommendations of this report are a continuation of those from the first report. The Committee continues to hold the views it held in November last year and supports all findings and recommendations from that first report.

Finding 1

The Committee continues to support the findings and recommendations of its first report into this inquiry. The findings and recommendations made in this second volume should be taken in addition to and in concert with those from its first report.

- 1.4 As its title indicates, the first report dealt mainly with matters requiring legislative or major administrative changes. In doing so we focused mainly on how the civil litigation process could be improved to improve access to justice for survivors of child abuse within institutions. Our key recommendations dealt with:
- Amending civil liability legislation in Western Australia (WA) to expand the definition of 'abuse' to include physical, psychological and emotional abuse against minors, in addition to 'sexual' abuse;
 - Reversing the onus of proof in civil liability cases so that institutions are deemed to breach a duty of care unless they took reasonable precautions to prevent abuse;
 - Allowing civil litigation actions to be continued by the estate of the plaintiff;

1 Community Development and Justice Standing Committee, *Report 5: Seeking Justice: Improving options for survivors of institutional child abuse Volume 1: Legislative and high-level administrative matters*, Western Australian Legislative Assembly, November 2023.

- Limiting the application of permanent stays in the courts; and
- Introducing a separate court list for child abuse in the District Court.

1.5 In the normal way, the WA Government tabled a response to our report in the Legislative Assembly on 12 March 2024. We were pleased to learn from that response that:

the District Court of Western Australia has established a dedicated court list for institutional child sexual abuse civil claims, with effect from February 2024.

Through the new Abuse Claims List, the Court has advanced a tailored approach to case management, promoting greater certainty for survivors who wish to access the justice system in this way. The District Court offers a special mediation service for these civil claims and actively works with counsel to promote effective and efficient negotiations for the speedy resolution of these matters.²

1.6 In response to the other recommendations of the report, the Minister wrote:

The recommendations made by the CDJSC raise complex matters of law and policy, and their practical implementation requires collaboration across Government agencies.

This includes matters such as the constitutional validity of certain recommendations and the combined impact of the recommendations on the physical and sexual abuse (PSA) insurance market.

The Attorney General has tasked the Department with leading the work to respond to the CDJSC's recommendations. Consultation has commenced across key agencies including the Department of Communities, the Insurance Commission of Western Australia, the State Solicitor's Office and the Solicitor-General.

The Government notes that the CDJSC intends to publish a second report, which is expected to contain further recommendations. In view of the need to consider the cumulative effect and interrelationship of all recommendations, work will progress on the report's recommendations, while awaiting the publication of the second report. The Government will then prepare a consolidated Government response to all of the CDJSC's recommendations.³

The Royal Commission

1.7 As we wrote in our first report, the Royal Commission was a five-year inquiry into some of the most horrendous systematic abuse of children in Australia's history. It resulted in 20 volumes of report, including 409 recommendations requiring action from Commonwealth, State and Territory Governments as well as non-government institutions. Of those, 310 recommendations were relevant to the WA Government, and included actions to help right

2 Government Response to *Report 5: Seeking Justice: Improving options for survivors of institutional child abuse; Volume 1: Legislative and high-level administrative matters*, Tabled Paper 2662, Legislative Assembly of Western Australia, accessed 3/7/24, [https://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/36A4A9FC1579D5C948258A760019AF85/\\$file/TP+2662+\(2024\)+GOVERNMENT+RESPONSE+-+CDJSC+Report+5+Vol+1.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/36A4A9FC1579D5C948258A760019AF85/$file/TP+2662+(2024)+GOVERNMENT+RESPONSE+-+CDJSC+Report+5+Vol+1.pdf).

3 Ibid.

past wrongs and actions to prevent future harm. Like most jurisdictions, WA reported annually for five years on its progress on the reform agenda created by the Royal Commission.

- 1.8 Since the Royal Commission’s final reports of 2017, much has been done. The most important legal change removed statutory limitations that had prevented most survivors of child abuse from taking civil action. In WA this was done through the *Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018*.
- 1.9 The most significant other change was the creation of the National Redress Scheme (NRS). The NRS allows people to seek redress from institutions, whether government or non-government. It can lead to formal recognition of the harm done, as well as a financial payment, a personal response from the relevant person or institution, and psychological support during the process. The Scheme is something of a ‘third way’, between survivors’ private dealings with institutions and civil litigation. It was created in part in recognition that many people wanted abusers and their institutions to formally acknowledge the harm they had done, with a formulated financial component, without engaging in the more arduous and potentially re-traumatising process of civil litigation. The chief focus of this part of our inquiry is how well WA has supported people in deciding what option to take in their search for justice, and on how they are then supported through the NRS.

Seven years after the Royal Commission, survivors still struggle to achieve justice

- 1.10 Notwithstanding the many and important changes that have been made or planned since the Royal Commission, there are still many hurdles facing survivors of child abuse. In part the very effectiveness of the Royal Commission and the actions taken in response to it have become a limiting factor in moving forward. In aggregate, the evidence we heard and received led us to the uncomfortable and surprising conclusion that there is a potentially dangerous and complacent view across society that ‘the situation’ had been resolved.

Finding 2

There is a complacent and potentially harmful view that ‘the situation’ of institutional child abuse has been resolved by the Royal Commission.

- 1.11 Rather than being resolved, we believe there remains much to do to provide more access to just outcomes for people who have been, and unfortunately continue to be, abused while in the care of institutions. The evidence we received from people who have experienced those harms, and those who now work with them, left us in no doubt that the harm done to people through institutional child abuse persists through a person’s life:

The collective trauma of our survivors highlights the common thread of child abuse and the profound effects on not only the victims, their loved ones, family, friends and wider community. Far more needs to be done, particularly greater funding towards pragmatic solutions.⁴

4 Mr Jarrod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, p. 3.

- 1.12 We also came to sense that there is still a significant failure by government and other organisations, including religious institutions, to fully understand the pain that victims and survivors of child abuse still experience seven years after the Royal Commission finalised its report. Unless and until organisations make major changes to the support they provide, survivors will be left struggling to find their way to adequate care and more just outcomes. And until such time as these challenges are adequately met, society in the whole, religious institutions and government will remain complicit in the harm we have allowed to be done to those children, whether long ago or in the present.
- 1.13 The Committee is also concerned that the use of the term ‘historical’ in relation to child sexual abuse contributes to the notion that we are only dealing with a problem of the past that is not a problem today. Even victims of abuse that occurred 50 plus years ago are very much alive and still fighting for justice, often taking more than 20 years to disclose their abuse. Many of the perpetrators are still alive, the institutions are still active and those that concealed the abuse are still alive.
- 1.14 Further, victims who were abused in the 2000s are now coming forward seeking justice; it seems meaningless to call an incident from 2006, for example, or 2016, ‘historical’. Arguably, institutions benefit from using the term ‘historical’ because it implies the problem occurred a long time ago and is not a current issue.
- 1.15 It is the Committee’s view that there are practically no situations where the term ‘historical child sexual abuse’ should not be replaced with ‘child sexual abuse.’

Finding 3

The use of the term ‘historical’ in relation to child sexual abuse contributes to the notion that child sexual abuse, especially in institutions, is an issue that is in the past and that has been resolved. In reality, child sexual abuse is still a live issue. Perpetrators are still alive, people who covered up the abuse are still alive, and importantly victim/survivors seeking justice are still alive. A child abused today will on average take over 20 years to disclose.

Recommendation 1

That the State Government and the non-government sector no longer use the term ‘historical’ to describe child sexual abuse.

Recommendation 2

That all parties with responsibilities to survivors of child sexual abuse must accept that much more needs to be done to provide justice to those survivors. Most importantly, those parties include:

- State and Commonwealth governments in the whole and through their constituent departments and entities; including in their roles as administrators, regulators, funders, or providers of information;
- Religious organisations, including local parishes, dioceses or other administrative units, including in their roles as providers of care, education, and information for survivors or administrative bodies; and

- Any other institutions and organisations that provide services, care or support to survivors.

1.16 There is a real import to addressing these issues. Getting it right for the survivors of institutional abuse can only improve the practice of dealing with all people who have been abused in other settings. And that number is vast. The 2023 Australian Child Maltreatment Study found that the prevalence of child sexual abuse is much higher than previously thought, with almost one in four Australians experiencing child sexual abuse.⁵ As one witness told us, these numbers cannot be ignored: ‘there is an estimated 3.7 million adult survivors of child abuse in Australia’.⁶ While the Committee does not ignore these experiences, our inquiry has focused on those services, commitments and practices surrounding people who have been abused while in the care of institutions.

1.17 There is a changing demographic of survivors seeking support and redress or compensation for their suffering. As Tuart Place told us,

Tuart Place’s client demographics have changed over time – [it was] originally comprised entirely of survivors of abuse in Catholic orphanages – most of our current clients are survivors of abuse in State-governed institutions, missions, and foster care.⁷

1.18 The current systems for seeking justice, and in particular the perceived low level of financial redress available through the NRS, are seen by some to push people towards the most difficult path to personal justice – civil litigation. As Mr Luscombe, who is a survivor and founder of Survivors of Child Abuse told us:

All our survivors’ experiences were of feeling alone, isolated, fear of not being believed and stigmatised. Many have been diagnosed with complex PTSD, with symptoms that have been debilitating. The stories are brutal and they all have a very similar narrative. They all felt they had nowhere to turn to, and those who sought the help of psychological services often found it worthless and continued to struggle with regulating their feelings, suicidal ideation, depression, anxiety and substance abuse. It is difficult to comprehend the effects of child abuse unless you have lived with it yourself.⁸

1.19 Mr Luscombe also raised the broader issue of the financial implications to society from the effects of child abuse.

... if the impacts of child abuse on those adult survivors were adequately addressed through active, timely and comprehensive intervention – the combined budget

5 Higgins DJ, Mathews B, Pacella R, et al. ‘The prevalence and nature of multi-type child maltreatment in Australia’, *Medical Journal of Australia* 2023; 218 (6 Suppl): S19-S25. Findings from the study can be found at <https://www.acms.au/findings/> (accessed 2/7/24).

6 Mr Jarrod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, p. 3.

7 Dr Philippa White, Supplementary Submission 3B, Tuart Place, p. 6.

8 Mr Jarrod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, p. 2.

position of Federal, State and Territory Governments could be improved by a minimum of \$6.8 billion annually.⁹

The reticence of religious organisations to fully accept their role

- 1.20 The history of institutional child abuse in WA and Australia (and indeed the world) is inextricably linked to religious organisations. The Royal Commission spent considerable time hearing about and from some religious orders and hierarchies, and reported on some particular entities. And as we noted in our first report, some religious entities believe that further changes in favour of survivors might threaten their financial wellbeing.¹⁰ As a Committee we do not believe that these things should be seen as a zero-sum game, but we will always support the wellbeing of survivors over the financial health of any organisation.
- 1.21 Part of the various Churches' response to this inquiry has been a reticence to participate, and to see the challenges facing survivors. The Committee felt it extremely important to its inquiry to hear directly from the religious institutions where the most abuse took place, to understand what supports they were providing, and to ensure they were adequately providing justice and support to the survivors of that horrendous abuse. We had mixed success. We had no problems in arranging hearings with the Anglican and Catholic Archbishops of Perth, and eventually heard from representatives of the Marist Brothers, but the latter took what we think was an unnecessary level of convincing to arrange.
- 1.22 The story was very different with the Christian Brothers. After many months of liaising, including a direct appeal to the Catholic Archbishop of Perth, Timothy Costelloe, Brother Gerard Brady, the leader of the Christian Brothers Oceania Province (which includes Australia), agreed to attend a hearing on 11 July 2024. However, the day before the hearing we were informed that Brother Brady and his colleagues would not be appearing. They told us this was because they could not trust the Committee's ability to deal effectively with questions which were before the courts. As a Committee of the Legislative Assembly, we are well versed in dealing with sensitive matters to ensure that legal propriety is preserved. Although the Christian Brothers are still active in WA, they are administratively based in Victoria, and therefore we had no power to compel their attendance. But, given the enormity of the Christian Brothers' record in this area, we were very keen to hear how they had responded to what we presume are large numbers of NRS claims, and what financial impact this had on their sustainability. To that end, on 4 July we had sent a list of questions, seeking data on their experience in this area. Amongst other things, we asked about the numbers of civil cases brought against them, the numbers of successful NRS claims, the number of Direct Personal Responses they had supplied, the number of individual Brothers or employees that had been named in cases or claims, any outreach they had made to potential claimants, and particulars about their handling of the most notorious individuals within their organisation, including Brother Daniel McMahon.

9 Mr Jarrod Luscombe, *Survivors of Child Abuse, Transcript of Evidence*, 21 February 2024, p. 3. See Kezelman C, Hossack N, Stavropoulos P, Burley P, *The Cost of Unresolved Childhood Trauma and Abuse in Adults in Australia*, Blueknot Foundation, Sydney, 2015, p. 10.

10 Submission 7, Catholic Bishop of Bunbury, p. 4.

The case of Brother/Father Daniel McMahon

- 1.23 Brother McMahon originally came from Tasmania but came to WA and taught at Christian Brothers schools in WA, including Trinity, Aquanis, CBC Fremantle, Highgate, and Geraldton. Around 1990 Brother McMahon moved back to Tasmania where he became a Catholic Priest. The by-then Father McMahon remained a priest in Tasmania until his death in 2012. We understand that he abused children at every school he attended. Despite knowledge of the abuse by at least the 1990s, Father McMahon's abuse was allowed to continue.
- 1.24 The Committee received credible evidence from Peter Cotton (who is an investigative journalist and a victim of Brother McMahon) about how the Christian Brothers and various parts of the Catholic Church dealt with Brother McMahon and his behaviour. That evidence is summarised below:
- The then Head of the Christian Brothers in WA, Brother Kevin Ryan, received a complaint about Brother McMahon as early as 1996 or 1997. Mr Cotton contacted Aquinas College in 2002 about his own abuse by Brother McMahon, only to be told he was now a priest in Tasmania.
 - Letters obtained by Mr Cotton reveal that Brother Ryan wrote to the Archbishop of Hobart, Adrian Doyle in 2005 outlining concerns about Danny McMahon, and in December 2006 Brother Ryan asked Archbishop Doyle that the then Father McMahon be defrocked. Nevertheless, the Archdiocese allowed Father McMahon to continue as an active priest until his death in 2012.
 - In 2022 Mr Cotton contacted the Director of Professional Standards for the Hobart Archdiocese and asked for copies of any documents they had relating to his complaint against Brother/Father McMahon. They provided only one document and claimed that he had been retired from active ministry by December 2003.
 - Mr Cotton says that 24 men have come forward alleging sexual assault by Brother McMahon from WA, South Australia, including one from Tasmania when he was a priest. Mr Cotton refers to research which suggests that only five per cent of abuse victims report their abuse. He then cites an expert who says that if this was true of Brother/Father McMahon's victims, it would make him one of Australia's most prolific paedophiles.¹¹
- 1.25 The Committee would have liked to ask the Christian Brothers why they took decades to take any action to stop Brother McMahon's offending and why the matter was not reported to the Police, but they have not appeared. The full submission from Peter Cotton can be found on the Committee website [here](#).
- 1.26 We received evidence that the Christian Brothers have been paying compensation to victims of Brother McMahon since at least the early 2000s, and we received credible evidence that they continue to fight civil litigation cases brought against them. The handling of a serial offender like Brother McMahon is one of the real-life examples we would like to have questioned Brother Brady about had he attended our hearing. On the evidence, Brother McMahon sexually abused boys over a period from the 1960s to his death in 2012. He died a

11 Submission 54, Mr Peter Cotton.

free man without any evidence the Christian Brothers or the Hobart Archdiocese ever reported him to the Police.

1.27 Following their refusal to appear, we again wrote inviting Brother Brady and his colleagues again; we were informed that they would not be appearing before the Committee, because they:

...remain[ed] deeply concerned that the Committee's intended approach would jeopardise the interests of vulnerable plaintiffs and defendants (including the State of Western Australia) in relevant proceedings.¹²

1.28 In Brother Brady's correspondence indicating he would not be appearing before the Committee, he wrote that they would consider our questions and provide a written response 'in due course'. On 12 August, as we were preparing the report to go to print, we received what we consider a minimal response that includes no information not already in the public domain, together with a collection of legally-framed ways to avoid answering simple questions. In the response Brother Brady refused to answer important factual questions such as how many Brothers have served in Australia, how many have been the subject of allegations of abuse, at which schools in WA have there been allegations of sexual abuse and how many Brothers have been referred by the Order to the Police for investigation. In many cases the refusal is based on the false premise that the Christian Brothers can determine themselves what information is relevant to the Committee's inquiry. Despite being given an assurance that he did not need to answer questions about any matters currently before the courts, Brother Brady refused to answer a single specific question about Brother McMahon. Despite this assurance Brother Brady would not even provide an answer to the question asking at which schools in WA Brother McMahon taught.

1.29 One of the few pieces of useful information provided in Brother Brady's answers to our written questions was that so far there have been 778 claims for compensation for child sexual abuse in Christian Brothers schools and institutions in WA, of which 41 are yet to be finalised. These numbers do not include victims who have chosen to seek compensation through the NRS; Brother Brady refused to give the NRS number. By any measure, 778 is a staggering number and reinforces the need for Government to continue working and acting on this issue.

Finding 4

So far the Christian Brothers have been the defendant in 778 claims for compensation for child sexual abuse in WA across their schools and institutions, and 41 claims are yet to be resolved. These numbers do not include victims who have chosen to seek compensation through the National Redress Scheme. The Christian Brothers declined to provide any information about the abusers as requested by the Committee including how many, if any, of the Brothers had been referred to the Police for investigation. Appendix 4 includes the questions sent to the Christian Brothers.

12 Brother Gerard Brady, Christian Brothers Oceania Province, Letter to the Committee, 25 July 2024, p. 1.

- 1.30 The collected correspondence about this matter, the questions we put and the Christian Brothers' response to them are provided in full in Appendix 4. The failure of the Christian Brothers to attend the hearing is extremely disappointing for the Committee and victims alike. This was an opportunity for the Christian Brothers to demonstrate transparency to victims of child sex abuse in their institutions. Given the Committee's clear undertaking to not ask questions about matter currently before the courts and the refusal to answer the written questions put by the Committee it is difficult not to conclude that the Christian Brothers are simply trying to hide information and avoid public scrutiny of the abuse of children under their care to limit their financial liability, even if this causes additional suffering for those that they abused.
- 1.31 By weight of numbers alone, the Christian Brothers have possibly the worst record of abuse in Australia, and one of the worst worldwide. The Royal Commission noted that 1,135 claims of abuse were made naming the Christian Brothers,¹³ and that 16.8 per cent of the 1,610 Christian Brothers active since 1950 had claims of child sexual abuse made against them. These claims account for 20 per cent of all claims involving the Catholic Church in the same period. There were claims against 483 individuals, of whom 301 were religious members of the Christian Brothers. Of those individuals, 29 per cent had 10 or more claims made against them; one had 78 claims.¹⁴ These claims had significant financial impact: by 2017 they had made 763 redress payments totalling \$48.5 million.¹⁵
- 1.32 As well as schools, the Christian Brothers ran residential boys' homes in WA, including Castledare, Clontarf, Tardun and Bindoon, where thousands of child migrant and Indigenous children were sent. The physical and sexual abuse of the children by Christian Brothers was horrific and detailed in Case Study 11 of the Royal Commission.¹⁶ Since then, it has become evident that children were abused at Christian Brothers schools beyond the residential homes examined in Case Study 11. Victims have come forward about abuse at Christian Brothers schools including Trinity, Aquinas, CBC Leederville, CBC Highgate and CBC Fremantle.¹⁷

13 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 16, Religious institutions Book 2*, Commonwealth of Australia, 2017, p. 91.

14 *Ibid.*, p. 95. The report and press coverage refer to a figure of 22 per cent, but this is a statistically derived 'weighted proportion' that takes length of service into account. The 16.7 per cent figure is an 'actual' figure.

15 *Ibid.*, p. 79.

16 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No. 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent's Orphanage Clontarf, St Mary's Agricultural School Tardun and Bindoon Farm School*, Commonwealth of Australia, 2014.

17 Private Submission 26. See also: Rebecca Turner, 'The church's silence is deafening, but these men are righting its wrongs'. *ABC News* (online), 5/9/21, accessed 31/7/24, <https://www.abc.net.au/news/2021-09-05/christian-brother-daniel-mcmahon-survivors-unite/100304740>; Angela Pownall, 'Christian Brother abused schoolboys', *Yahoo!news* (online), 16/2/2013, accessed 31/7/24, https://au.news.yahoo.com/christian-brother-abused-schoolboys-182000517.html?guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlMmNvbS8&guce_referrer_sig=AQAAAD_U39z2eo39dS057bQuj-DrK3cLKT-PITswBxlxfGu4Ww17uXG9naYrodKU_5t8gePNCHdiWpOWwYbWqsTcXR46qbPDjSd3IOCF-ki9gOO8sMvSTUoail5nR-dP165A3u1uuzJOZBiKmvIG3VeDTIOr-LHgk_xf57GWJQzaOTD6.

- 1.33 In their written submission to the inquiry, the Christian Brothers told us they were ‘committed to continuing to respond to those who have been harmed in Western Australia with compassion, timeliness and fairness.’¹⁸ Unfortunately, the experience of survivors is almost the exact opposite. Jarrod Luscombe, a Christian Brothers survivor and founder of Survivors of Child Abuse, told us that when he asked for a different appointment date to meet a Christian Brothers-appointed psychiatrist, he was only offered ‘a date that was some eight or nine months later.’ In describing his overall experience in seeking justice from the Christian Brothers, Mr Luscombe said, ‘I would only ... surmise that they are trying to break me, and I tell you what – they are doing a good job of it’.¹⁹ Another survivor said, ‘The legal people for Brothers dig deep into every aspect of your life, past and present ... The Brothers fight incredibly hard and pull no punches in their quest to protect themselves.’²⁰
- 1.34 The Royal Commission heard evidence of widespread child sexual abuse by the Christian Brothers going back to 1929,²¹ with the Brothers having a history of inaction and coverups.²² In recent years the Brothers have given limited apologies to victims, but the experience of victim/survivors is that the Brothers are still putting their own financial position ahead of fair compensation for survivors, even if that means inflicting more pain on those that they sexually abused as children.

Finding 5

The Christian Brothers did not cooperate with this inquiry for reasons that are not credible. The Christian Brothers featured heavily in the shocking findings of the Royal Commission. If the Christian Brothers were genuine in their statements of concern for victims of abuse, they would have fully cooperated with the Committee to improve victim outcomes. The Christian Brothers’ failure to cooperate makes it difficult not to conclude that they are simply trying to hide information and avoid public scrutiny of the abuse of children under their care, putting the needs of their organisation and limiting their financial liability above the needs of survivors.

- 1.35 On a broader level, we are also concerned that survivors might be challenged by the complicated arrangements of religious institutions, especially within the Catholic Church. The structural arrangements of religious organisations are not, of course, a matter for Parliament to amend, but the complex institutional and administrative arrangements of the Catholic Church make it easy to at least seem like the buck is being continually passed, and make it difficult for survivors to find the appropriate channel to seek assistance. This in turn

18 Submission 21 A, Christian Brothers, p. 8.

19 Mr Jarrod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, pp. 12, 6.

20 Private personal correspondence.

21 Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No. 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent’s Orphanage Clontarf, St Mary’s Agricultural School Tardun and Bindoon Farm School*, Commonwealth of Australia, 2014, p. 31.

22 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 16, Religious institutions Book 2*, Commonwealth of Australia, 2017, p. 575; Royal Commission into Institutional Responses to Child Sexual Abuse, *Report of Case Study No. 11: Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent’s Orphanage Clontarf, St Mary’s Agricultural School Tardun and Bindoon Farm School*, Commonwealth of Australia, 2014, pp. 60-1.

makes it difficult for people to know where to seek assistance. While religious organisations in general and the various parts of the Catholic Church, in particular, are clear they can delineate between their organisational and moral authority, this view is not shared widely, particularly not by survivors.

1.36 While we had problems convincing some religious groups to appear before the Committee, we also note that all religious organisations were confident that their approach to dealing with victims of sexual abuse was well-founded. In some cases, their stated approach, for instance the ‘open door policy’ promoted by the Anglican Diocese of Perth,²³ is theoretically positive, although we make no claim on the effectiveness of how it was implemented.

1.37 However, the evidence we heard suggests that Churches are still putting their own survival and financial viability ahead of the wellbeing of survivors. The impression we took from the evidence was that Church negotiations for compensation for survivors were too often like cutthroat commercial disputes, with the Churches seeking only to minimise their financial exposure rather than any attempt to deliver justice for the victims. Mr Luscombe of Survivors of Child Abuse told us that Church bodies were ‘using every trick in the book to reduce their liability, manipulate the system, treat their victims with contempt and draw out proceedings for as long as possible’.²⁴ Maurice Blackburn Lawyers provided several examples where religious institutions made ‘low-ball’ offers to plaintiffs throughout negotiations, only to dramatically increase the offer just before the case was listed to be heard in court.²⁵ We received evidence of unethical manipulation of financial arrangements by church organisations with the express intention of minimising their exposure to civil claims.²⁶

Finding 6

The complicated construction of the various parts of the Catholic Church makes it difficult for people to know where to seek assistance, or where responsibility lies. While church administration is not a matter for Parliament to amend, the complex institutional and administrative arrangements of the Church can make it seem like responsibility is continually being avoided. These arrangements can also make it difficult for survivors to find the appropriate channel to provide the assistance they need. While religious organisations in general and the various parts of the Catholic Church, in particular, are clear they can delineate between their organisational and moral authority, this view is not shared widely, particularly not by survivors.

Finding 7

Seven years after the last report of the Royal Commission, some religious organisations, in particular parts of the Catholic Church, are still putting their survival and their institutional and financial wellbeing ahead of the needs of the people their members abused.

23 Mr Keith Stephens, Anglican Diocese of Perth, *Transcript of Evidence*, 22 September 2023, pp. 4-5.

24 Mr Jarod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, p. 2.

25 Submission 32A, Maurice Blackburn Lawyers, pp. 6-7.

26 Private Submission.

Recommendation 3

That in addition to accepting that more must be done, responsible organisations and entities must prioritise the needs of survivors above and beyond the protection and preservation of those organisations and entities.

- 1.38 While we have reservations in general about the approach of the Churches, we were particularly concerned that the various parts of the Church, especially the Catholic Church, seemed unwilling to reach out to potential victims. We raised the question in several hearings, asking if the church or school actively reached out to former students or parishioners after a perpetrator had been identified. In each case we were told a version of ‘well, once it’s public, everybody knows what went on’.²⁷ We do not believe that is satisfactory. Not all parishioners or students keep in touch with the operations of the church or school. And even if they do, it should not be the responsibility of the possible victims to find out about the appalling actions of abusers. This is clearly the responsibility of the organisation.
- 1.39 The Committee believes it should be standard practice for all institutions that, once an abuser has been identified, information should be publicised about where and when they worked, to afford other potential victims the opportunity to come forward. Apart from offering them a chance of justice, it would also let survivors know that they ‘weren’t the only one’, which can be empowering in itself.
- 1.40 Similarly, if allegations of sexual abuse come to the attention of an institution it should do everything possible to confirm the allegations and provide justice to survivors. Communication channels that are readily available should be used for this including, for example, the institution’s website, institution databases and Alumni, and the media.
- 1.41 It is plainly unconscionable that institutions hide a wealth of information about known abusers while victims suffer alone thinking no one will believe them because they believe they are the only one affected. And worse that institutions subject to compensation claims decline to accept that the abuse occurred, or decline to accept liability when they have been paying other victims of the same abuser for years, even decades.
- 1.42 Institutions that maintain an unholy wall of silence can only be doing so as a strategy to limit their financial liability rather than providing just outcomes for victim/survivors. Transparency would be a game changer.

Recommendation 4

That where institutions accept that known abusers have operated in their institution, the identities of those abusers should be listed on those institutions’ websites in clearly defined and easily accessible areas, which should also include policy statements about child safety. These lists should include but not be limited to individuals:

- who have been criminally convicted for child sexual abuse;

27 Archbishop Timothy Costelloe, Catholic Archdiocese of Perth, *Transcript of Evidence*, 17 April 2024, p. 7; Brother Peter Carroll, Marist Brothers, Star of the Sea Province, *Transcript of Evidence*, 4 April 2024, p. 10.

- where the institution has accepted or been found to have civil liability for child sexual abuse;
- where the institution has paid compensation to a survivor whether or not the institution has formally accepted or been found liable for child sexual abuse; and
- whose actions have led to successful National Redress Scheme applications.

Recommendation 5

That the State Government build a centralised publicly accessible list of known abusers, based on the information gathered in response to Recommendation 3. Whichever Minister leads this action should also liaise with institutions to assist them compile their own information.

1.43 Against any suggestion that such actions are too difficult, we submit the following examples.

1.44 In 2018, Penrhos College in Perth became aware of allegations of sexual abuse by a former member of its staff. The College then actively engaged with its community. Through its Alumni organisation, it sent a mail-out to 12,500 past and present students, inviting any former students who claimed they were the victims of sexual abuse to come forward.²⁸ This led to charges being laid and the subsequent conviction in 2023 of a former drama teacher who was found guilty of 20 child sex charges committed in the 1980s.²⁹

1.45 Similarly, a March 2024 report of a Victorian Board of Inquiry into Beaumaris Primary School and other government schools found that between 1960 and 1994 the Education Department knowingly transferred teachers who were known abusers between schools. Importantly, the Report included the teachers' names, which schools they taught at and when they taught there, to enable other victims to come forward.³⁰ These were widely published in the media. Subsequent media investigations have also uncovered abuse at other Victorian schools and the perpetrators' details were included in the articles.³¹

1.46 There has been considerable work done in the United States to publish the names and details of abusers within the Catholic Church. Individual dioceses began publishing these lists in 2019. Media reports at the time noted that 50 dioceses had identified more than 1,000

28 'Top girls' schools asks alumni for claims of sex abuse', *The West Australian* (web-based), 27/8/2018, accessed 2/7/2024, <https://thewest.com.au/news/child-protection/top-perth-girls-school-asks-alumni-for-claims-of-sex-abuse-ng-b88940500z> ; Peter de Kruijff, 'Police called over sex abuse claims at Penrhos College', *The West Australian* (web-based) 12/11/2018, accessed 25/7/24, <https://thewest.com.au/news/education/police-called-over-sex-abuse-claims-at-penrhos-college-ng-b881018251z>.

29 Joanna Menagh, 'Sexual abuse victim of convicted Penrhos College teacher Jay Walsh says women must "rescue each other"', *ABC News* (web-based), 3/3/23, accessed 2/7/24, <https://www.abc.net.au/news/2023-03-03/penrhos-college-teacher-jay-walsh-sexual-abuse-victim-speaks-out/102048502>.

30 Board of Inquiry into historical child sexual abuse in Beaumaris Primary School and certain other government schools, *Report*, Victorian Government Printer, 2024, pp. 181-205.

31 Russell Jackson, 'Victorian government facing lawsuits for shuffling paedophile Arthur Eaton to new schools', *ABC News*, 4/6/24, accessed 2/7/24, https://www.abc.net.au/news/2024-06-04/victorian-education-department-lawsuit-paedophile-arthur-eaton/103927298?utm_source=abc_news_app&utm_medium=content_shared&utm_campaign=abc_news_app&utm_content=link.

abusers nationally.³² There is now a well-established aggregation site that brings together and lists the thousands of individuals abusers, by name and diocese. This site, BishopAccountability, is a remarkable tool for accountability and transparency.³³

1.47 However, while publication of known or reasonably accused abusers is profoundly important, there is always more to be done. A 2023 report by the Illinois State Attorney General showed that 451 Catholic clergy or brothers had abused 2,000 children over 70 years in that one State. It also noted that this vastly outnumbered the 103 abusers that the Catholic Church had previously identified.³⁴

Recommendation 6

That where institutions accept that abusers have operated in their institution, they should conduct active outreach to publicise information about where and when the abuser worked, to afford other potential victims the opportunity to come forward.

32 'US Catholic Church names more than 1,000 priests accused of child sex abuse', *ABC News*, 4/1/2019, accessed 20/6/2024, <https://www.abc.net.au/news/2019-01-04/us-catholic-church-names-over-1000-priests-in-sex-abuse-cases/10683870>.

33 BishopAccountability, accessed 20/6/2024, <https://www.bishop-accountability.org/accused/>

34 Illinois State Attorney General, *Report On Catholic Clergy Child Sex Abuse In Illinois*, 2023, pp. 3-4, accessed 25/7/24, <https://clergyreport.illinoisattorneygeneral.gov/download/report.pdf>.

Chapter 2

Western Australia's participation in the NRS Scheme

- 2.1 This chapter looks at WA's involvement in the NRS, providing an overview of how the Scheme works, the role the WA Government plays in the Scheme and the effectiveness of the WA Government's support of survivors who choose to access the NRS.

The purpose and structure of the Scheme

- 2.2 The NRS was created in response to the findings and recommendations of the Royal Commission, which found that countless thousands of children had been sexually abused across many decades in almost every type of institution in Australia. These included institutions where children resided and/or attended for educational, recreational, sporting, religious or cultural activities. Those institutions had fundamentally failed the children they were entrusted to protect. In its report on Redress and Civil Litigation (released in September 2015) the Royal Commission recommended that the institutions and governments should address, or alleviate the impact of, this abuse, in particular ensuring justice for victims, by providing a single national redress scheme.³⁵
- 2.3 The recommendations to provide redress to the survivors of this abuse were eventually agreed by all Australian governments as a shared responsibility. This agreement was formalised by the signing of the Intergovernmental Agreement on the National Redress Scheme for Institutional Child Sexual Abuse, which underpins the Scheme. To enact the NRS, all States passed legislation to refer powers to the Commonwealth to administer the Scheme. In WA, the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* was passed to allow the WA Government and WA-based non-government institutions to participate in the Scheme. The Commonwealth *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* sets out how the Scheme will operate.
- 2.4 A fundamental aspect of the NRS is that redress is provided as a recognition or acknowledgement of harm done and it is intended to alleviate the impact of past institutional child sexual abuse and to provide justice for the survivors of that abuse.³⁶ The Scheme is set up to provide survivors an alternative to pursuing civil litigation and is not intended to be the same as common law damages.³⁷ It is, rather, a means to formally recognising that the abuse happened, providing some financial component to that recognition, and providing the opportunity for victims to receive a formal apology from the individual or institution.

35 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and Civil Litigation*, Commonwealth of Australia, 2015 accessed 13/6/2024, <https://www.childabuseroyalcommission.gov.au/redress-and-civil-litigation>.

36 National Redress Scheme, accessed 2/7/24, <https://www.nationalredress.gov.au/about>.

37 The redress payments do not include any amount for loss of income or pain or suffering.

- 2.5 The NRS commenced on 1 July 2018 and is set to run for 10 years. The Scheme is open to Australian citizens and permanent residents who were sexually abused as children (aged under 18) while in the care of participating governments and institutions before 1 July 2018. Survivors who qualify can apply for redress to the Scheme. The Scheme is wholly administered by the Commonwealth Department of Social Services.
- 2.6 The Scheme mandates that the institutions, both government and non-government, responsible for the child sexual abuse are liable to provide redress to survivors. Redress under the Scheme is in the form of a monetary payment to the survivor together with a direct personal response by the institution in which the abuse occurred. Funding is also provided for counselling and psychological care through and after the process.³⁸
- 2.7 The maximum payment of redress awarded under the Scheme is \$150,000. The total amount awarded is decided by the Independent Decision Maker based on the assessment of the level of abuse suffered, measured against a formal matrix of harm.³⁹ A payment of up to \$5,000 is provided for counselling and psychological care.⁴⁰
- 2.8 All Australian State and Territory government institutions and over 600 non-government institutions have opted to participate in the Scheme. Collectively, these institutions cover approximately 71,000 sites such as churches, schools, homes, charities, and community groups across Australia.⁴¹

Take-up of the Scheme

- 2.9 Since the Scheme began there have been 44,342 applications Australia-wide at 5 July 2024. Approximately half are yet to be finalised. The number of applications to the Scheme has steadily increased each year. From 14 July 2023 to 19 April 2024 the Scheme received 13,324 applications. The NRS website states that the average time to process an application is 12 months but may take longer, as each person's circumstances are different.⁴² This is almost double the intended timeframe.⁴³ Figure 1 shows status of applications at 5 July 2024.

38 Robyn Kruk AO, *Final Report: Second year review of the National Redress Scheme*, March 2021, p. 30.

39 Australian Government, *National Redress Guide*, 1/7/2024, accessed 2/7/24, <https://guides.dss.gov.au/national-redress-guide/5/1>.

40 Initially the payment for counselling was awarded as a lump sum, but since January 2023 it is provided as 20 hours of counselling to a maximum cost of \$5,000 per applicant.

41 National Redress Scheme, *Institutions that have joined the scheme*, accessed 2/7/24, <https://www.nationalredress.gov.au/sites/default/files/documents/2024-04/institutions-have-joined-scheme-9-april.pdf>.

42 National Redress Scheme, *What happens next*, accessed 2/7/24, <https://www.nationalredress.gov.au/applying/what-happens-next#:~:text=The%20assessment%20may%20take%20some,each%20person%27s%20circumstances%20are%20different.>

43 Joint Select Committee on Implementation of the National Redress Scheme, *Second Interim Report of the Joint Select Committee on Implementation of the National Redress Scheme*, November 2021, Commonwealth of Australia, Canberra, p. 6. See also Cait Kelly, 'Thousands of survivors of childhood sexual abuse still waiting for redress claims to be processed', *Guardian online*, 31/5/2022, accessed 2/7/24, <https://www.theguardian.com/australia-news/2022/may/31/thousands-of-survivors-of-childhood-sexual-abuse-still-waiting-for-redress-claims-to-be-processed>.

Figure 1: NRS applications status

- 18,372 applicants had been advised of their outcomes. Of these:
 - 15,816 payments had been made totalling \$1.41 billion.
- 1,813 applications had been withdrawn by the applicant.
- 24,157 applications were yet to receive an outcome. Of these:
 - 15,069 applications were actionable by the Scheme
 - 2,476 applications were being validated and initial contact had been made
 - 9,360 applications were in the information gathering stage
 - 2,591 applications were with an IDM for a determination
 - 642 applications were being prepared for delivery of the outcome.
 - 2,426 applications were unable to be actioned by the Scheme. Of these:
 - 1,336 were awaiting the applicant to provide additional information
 - 1,090 were undergoing a special assessment.
 - 6,662 applications were on hold.

Source: NRS, *NRS – Update*, accessed 24/7/24, <https://www.nationalredress.gov.au/about/updates/1971>

2.10 While it is not the focus of this report, we note that the number of people who have taken the civil litigation approach is not readily accessible or easy to calculate.

Western Australia applications

2.11 By January 2024, 5,386 applications had been made in WA and 2,764 payments made (Table 1). This payment to application rate (51 per cent) is slightly higher than the national figure,⁴⁴ but there is no clear explanation for the difference. Just over 3,700 applications have involved the WA Government as the responsible institution, and of these claims 2,204 payments have been made (at a rate of 59 per cent).

Table 1: WA applications to the NRS⁴⁵

Type	Number	%
Applications received	5,386	
Payments made	2,764	51%
Outcomes issued	3,094	57%
Decisions made	3,168	59%
Offers with applicants for consideration	169	3%
Applicants naming WA State Government entities	3,709	75%
Percentage of Indigenous applicants	(estimated 3,555)	66%

44 The national figure is 47.3 per cent, calculated as the number of applications paid compared to active applications (total minus those withdrawn, unable to action or on hold).

45 Ms Katalin Kraszlan, Commissioner for Victims of Crime, Response to request for further information, n.d., received 1 May 2024, p. 2.

Payments and costs

- 2.12 As noted above, the NRS is not a compensation scheme – in that the amount of money provided is not intended to compensate the applicant for their suffering. Rather, it is best seen as a financial recognition that people were abused. However, the money is not unimportant, and given the scale of abuse, it was always going to involve significant amounts. By the end of January 2024, the WA Government had spent \$171,322,422 in supporting the NRS. It is pleasing to see that the great majority of expenditure (88 per cent) has gone directly in redress payments to survivors (Table 2).

Table 2: WA Government expenditure on NRS⁴⁶

Category	Amount
Redress Amount	\$150,159,102
Counselling Costs	\$7,148,826
Administrative Costs (Contribution to Commonwealth)	\$12,441,341
Legal Costs Contribution	\$1,573,154
Total Payment Amount	\$171,322,422
Number of Payments	2,204

Finding 8

Since its establishment, the Western Australian Government has spent \$171 million in administering and supporting the National Redress Scheme. Of that, \$150 million has been paid in 2,200 redress payments.

- 2.13 The average redress payment awarded to survivors from Western Australian institutions both government and non-government is \$90,000.⁴⁷ This is considerably higher than the figure for payments by the WA Government, which average \$68,000 (see Table 2). It should be noted that any prior payment received relating to the same abuse is deducted from the payment amount awarded. For example, if the survivor received a payment from Redress WA or criminal injuries this amount (indexed) will be deducted from the amount awarded under the NRS. Redress WA made 1,279 payments before the NRS began, with an average prior payment of \$28,000.⁴⁸

Role of the Western Australian Government in the NRS

- 2.14 The WA Government's role within the Scheme is primarily to support its operation through the provision of information and monetary contribution. The State is not involved in administering the Scheme or decision-making on applications. As previously stated, the Commonwealth manages and administers the Scheme.
- 2.15 The main day-to-day involvement of the WA Government in the NRS comes through managing and monitoring how State entities respond to applications. This is carried out by

46 Hon John Quigley MLA, Attorney General, Letter to Committee, 21 June 2024, p. 3.

47 Submission 16, Department of Social Services, p. 2.

48 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, p. 10.

the Redress Coordination Unit (RCU), which sits within the Office of the Commissioner for Victims of Crime, itself housed in the Department of Justice. The RCU is supported by four full-time equivalent employees (FTE).⁴⁹ The RCU liaises with the Scheme Operator and manages the WA Government relationship with the Scheme. Specifically, the RCU:⁵⁰

- Manages the information exchange between WA Government agencies and the Commonwealth Department of Social Services, specifically requests for information (RFIs) and Scheme notices⁵¹ relating to individual applicants, and administers payments made to applicants for counselling and psychological care (since January 2023);
- If requested, provides assistance to an applicant to access a counselling service;
- Administers the provision of Direct Personal Responses from government agencies to those applicants who request them;
- Manages the invoicing and payment process to the Commonwealth/Scheme Operator;
- Manages requests from the Scheme to the WA Attorney General to act as a Funder of Last Resort for applications naming an institution that is defunct or unable to meet financial liabilities ascribed to them. WA is currently the Funder of Last Resort for 33 non-government organisations;⁵²
- Engages in consultation with the Scheme regarding changes in policy and operations and implements those changes;
- Manages the budget process to ensure funds are available to meet the Government's obligations to the Scheme;
- Provides representation on the Interjurisdictional Committee and policy advice and support to the Attorney General on the Scheme;
- Liaises with Redress Support Services and knowmore Legal Service about the operation of the Scheme; and
- Reports on Key Performance Indicators and financial management.

2.16 The Commissioner for the Victims of Crime advised the Committee that the RCU has adequate resources to carry out its administrative role.⁵³

Requests for Information

2.17 When a person applies to the Scheme, the application is forwarded to the relevant institution requesting information relevant to determining that application. It is worth reiterating that the State is not responsible for monitoring or facilitating all applications, only for those where some State entity was (in part or solely) the responsible organisation. It has

49 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, p. 1.

50 Hon John Quigley MLA, Attorney General, Letter to Committee, 21 June 2024, pp. 1-2.

51 Various sections of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* provide for the Operator to notify an institution in relation to a number of matters relating to an application. This includes, for example, giving the institution written notice of: a determination as to whether an application has been approved; if the institution is responsible and therefore liable for providing redress; the amount of redress payable by the institution and the reasons for the determination; if the offer is accepted by the applicant; if a review has been requested, the outcome of the review; if an offer has been made; if an offer is declined.

52 Submission 39, Department of Justice, p. 13.

53 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, p. 6.

no role, for example, in some cases of abuse carried out in religious institutions or sporting bodies.

2.18 For applications relating to WA State agencies, a request for information (RFI) comes from the NRS to the RCU, which forwards the request to the relevant agency. For each request, each agency is required to:⁵⁴

- provide information from their records in respect to their past involvement with the applicant;
- where an alleged abuser is named, establish and report on whether that person was also present at the institution;
- provide an indication of their acceptance of the allegation of abuse; and
- advise the RCU of any Childsafe matters.

Agencies are also required to:

- participate in bi-monthly meetings of the WA Redress Working Group⁵⁵; and
- provide a senior executive member to represent the Department in Direct Personal Responses.

2.19 It is important to note that the contact details of the applicant are not provided to the institution by the Scheme Operator requesting information and there is no permission for the institution to engage with the survivor at all through the application and RFI process. Only if the applicant is successful and opts for a Direct Personal Response can the institution contact the applicant.

2.20 By January 2024 there had been 7,460 Requests for Information (RFI) issued to the RCU.⁵⁶ Under the Scheme's rules, responses are required within eight weeks, and where a RFI is urgent (normally based on terminal or serious health issues) within four weeks. This period can be extended at the request of the participating institution or by the Operator.

2.21 The Committee was advised there are serious challenges in researching the information required to respond to RFIs as many of the records are old and not digitised, located in off-site storage facilities and contain few details. Further, as a result of changes made to the structure of Government departments, an agency may be required to respond to RFIs on behalf of now defunct departments. This adds a layer of complexity to searches and can

54 Hon John Quigley MLA, Attorney General, Letter to Committee, 21 June 2024, p. 2. RFIs received at 30 June 2023: Department of Communities 1207; Department of Local Government, Sport and Cultural Industries 617; The Department of Education 150; Department of Health 15, Department of Justice 65, Department of Planning, Lands & Heritage 3, Department of Primary Industries & Regional Development 1; Department of Training & Workforce Development 1; Public Transport Authority 1, Submission 39, Department of Justice, p. 12.

55 The RCU convenes a bi-monthly meeting of the WA Redress Working Group, consisting of officers who are responsible for the timely submission of responses to RFI. This forum considers trends in applications and RFIs and any significant fall in performance can be discussed there. Occasionally, particular Departments who are rarely the subject of RFIs struggle to meet deadlines as they do not have specific staff assigned to this work. The RCU reaches out to those Departments to assist them to meet requirements. Ms Katalin Kraszlan, Commissioner for Victims of Crime, Response to request for further information, n.d., received 1 May 2024, p. 5.

56 Ms Katalin Kraszlan, Commissioner for Victims of Crime, Response to request for further information, n.d., received 1 May 2024, p. 2.

cause lengthier response times.⁵⁷ As the Director General of the Department of Communities (Communities) told us:

... Communities as a large agency made up of a number of predecessor agencies has access to vast numbers of records. I was advised yesterday, informally, about 500,000 electronic records and around 2.5 million paper records. So you can imagine when people come to us wanting to find out about themselves and their history with any of the organisations that we are currently or have been in the past, that is a lot of work to go looking. Some of the records ... are not of great quality. It is, in many cases, like looking for a bit of a needle in a hay stack, but the team are very diligent.⁵⁸

Freedom of Information Requests

2.22 Since the introduction of the NRS and the removal of the statute of limitations on making civil claims, there has been a significant increase in the number of Freedom of Information (FOI) applications being made in WA by people working through their options for seeking justice, in particular whether to apply to the NRS or to make a civil claim. These applications are bound by the *Freedom of Information Act 1992*, which aims to provide a blanket form of public access to government information.

2.23 We heard that this increase has put enormous workload pressure on the government agencies responding to the requests. Communities advised that it received an average of 800 FOIs a year from 2019 to 2023,⁵⁹ and that it takes approximately six months on average to respond.⁶⁰ The legislated response time is 45 days.

2.24 Although these responses already take too long, we heard from support organisations that things could take much longer. Witnesses from Relationships Australia WA told us that Communities was the main source of records and information in this area, and that:

Records often take around nine months for that information to come forward, which can be really quite vital because there is that element of discovery with records, where one record then will lead to a call for another record. So we have people who have been waiting for the outcome of that record discovery for two to three years.⁶¹

Finding 9

The processing of information requests from survivors takes too long, increasing the potential harm to survivors and their families:

- Applications to the National Redress Scheme on average take 12 months to finalise, more than twice the intended timeframe; and
- Freedom of Information requests to the Department of Communities on average take six months to finalise, much more than the legislated expectation of 45 days.

57 Submission 39, Office of the Commissioner for Victims of Crime, p. 12.

58 Mr Michael Rowe, Department of Communities, *Transcript of Evidence*, 13 March 2024, p. 8.

59 Answer to Questions on Notice No 4, Department of Communities, 20 March 2024.

60 Submission 23, Department of Communities, 28 July 2023, p. 2.

61 Mrs Kylie Dunjey, Mr Camilo Tatasciore, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, pp. 5-6.

2.25 These delays occur even though Communities has not-insignificant resources dedicated to dealing with these matters. It has 27 FTE across three teams to deal with NRS, of which nine FTE are allocated to work on FOIs.⁶² Acknowledging the increase in workload, Communities advised it received funding in 2024 for another two FTE to manage the volume.⁶³ While the extra FTE are no doubt welcome, we are concerned that that the change is unlikely to bring the turnaround times for FOI within legislated requirements.

2.26 Communities advised that they do communicate with FOI applicants to clarify information sought and discuss limitations of information found. They told us that this meant, at least informally, they knew which applications were dealing with institutional child abuse:

When we are engaging with an individual directly, we do tend to have that conversation verbally. When we initially make contact with them under the FOI act, we will reach out and have a conversation about what the scope of their inquiry is and what they are looking for and try to make sure that we are really clear about that scope so that we can provide the best information we can. When we get to issuing a notice of decision, we will contact that individual again and make sure that we explain the limitations of what we can and cannot provide and how we do that.⁶⁴

2.27 While there might be ad hoc arrangements to explain what is and is not possible in dealing with FOIs, there are no formal procedures for FOI applications that prioritise information requests about child abuse based on subject matter or desired outcome. As things stand, FOI applications are primarily processed according to their due date, in effect a ‘first in, first out’ system. This is no bad thing for general requests, and we accept that where the Department identifies ‘extenuating circumstances’, applications may be prioritised for immediate processing.⁶⁵ But those decisions are currently bound by the expectations of the FOI Act, not by the needs of child abuse survivors.

2.28 The nature of the information sought and the information or lack of information that can be provided is often extremely difficult for the survivor to receive and process. It is important as part of the process of giving justice to survivors that they are supported through every part of the process, including receiving information from government agencies in a timely way, with guidance to help them understand the material and its limitations.

Finding 10

There are no formalised policies or procedures to prioritise Freedom of Information applications relating to information sought by survivors of institutional child sexual abuse.

Recommendation 7

That the Attorney General develop clear procedures, supported by any necessary legislative amendment and adequate resourcing, to require that agencies prioritise

62 Answer to Questions on Notice No 1, Department of Communities, 20 March 2024.

63 Answer to Questions on Notice No 5, Department of Communities, 20 March 2024.

64 Ms Nicole Byrne, Department of Communities, *Transcript of Evidence*, 13 March 2024, p. 9.

65 Answer to Questions on Notice No 4, Department of Communities, 20 March 2024.

Government assessment of WA's performance

- 2.29 The Committee was disappointed to learn that there has been little broad analysis of how well the State is performing in support of the NRS. We were further surprised that there appears to be no detailed assessment of how well survivors of child abuse are being assisted to seek just outcomes, whether through the NRS or through civil litigation. The State did produce five progress reports on its response to the Royal Commission, as required under its agreement with the Commonwealth. These focus mainly on the changes made to legislation and future-looking child protection practices. This is proper and to be expected. But as we have noted throughout our inquiry, those important practical changes are outside the scope of our inquiry.
- 2.30 From 2018 to 2022 the WA Government reported annually on its progress in implementing the 310 recommendations of the Royal Commission that applied to WA, including its role in the NRS. The 2022 report, being the final progress report, was tabled in April 2024. The reports outline what the Government is doing to implement the recommendations, however, they do not contain any evaluation or analysis of survivors' experience. We also note that there appears to be no formal assessment undertaken by the WA Government of how the Scheme is working for survivors, or if the survivors are getting the support that they need from the NRS. The Scheme does not require the WA Government to undertake such assessment, and it is seen as the responsibility of the Department of Social Services to evaluate the NRS.
- 2.31 While experiential assessment is absent, some technical 'efficiency and effectiveness' evaluations of the State's performance were gathered by the RCU to formally assess its performance in supporting the NRS. 'Efficiency' in this case is the measure of the average cost per claim made under the NRS, including the cost of administering the Scheme for the WA Government and payments made under the Scheme. 'Effectiveness' here is the measure of the extent to which RFIs received from the Scheme are responded to by the RCU within the eight-week timeframe set by the Scheme Operator. We were told that in 2022-23 each claim cost \$59,000 to administer (slightly lower than the target figure) and that 91 per cent of RFIs were responded to within the eight-week timeframe, marginally above target.
- 2.32 On the Effectiveness measure, the RCU advised the Committee that they are unable to meet the priority deadline of four weeks set by the Operator for some applications, requiring them to seek extensions. Extensions are sought in one-third of RFI requests. To 30 June 2023, of the 6,489 RFIs received, 2,193 extensions were sought.⁶⁶
- 2.33 We learned that there is no formal structures or processes in place to access either feedback or contribution or experiences from survivors of their interactions with WA Government departments around redress. It is our view that the State should properly assess how well people in WA who have survived institutional child abuse are being supported to seek just

⁶⁶ Ms Katalin Kraszlan, Commissioner for Victims of Crime, Response to request for further information, n.d., received 1 May 2024, pp. 5-6.

outcomes for the harm done to them, with an emphasis on the quality and availability of supports.

Finding 11

The State Government does not undertake any evaluation of Western Australian survivors' experience in applying for redress through the National Redress Scheme, and only measures its performance in relation to cost per claim made under the Scheme and timeliness of response to Requests for Information.

Recommendation 8

That the Minister for Child Protection should formally evaluate how well people in Western Australia who have survived institutional child abuse are being supported to seek just outcomes for the harm done to them, with an emphasis on the quality and availability of supports.

Direct Personal Responses

- 2.34 A Direct Personal Response (DPR) is the third component of the NRS. This process is understood to be extremely important to survivors and their sense of achieving justice – to receive an apology from the institution, and to have the institution acknowledge the abuse and the impacts of the abuse on the survivor.⁶⁷
- 2.35 The uptake of DPRs both nationally and in WA has been surprisingly low. In WA, 2,792 successful applicants indicated they would like to receive a DPR from a WA Government institution. But by January 2024, only 82 survivors had contacted the RCU to request a DPR and only 55 people had received one.⁶⁸
- 2.36 The low uptake in accessing the DPR process is not well understood. Part of the issue is seen to be the method of initiating a DPR – they must be initiated by the applicant, and the institution cannot make direct contact with applicants unless applicants have initiated contact expressly for the purposes of obtaining a DPR. The high percentage of applicants in WA who are people of Aboriginal or Torres Strait Islander descent,⁶⁹ and their potential unease with dealing with government bodies, may also be a factor.
- 2.37 Previous reviews into the NRS have made recommendations to address the poor uptake through consultation with survivors and Redress Support Services.⁷⁰ The Committee notes that the Scheme has now established a DPR response team and that a DPR Soft Outreach Trial was launched on 12 March 2024 for six months, aimed at supporting survivors to

67 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and Civil Litigation*, Commonwealth of Australia, 2015, p. 136.

68 Ms Katalin Kraszlan, Commissioner for Victims of Crime, Response to request for further information, n.d., received 1 May 2024, p. 3.

69 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, p. 3.

70 Robyn Kruk AO, *Final Report: Second year review of the National Redress Scheme*, March 2021.

commence, continue or finalise their DPR. Under the trial the Scheme will contact applicants three months after the application outcome.⁷¹

- 2.38 The Committee is of the view that the Western Australian Government should be active in trying to ascertain the reasons for the poor take up of DPRs and be working to increase survivor awareness of the availability of DPRs through outreach and promotional material.

Promotion of the NRS in Western Australia

- 2.39 The Royal Commission reported that a comprehensive communication strategy was key to an effective redress scheme, and made specific recommendations with particular consideration for people who might be more difficult to reach.⁷² In a State as vast as WA, with an often remote and linguistically diverse Aboriginal population who any reasonable person would expect to be affected by child abuse, we expected to see just such a strategy in place, tailored to ensure the availability of the Scheme was widely publicised and promoted.

- 2.40 Rather than a targeted and place-specific strategy, the Committee heard that there is concern that many survivors are not aware of the NRS or that they may be eligible for redress.⁷³ This was true nationally as well as locally. The non-advertising and non-promotion of the NRS was noted in the second-year review of the Scheme and recommendations were made that communication and engagement with the NRS be improved.⁷⁴

- 2.41 This issue is of particular significance for Western Australia. As knowmore Legal Service noted in their submission:

In our experience, the inadequate promotion of the NRS disproportionately impacts survivors in Western Australia – in particular, survivors in rural, regional and remote Western Australia and Aboriginal and/or Torres Strait Islander survivors in Western Australia. We note the significant overlap between these groups of survivors and the importance of a trauma-informed and culturally safe approach to promoting the NRS.⁷⁵

- 2.42 Redress Support Services including knowmore Legal Service and Relationships Australia WA advised they were actively promoting their services as widely as they could, however there were significant challenges in doing this, particularly as it related to remote areas and communities where it is estimated that a significant number of eligible survivors live. Relationships Australia WA highlighted the difficulty:

71 National Redress Scheme, *Update*, 26/3/24, accessed 2/7/24, <https://www.nationalredress.gov.au/about/updates/1891>.

72 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and Civil Litigation*, Commonwealth of Australia, 2015, pp. 358-360.

73 Submission 31, knowmore Legal Service, p. 50 and Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, p. 2.

74 Submission 31, knowmore Legal Service, p. 50.

75 Ibid.

Mrs DUNJEY: ...We were actually in a situation, when we had 100 on the waitlist, that we actually did not think in all good conscience that we could continue with the same gusto the amount of promotion that was taking place...

Mr TATASCIORE: ... In 2020, there were not many Redress applicants in the midwest-Murchison-Gascoyne area. There was a slight sprinkling. So, I developed an active process. As I mentioned earlier, in the midwest and Murchison, I had all the interconnections, so it was advertising, word of mouth and doing presentations – for example, at the Meekatharra Aboriginal Reference Group, Mt Magnet Yamatji Reference Group, Geraldton and Carnarvon and all those other places – in the main areas. It sort of started to take traction. It was kind of like a conversation – not a presentation with IT stuff and standing at the front of the room. Within a few months, we started to get from a trickle to quite a flood and we were just really flat out across there ... At one time, we had to close our books. Now, we are getting back to the point – we were only speaking a couple of weeks ago – to restart that program again. As Kylie said, we could not keep on promoting and have people coming in and waiting three, four, five or six months. Other agencies were referring to us and we were referring out, so it got quite difficult.

Dr K. STRATTON: So where do those people go?

Mr TATASCIORE: On the waitlist. They just waited on the waitlist.⁷⁶

2.43 The Committee explored this issue with the RCU and with non-government institutions including the Catholic Archdiocese of Perth and the Marist Brothers. We learned that very little outreach was being undertaken to promote the NRS.⁷⁷ We note that the Commissioner for Victims of Crime advised that the RCU is not resourced to do outreach for the Scheme.⁷⁸

2.44 The Committee is concerned that some survivors will miss out on access to justice as provided by the NRS, as they are unaware or do not have access to the necessary support to help them make an application. Our view is that the State should invest in more dedicated outreach, focused on the needs of survivors, to inform their decisions on seeking justice.

Outreach in Queensland

2.45 While WA has not committed specific resources to outreach, things have been done differently in Queensland. In 2018 the Queensland Government established the Truth, Healing and Reconciliation Taskforce to provide advice on key issues relating to the implementation of reforms arising out of the Royal Commission. The Taskforce operated until December 2023.⁷⁹

76 Mrs Kylie Dunjey, Mr Camilo Tatasciore, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, pp. 10-11.

77 Archbishop Timothy Costelloe, Catholic Archdiocese of Perth, *Transcript of Evidence*, 17 April 2024, pp. 6-8; Brother Peter Carroll, Marist Brothers, Star of the Sea Province, *Transcript of Evidence*, 4 April 2024, p. 10.

78 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, p. 6.

79 Queensland Department of Child Safety, Seniors and Disability Services, *Truth, Healing and Reconciliation Taskforce*, accessed 2/7/24, <https://www.dcssds.qld.gov.au/about-us/reviews-inquiries/queensland-government-response-royal-commission-institutional-responses-child-sexual-abuse/truth-healing-reconciliation-taskforce>.

2.46 The Taskforce took an active approach in its work and from 2020 travelled throughout Queensland on a 'Listening Tour', hosting community forums to engage with survivors, their supporters and the general community.⁸⁰ The Taskforce raised awareness of the NRS, the Royal Commission reforms and the impacts of child abuse. Importantly, the Taskforce promoted the NRS, providing information on eligibility, options, and support services available for redress applicants.⁸¹

2.47 The Committee notes that Queensland has consistently seen the highest number of applications to the NRS each year.⁸²

Finding 12

There is no specific outreach program in Western Australia designed to inform survivors of their options to seek just outcomes for the abuse done to them. We note that Queensland ran an outreach program, and has consequently had the highest number of National Redress Scheme applications.

Recommendation 9

That the State Government fund the Commissioner for Victims of Crime to develop and implement a dedicated outreach program, focused on the needs of survivors, to inform their decisions on seeking justice, including providing guidance on the financial implications of all options. This work should be informed by the learnings from Queensland.

80 Queensland Government, *Fourth Annual Progress Report, Royal Commission into Institutional Responses to Child Sexual Abuse*, December 2021, p. 11.

81 See [Truth, Healing and Reconciliation Taskforce - Forde Foundation](#).

82 See Department of Social Services (C'th), *Annual Report: 2022-23*, p. 120; 2021-22, p. 140; 2020-21, p. 163; 2019-20, n.p. (online report only).

Chapter 3

Eligibility for services and support

- 3.1 As we have discussed throughout both reports to this inquiry, survivors of child abuse have many needs. In Chapter 5 we look at the supply of services and the capacity to deliver those services in WA. In this chapter we look at issues about eligibility for those support services, in particular the NRS.
- 3.2 The NRS, as we have discussed throughout this report, was designed with a particular focus on abuse taking place within institutions. It was not designed and nor does it operate to provide redress to all people who have been abused. Abuse within families, for instance, is not covered by the Scheme. And given that non-institutional abuse is so prevalent, that might mean that up to 90 per cent of sexual abuse survivors are left with no simple avenue for redress.⁸³

The limits of access to the NRS

- 3.3 The Committee is concerned with the boundaries of the NRS, both in eligibility and in time. We understand that partners to the NRS had to determine some limitations to the Scheme, and that these might not be universally supported. One obvious example is the amount of money that people can receive as redress payment. Various witnesses and submitters raised concerns about the dollar quantum available through the NRS.⁸⁴ The Scheme has a maximum payout figure of \$150,000, and the average actual amount received is about \$80,000. While we note that the Royal Commission recommended a maximum figure of \$200,000, we also recognise that some financial limit had to be set.

Time limit

- 3.4 Beyond the amount of money that can be provided through the Scheme, other issues concern us. The first is that the time limits of the NRS mean that people are excluded from access to the Scheme based on an arbitrary point in time. As the NRS webpage states:

Redress is about making amends for wrongs that happened in the past. The National Redress Scheme was established for people who experienced institutional child sexual abuse before 1 July 2018, when the National Redress Scheme started.

People who experienced child sexual abuse after the National Redress Scheme's commencement on 1 July 2018 are not able to access redress through the National Redress Scheme. Other legal options may be available, such as civil litigation.⁸⁵

83 Ms Louise Lamont, Phoenix Support and Advocacy Service, *Transcript of Evidence*, 17 April 2024, p. 7.

84 For example: Submission 15, *Survivors of Child Abuse*, p. 8; Submission 42, *Care Leavers Australasia Network*, p. 10.

85 NRS, *Who Can Apply*, accessed 7/6/2024, <https://www.nationalredress.gov.au/applying/who-can-apply#step5>.

- 3.5 This approach means that a child who was abused under the care of an institution on 2 July 2018 is not eligible for redress under the Scheme, while someone who was abused on 30 June 2018 can successfully apply. This differentiation seems arbitrary at best, and cruel at worst.

Finding 13

The 1 July 2018 cut-off date for access to the National Redress Scheme unfairly excludes people from seeking justice for abuse done to them after that date.

- 3.6 This needs to be rectified. We accept that governments everywhere are working to improve the protection of children, and thus decreasing the likelihood of this type of abuse occurring in the future. In such a situation, it seems even more important to provide a simple and just redress system for those people who are abused. The WA Government should work with the Commonwealth to extend participation of the NRS to people who were abused after 2018. Failing that, it should develop its own redress scheme to cover those people.

Recommendation 10

That the State Government work with the Commonwealth to extend participation of the National Redress Scheme to people who were abused in institutions after 1 July 2018. Failing that, Western Australia should develop its own redress scheme to cover those people.

Individuals deemed ineligible

- 3.7 The other major challenge in the NRS deals with the definition of ‘institutional’ abuse. The Scheme details outline cases where it is clear that people are eligible, but we heard evidence of two types of instance where people were seemingly ineligible on unfair technicalities.
- 3.8 The Scheme is clear that people who at the time of abuse were in permanent care of the institution are eligible for redress. This includes people who were wards of the State, or ‘were in an institution, on the premises of an institution, or where activities of an institution took place (such as a camp), or by an official of an institution’.⁸⁶
- 3.9 However, we heard some concern that at times the definition of an act happening ‘within an institution’ seemed to be applied very narrowly. This could mean that abuse by an ordained minister of religion, for example, might not be deemed institutional if it happened outside their official role, although we note that Archbishop Costelloe thought that this would not and should not be an issue,⁸⁷ and that the NRS has a formal review process. Further, this inquiry cannot and will not review decisions made by the NRS. But, consistent with our position throughout this inquiry, we believe that where interpretations and judgements must be made in this area, they should lean towards accepting the victim.

86 NRS, Who Can Apply, accessed 7/6/2024, <https://www.nationalredress.gov.au/applying/who-can-apply#step5>.

87 Archbishop Timothy Costelloe, Catholic Archdiocese of Perth, *Transcript of Evidence*, 17 April 2024, p. 10.

- 3.10 Another issue was the eligibility of people who were serving or had served prison sentences for serious crimes. Under the NRS as originally established, people with serious criminal records were excluded from the Scheme. After the second-year review of the implementation of the NRS, (Kruk review), this was amended in April 2024, so that people with prison records including serious crimes can now apply to the Scheme.⁸⁸
- 3.11 The Committee believes that excluding prisoners or people with serious criminal records was an error in the first instance. We believe it was unfair and likely self-defeating. As we were told numerous times, prison populations are overrepresented by people who have suffered child abuse. To further punish them by disallowing them from the NRS borders on cruelty. We are pleased that the situation has been rectified. However, as we note in Chapter 5, there is still much to be done to ensure those people are effectively supported to engage with the Scheme.
- 3.12 We note that the Commissioner for Victims of Crime told us that they planned to recruit new staff to support the expected workload in prisons arising from this change. They saw the task as twofold – to support prison-based applications, and to provide general information support to prisoners.⁸⁹

Finding 14

Excluding prisoners or people with serious criminal records from the National Redress Scheme was unfair and likely self-defeating. We are pleased that the situation has been rectified in April 2024. However, there is still much to be done to ensure those people are effectively supported to engage with the Scheme.

Recommendation 11

That the State Government work with the National Redress Scheme to ensure that people in prison or exiting prison have sufficient access to support services to allow them to successfully apply to the National Redress Scheme, or to choose to take action in the civil courts.

- 3.13 Another set of issues have impacted Aboriginal survivors of abuse in WA, which we cover in the next chapter.

88 National Redress Scheme, *NRS Update*, accessed 9/7/24, <https://www.nationalredress.gov.au/about/updates/1936>.

89 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, pp. 5-6.

Chapter 4

Challenges for Aboriginal people seeking justice

4.1 This chapter deals with the continuing challenges faced by Aboriginal survivors of institutional child abuse in WA seeking justice.

The overrepresentation of Aboriginal people

4.2 The first thing to note is that the numbers of Aboriginal survivors in WA is much greater than their overall population would suggest. For example, knowmore Legal Service, the main provider of legal support for people going through the NRS process, told us that 66 per cent of its clients in WA were Aboriginal or Torres Strait Islander (ATSI) people.⁹⁰ Relationships Australia WA told a similar story, saying that 70 per cent of their clients over the last six years were Aboriginal.⁹¹ Further, of all ATSI people assisted by knowmore across Australia, 30 per cent came from WA.⁹² Given that Aboriginal people make up 4.4 per cent of people in WA and 12 per cent of people who identify as ATSI in Australia, this is a massive overrepresentation.⁹³

4.3 The Kruk review of the implementation of the NRS made clear recommendations that Aboriginal survivors needed improved, increased and particular support. It recommended:

targeted communication strategies to reach Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities and people with disability. This is based on strong feedback from those communities and the lower than anticipated participation of some of these communities in the Scheme.⁹⁴

4.4 The Kruk review was focused on the operation and communication of the NRS. But we believe that its comments and observations are relevant to the WA Government's general approach and its shortcomings. As Ms Kruk wrote:

... if the application process is to be successful in capturing the experiences of Aboriginal and Torres Strait Islander survivors, it should acknowledge the historical context of abuse, the cultural diversity of the Aboriginal and Torres Strait Islander communities, the distinct experience of Aboriginal and Torres Strait Islander survivors and therefore their individual needs. The Scheme should explore and adopt alternative models of therapy that support whole communities and must be proactive in providing sufficient and necessary financial advice that limits conflict.⁹⁵

90 Submission 31, knowmore Legal Service, p. 39.

91 Mrs Kylie Dunjey, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, p. 2.

92 Submission 31, knowmore Legal Service, p. 39.

93 Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians*, 31/8/23, accessed 3/7/24 <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/latest-release>.

94 Robyn Kruk AO, *Final Report: Second year review of the National Redress Scheme*, 2021, p. 9.

95 *Ibid.*, p. 223.

- 4.5 We expected that such a numerical situation would be supported by a similarly weighted service program. We found that there is no evidence that Aboriginal survivors are being provided with services compatible with their participation in the Scheme.

Finding 15

Aboriginal people in Western Australia are overrepresented in the National Redress Scheme. They make up two-thirds of applications to the Scheme from the State, but are not supported by sufficient culturally appropriate or Aboriginal Community-Controlled support services.

Recommendation 12

That the State Government work with the National Redress Scheme to ensure there are sufficient and specific services to support Aboriginal people in Western Australia seeking to use the National Redress Scheme, and if this cannot be achieved, fund such services itself.

Unexpected outcomes of addressing the stolen generation

- 4.6 One reason for the high numbers of Aboriginal people involved in this matter, of course, was the historical set of government practices known as the ‘Stolen Generation’. Many Aboriginal people were removed from their families and forced into State care, and educated at missions or other religious schools. These became the site of some of the worst child abuse reported by the Royal Commission.⁹⁶
- 4.7 In WA, the Government introduced changes to child welfare policies in response to its understanding of the failures of the Stolen Generation policies. In a cruel irony, the new approach means that some people are now excluded from the NRS. As knowmore Legal Service told us:

The situation is more complicated in Western Australia due to a practice of the Western Australian Government of placing children in private care arrangements. In this context, private care arrangements refer to the government placing a child into a non-institutional care arrangement (for example, with a family member) without bringing the child under state guardianship or obtaining formal court orders for the arrangement. While similar practices may have occurred in other states and territories, our experience is that survivors in Western Australia are most affected by this issue. The issue especially impacts Aboriginal and/or Torres Strait Islander survivors in Western Australia.⁹⁷

- 4.8 Tuart Place explained the practicalities of the situation:

As children they were not made wards of the State but were placed in ‘private arrangements’ where related foster carers were paid a government subsidy for their maintenance. They describe frequent contact with the Child Welfare

96 See e.g., Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Volume 11: Historical residential institutions*, Commonwealth of Australia, 2017, p. 13 and pp. 38-40.

97 Submission 31, knowmore Legal Service, p. 42.

Department; admissions to Reception Homes, and/or visits from police and departmental workers. Their very poor living conditions are often documented in departmental files, some of which also identify serious risks and actual harms experienced by these children.⁹⁸

4.9 Ms Newman from Tuart Place told us that:

They may not have been state wards, but there is a lot of activity around their lives from the department. There might have been subsidies, visits, temporary placements in assessment reception centres, reports from schools, reports from police – all kinds of things which added up to quite a lot of involvement with the department. We are looking at why this cannot be acknowledged as institutional involvement.⁹⁹

4.10 knowmore explained the impact of this anomaly:

[I]f an NRS decision-maker identifies a private arrangement, they will almost certainly find the applicant ineligible for redress, regardless of any other eligibility factors. For example, we have seen the NRS find applicants ineligible for redress in cases where the Western Australian Government had ongoing involvement in the child's care, including in cases where the government was paying the child's carers for the arrangement. This approach denies access to redress for survivors in situations where there is a significant degree of institutional responsibility held by the government.¹⁰⁰

4.11 As Tuart Place told us, this situation is the worst of both worlds. It presents:

a second injustice to descendants of the Stolen Generations who were sexually abused in kinship care and private foster arrangements, and are deemed ineligible for the NRS because they were not made wards of the state.¹⁰¹

4.12 The numbers of people involved appears to be small, and more work needs to be done to identify how widespread the issue is. But no matter the number of people excluded from the NRS by the changed practice, the WA Government was directly responsible for the placement of these children in care and, as such, bears some responsibility for the harm done to them. Therefore, it should ensure that anyone excluded from the NRS by an administrative decision of the State should be provided with financial redress as if they were eligible for the Scheme. Whether this involves renegotiating the eligibility rules of the Scheme or managing the situation as a State-only matter is a question for the Government. The key point must be that those individuals who have been bureaucratically denied redress should be offered it as soon as possible.

98 Submission 3, Tuart Place, p. 5.

99 Ms Jan Newman, Tuart Place, *Transcript of Evidence*, 20 March 2024, pp. 3-4.

100 Submission 31, knowmore Legal Service, p. 42.

101 Submission 3, Tuart Place, p. 10.

Finding 16

An unknown number of people who were placed by the State into family care are ineligible for the National Redress Scheme because the State Government did not make them wards of the State. The lived experience and case records of these people shows the State monitored their placements and made significant decisions about their care and living arrangements. However, they are currently unable to gain redress or seek justice except through the civil courts. This issue disproportionately impacts Aboriginal people.

Recommendation 13

That the State Government ensure that anyone excluded from the National Redress Scheme by an administrative decision not to make them wards of the State and place them in family care should be:

- able to access the Scheme; or
- provided by the State with financial redress and support as if they were eligible for the Scheme. Depending on the numbers involved, this might require the State to develop its own redress scheme for those people.

4.13 We note that the WA Government has increased funding for Aboriginal services for child abuse support. The Department of Communities funds \$6.1 million annually to Child Sexual Abuse Therapeutic Services (CSATS) and Indigenous Healing Services (IHS) at different locations across metropolitan and regional WA. The CSATS and IHS are currently the subject of work to develop a strategic commissioning plan that will set out a blueprint for reforms toward:

- sustainable funding arrangements;
- evidence-based, fit for community purpose, service models;
- outcomes-based contracting;
- improved capacity and capability to address harmful sexual behaviours;
- culturally-informed and culturally-secure services for Aboriginal people; and
- key system reforms for supporting how CSATS and IHS providers, working alongside partner agencies in government and community services, support safety, healing and recovery for children and families in the Western Australian community.¹⁰²

4.14 Another issue is the complexity of the NRS form itself. As a legal practitioner told us, there is an inherent issue in the length of the form:

[It] is 44 pages long. It is difficult to read. I know that the National Redress Scheme has worked hard to try and make it a very user-friendly form. But when you are dealing with Indigenous people, children who are 22 or 23 – they are young adults

102 Government of WA, *Creating a safer WA for children and young people – Progress report on Western Australia's implementation of the Royal Commission into institutional responses to child sexual abuse*, 2021, p. 17.

– trying to find access to that, print out the form, understand that, and then also then find a way to get legal advice is extremely difficult.¹⁰³

The potential impact of claim farming

4.15 Finally, we heard concern throughout the inquiry that survivors might be targeted by individuals or firms practising what is known as ‘claim farming’. As Ms Hancock from knowmore told us, claim farming has two components. The first when people are contacted:

usually out of the blue, sometimes by phone, sometimes by letter, sometimes in person, and basically being encouraged to explore or make a civil claim for compensation in relation to the sexual abuse they had experienced as a child. That was sometimes being done by law firms and sometimes being done by non-legal people who would take some initial details from the survivor and basically pass those on to a law firm that could assist.¹⁰⁴

4.16 Informing people about their options, of course, is not improper, although there is always a risk of retraumatising people by ‘cold calling’ them on such personal matters. We would expect any prudent organisation acting professionally and ethically to consider how such contact might best be made. And we believe a well-planned outreach program (as we discuss in Chapter 2) will minimise the potential for bad actors, by better informing people of their options and their implications. However, it is clearly untenable that such action should become an income-generating tool. This is the second component of claim farming:

Basically the law firm was paying that third party a referral fee for getting that survivor’s information, which ultimately gets passed on to the survivor and comes out of any settlement or judgement that they would receive.¹⁰⁵

4.17 The problem was not unique to child abuse, as Mr Hudson from knowmore told us:

Whilst we saw the claims farming business model establish itself around the National Redress Scheme, we see with subsequent schemes that have come online like the Territory-style generations redress scheme and the Victorian style of generations reparations packages, businesses targeting participants in those schemes are quicker to do it than they have been. As an established business model, it is becoming quicker and quicker for each new scheme that gets stood up.¹⁰⁶

4.18 This matter is one of potential concern rather than something that has been quantitatively proven to be problematic. However, we were shown evidence that some individuals had been clearly targeted by companies that might be seeking improperly to push them towards actions not in their best interests. And we note that the Queensland Parliament passed legislation in June 2022 specifically making ‘claim farming’ in such matters illegal.¹⁰⁷ As Ms

103 Ms Eleanor Scarff, Australian Lawyers Alliance, *Transcript of Evidence*, 13 September 2023, p. 11.

104 Ms Lauren Hancock, knowmore Legal Service, *Transcript of Evidence*, 1 September 2023, p. 6.

105 Ibid.

106 Mr Nick Hudson, knowmore Legal Service, *Transcript of Evidence*, 1 September 2023, p. 5.

107 *Personal Injuries Proceedings Act 2002*, as amended by the Personal Injuries Proceedings and Other Legislation Amendment Bill 2022, (Queensland).

Hancock from knowmore told us, that legislation makes it illegal for a person to contact a survivor:

without their permission with a view to encouraging them to make a personal injury claim, and it also makes it an offence to give or receive money for a claim referral or potential claim referral.¹⁰⁸

4.19 We believe that the issue is serious enough that the Attorney General should introduce or amend legislation to outlaw the practice in WA.

Finding 17

There is a realistic concern that Aboriginal people might be targeted by ‘claim farmers’ whose actions might result in them making costly choices about seeking just outcomes for abuse done to them.

Recommendation 14

That the Attorney General introduce or amend existing legalisation, to make it illegal for anyone to give or receive money or a commission for a claim referral or potential claim referral.

108 Ms Lauren Hancock, knowmore Legal Service, *Transcript of Evidence*, 1 September 2023, p. 6.

Chapter 5

Support services for survivors

- 5.1 A central tenet of providing justice to survivors of institutional child sexual abuse is ensuring they can access the necessary supports and services to deal with the trauma they have experienced. It is well recognised that the detrimental impact of abuse follows many survivors throughout their lives and has profound, long-lasting and cumulative impacts. As we heard many times, the effects of abuse can take many forms, and change over time. To effectively assist people to deal with the harms done to them, survivors need access to many types of service, reflecting their unique and diverse needs.
- 5.2 In this chapter we look at the recommendations from the Royal Commission that relate to support services, and how well they have been given effect in WA. This includes:
- looking at the adequacy of the types and range of services in place for survivors, whether they are applying to the NRS or taking other options in their search for justice;
 - the arrangements of the organisations that provide these services;
 - how those services are funded; and
 - the availability and gaps in service capacity.

The Royal Commission's recommendations

- 5.3 Throughout its operation, the Royal Commission covered many matters dealing with the needs of survivors. But key to our inquiry were two parts of its reporting. First was the *Redress and Civil Litigation* report,¹⁰⁹ which made recommendations in the context of providing two alternative avenues a survivor can take to obtain justice – civil litigation or what became the NRS. As we noted in the first report on this inquiry, this document alone ran to more than 600 pages and made 99 recommendations.¹¹⁰
- 5.4 The second main report for this chapter was *Final Report Volume 9: Advocacy, support and therapeutic treatment services* (Volume 9).¹¹¹ Volume 9 moved beyond the creation of the NRS and addressed the service system more broadly, recognising that some survivors will not seek redress and others may not be eligible to do so. The key focus for this chapter was Recommendation 9.1.

109 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and Civil Litigation*, Commonwealth of Australia, 2015.

110 Community Development and Justice Standing Committee, *Report 5: Seeking Justice: Improving options for survivors of institutional child abuse Volume 1: Legislative and high-level administrative matters*, 2023, p. 2, fn 5.

111 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 9, Advocacy, support and therapeutic treatment services*, Commonwealth of Australia, 2017, Recommendations at pp. 15-17.

Royal Commission: Recommendation 9.1

The Australian Government and state and territory governments should fund dedicated community support services for victims and survivors in each jurisdiction, to provide an integrated model of advocacy and support and counselling to children and adults who experienced childhood sexual abuse in institutional contexts.

Funding and related agreements should require and enable these services to:

- a. be trauma-informed and have an understanding of institutional child sexual abuse
- b. be collaborative, available, accessible, acceptable and high quality
- c. use case management and brokerage to coordinate and meet service needs
- d. support and supervise peer-led support models.

Source: Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 9, Advocacy, support and therapeutic treatment services*, Commonwealth of Australia, 2017, p15.

5.5 The recommendations in Volume 9 (listed in full in Appendix 3) provide an overview of what we should expect to see in a system that is comprehensively providing support services for survivors of child sexual abuse. The recommendations were:

intended to guide funders and providers of advocacy and support and therapeutic treatment so that services adequately meet the needs of victims and survivors outside of redress.¹¹²

5.6 Addressing deficiencies it identified in the existing service system in Australia, the Royal Commission focused on:

- increasing the capacity of services;
- ensuring services are trauma-informed and built on a strong understanding of institutional child sexual abuse; and
- ensuring that services address the multidimensional needs of the survivor which may include financial, legal, medical, psychological and other forms of assistance.¹¹³

5.7 The Royal Commission considered that to meet the needs of children and adults who experienced child sexual abuse in institutions, Governments should fund:

- a dedicated system of community-based support services for victims and survivors. This system should provide advocacy and support, including counselling, case management and brokerage assistance to coordinate and link to other services; it should facilitate peer-led support; and it should include Aboriginal and Torres Strait Islander healing approaches and disability-specific services;
- a national service to assist victims and survivors to understand legal options and to navigate the legal system;

112 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 9, Advocacy, support and therapeutic treatment services*, Commonwealth of Australia, 2017, p. 13.

113 Ibid.

- a national telephone helpline and website that are central, visible points through which victims, survivors, professionals and the broader community can get information and assistance to navigate the service system;
- enhanced capacity of sexual assault services to provide specialist advocacy and support and therapeutic treatment for victims and survivors, and address service gaps; and
- mainstream services capable of responding effectively to survivors with complex trauma.¹¹⁴

Finding 18

The impacts of child sexual abuse on survivors are complex, varied and in many cases enduring. As such, appropriate specialist support services are integral in helping survivors manage those impacts.

Survivors cannot get access to services when they need them

- 5.8 An effective system of supports for survivors needs services that are provided in a timely manner, understand the trauma that survivors have suffered and provide adequate support. The process of seeking assistance to cope with the trauma of child abuse and of seeking justice can be extremely challenging and, in itself, traumatising. Through the very processes set out to help them, survivors can be asked to relive the trauma, often having to retell their story in minute detail. Survivors can be re-traumatised through the process of seeking support if the support services are not readily available or trauma informed.

Finding 19

The provision of timely, adequate and trauma informed support services to assist survivors through the redress process is essential for survivors to navigate the justice process and help minimise re-traumatisation of the survivor.

- 5.9 The most common issues we heard during this inquiry were connected to the breadth of services and the availability of services. From a survivor’s point of view, there is no real difference between the two: if a service is not available, it is functionally the same thing as it not existing.
- 5.10 We heard that the support services both in and outside the NRS are insufficiently resourced to provide survivors with adequate support. Every provider who made a submission or appeared in a hearing told us the same thing – their services are in high demand and they lack the capacity to support survivors in a timely manner. Waitlists have become the norm, sometimes as long as six months.¹¹⁵ Again, in practice this means that survivors cannot be guaranteed access to support when they need it most.
- 5.11 It is not just the time people have to wait that is concerning. The number of people impacted by the lack of service is also considerable. Relationships Australia WA told us they currently have about 50 people on a waitlist of about three months. They also told us that this was an

114 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 9, Advocacy, support and therapeutic treatment services*, Commonwealth of Australia, 2017, p. 13.

115 Mrs Kylie Dunjey, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, pp. 10-11; Mr Michael Martin, Department of Justice, *Transcript of Evidence*, 21 February 2024, p. 5.

improvement on previous figures. Until a recent injection of funding the numbers had been around 100 people, waiting for ‘a lot longer’.¹¹⁶

- 5.12 Recognising that many survivors need practical and emotional support before, during, and after engaging with the NRS, the Commonwealth funds Redress Support Services Australia-wide. It also funds knowmore Legal Service to provide legal advice and financial counselling. knowmore helps survivors assess their redress options and also provides referrals to private lawyers to assist survivors with civil litigation.¹¹⁷
- 5.13 In WA, there are seven funded Redress Support Services: the Aboriginal Family Legal Service; the Child Migrants Trust; Kimberley Community Legal Services; Pilbara Community Legal Services; Relationships Australia WA; Tuart Place; and Yorgum Healing Services Aboriginal Corporation.¹¹⁸
- 5.14 Redress Support Services help survivors to navigate their options, giving them essential information to assist them in deciding whether to apply to the Scheme, including what the impact would be if they accept a redress payment. This assistance can include helping survivors obtain information for their application or helping them write applications, as well as providing counselling, legal and financial advice.
- 5.15 Potential claimants need to know their options so they can make informed choices about whether to pursue litigation or to participate in the NRS as each of these approaches can have different financial implications. For example, Redress payments may be considered as savings, a financial resource or as part of the assets test when determining a social security payment.¹¹⁹ Similarly, receiving a substantial payment as damages through civil litigation can cause short-term issues, like any windfall might, but for people who are not used to dealing with large sums, the risks are greater. And many people are likely to need help balancing the short-term positives of a large damages payout against the potential loss, for example, of future healthcare and other pension benefits.
- 5.16 It is clear to the Committee that current funding levels are not sufficient for the Redress Support Services to meet the high demand for their services, as indicated by the high waitlists they are reporting.¹²⁰ Compounding the issue, there has been a rapid rise in the number of NRS applications made over the past three years. Applications made from 2021-22 to 2023-24 increased almost threefold, from 5,987 to approximately 14,900.¹²¹

116 Mrs Lisa Bailey, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, p. 10.

117 Submission 31, knowmore Legal Service, p. 3.

118 National Redress Scheme, accessed 28/6/24,

<https://www.nationalredress.gov.au/support/explore/wa-redress-support-services>.

119 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, p. 14.

See also [Things to consider if you receive a National Redress Scheme payment \(knowmore.org.au\)](https://www.knowmore.org.au); and the Commonwealth Government’s National Redress Guide <https://guides.dss.gov.au/national-redress-guide/5/1/4>, accessed 28/6/24.

120 For example, Submission 25, Children’s Policy Advisory Council, p. 2.

121 National Redress Scheme – Update <https://www.nationalredress.gov.au/about/updates/1961>, accessed 1/7/24.

- 5.17 The large waitlists for Redress Support Services are acknowledged by the WA and Commonwealth Governments.¹²² Despite this, sufficient resources have not been provided to enable the Redress Support Services to meet the needs of the survivors in a timely manner. This fails the survivors and their families. It also fails to follow the recommendations of the Royal Commission.
- 5.18 Although Redress Support Services are practically funded by the Commonwealth,¹²³ it is important to note that the WA Government provides funding to the Commonwealth as its contribution to the NRS. It is our view that the WA Government has a responsibility to ensure that the funding provided to the Redress Support Services operating in WA is adequate to support WA survivors.
- 5.19 Funding is not only insufficient; in some cases it is falling. knowmore Legal Service advised that their current funding is well below what it received during the first three years of NRS operations, and has been progressively decreasing. It recently posted that it expected a 25 per cent reduction in funding for 2024-25,¹²⁴ despite the fact that demand for their service was increasing and that additional funding would be required to meet that demand. With 17 per cent of knowmore’s clients residing in WA,¹²⁵ it seems inevitable that this means a significant number of Western Australian survivors will be unable to access the support they need to navigate their options.
- 5.20 Tuart Place told the Committee that their submission for additional Commonwealth funding was declined even though service demand had increased. Further, they are funded in a unique way that makes their operations unnecessarily difficult. They are, we were told, the only Redress Support Service funded by the Commonwealth on a per-application basis.¹²⁶
- 5.21 It is not only the Redress Support Services that are facing increasing demand and running at or beyond capacity. The survivor groups and support services operating outside the NRS are also struggling, with waitlists again identified as their biggest challenge.¹²⁷ The increase in demand, we understand, is driven by increased public awareness following the Royal Commission and subsequent government promotion of child safe policies. The CEO of Phoenix Support and Advocacy Service (Phoenix) told us how these funding issues played out:

the fundamental challenge right now is the waitlists. Just to give you an example, we have been very careful not to promote ourselves because of our capacity, but the WA Police have become aware of our service, and within two months we now have 23 people on the waitlist who have been referred from the police. My worry is

122 See for example Department of Social Services Submission to the Joint Standing Committee on the Implementation of the National Redress Scheme, February 2023, p. 6; Mr Michael Martin, Department of Justice, *Transcript of Evidence*, 21 February 2024, p. 5.

123 Submission 16, Department of Social Services, p. 3.

124 knowmore Legal Service, *knowmore is facing a funding cliff*, accessed 1/7/24, <https://knowmore.org.au/knowmore-is-facing-a-funding-cliff/>.

125 Submission 31, knowmore Legal Service, p. 66.

126 Submission 3B, Tuart Place, pp. 1, 4.

127 A list of the survivor groups and support services in Western Australia can be found at [Survivor Groups and support services in Western Australia \(justice.wa.gov.au\)](https://www.justice.wa.gov.au/survivor-groups-and-support-services) and [Support for survivors of child abuse \(www.wa.gov.au\)](https://www.wa.gov.au/support-for-survivors-of-child-abuse).

that there is a bit of a tsunami coming. Sitting on the advisory group of the national strategy, all of these things are being rolled out, which are fantastic and we know are necessary, but it is like the cart is going before the horse. There are all these wonderful strategies, education campaigns, that are raising awareness, but we have not prepared the service system for what is coming. That is where I feel an error has been made. Through the recommendations of the royal commission, the government has known that there are a whole lot of things that they have signed up for and that they would implement, but I feel that the service system has been very neglected. We have a contract that has not been looked at for 14 years. We have been on one-year extensions. We are underfunded.¹²⁸

- 5.22 Throughout the inquiry we became concerned that there did not appear to be any detailed research or analysis by the WA Government to ascertain if the needs of survivors here were being met, or if the available services were capable of meeting that need. Mr Twomey from the WA Council of Social Services (WACOSS) made a similar observation: ‘We really think it is critical that we work collectively together to do some sort of an independent study to look at the gap in support and service delivery.’¹²⁹ The Committee is worried that in the absence of such analysis, it is impossible for Government to properly understand if more, less, or different services are required. We believe that this analysis should be done.

Finding 20

Survivors and service providers presented clear evidence that the service system is inadequate, with long waiting lists and insecure funding. But we found there has been no detailed analysis by the State Government of any gaps in support services or service delivery for survivors in Western Australia. The lack of analysis makes it impossible for the State to fully understand if the current distribution of services is adequate and appropriate.

Recommendation 15

That the Minister for Child Protection initiate a full-scale analysis of support services for survivors of institutional child sexual abuse to provide detailed information on how people in Western Australia are being supported, and adjust funding accordingly, either through the National Redress Scheme or independent and in addition to it.

- 5.23 The Department of Communities (Communities) is the lead government agency responsible for delivering therapeutic services to support survivors of sexual abuse in Western Australia. Service is provided primarily through funding contracts with the community services sector,¹³⁰ in particular Child Sexual Abuse Therapy Services (CSATS) and Indigenous Healing

128 Ms Louise Lamont, Phoenix Support and Advocacy Service, *Transcript of Evidence*, 17 April 2024, p. 6.

129 Mr Chris Twomey, Western Australian Council of Social Service, *Transcript of Evidence*, 8 May 2024, p. 2.

130 Government of Western Australia, *Creating a safer WA for children and young people – Progress report on Western Australia’s implementation of the Royal Commission into institutional responses to child sexual abuse*, 2021, p. 17.

Services (IHS).¹³¹ Communities contracts 13 CSATS¹³² and two IHS¹³³ across WA for this support. Combined funding for these services is an estimated \$6.1 million.¹³⁴ While this funding is welcome, we note that both these services are fundamentally focused on supporting children. Such services are vital to ensuring future wrongs are rectified quickly, but they are not immediately or obviously relevant to people who suffered abuse in the past. We noted that WACOSS told the Committee that there has been ongoing underfunding of CSATS and IHS.¹³⁵

- 5.24 State funding for both Phoenix and Tuart Place had, until recently, remained the same for 14 years without even adjustment for CPI, even though demand for their services steadily increased. As Tuart Place told the Committee:

we are stretched to the limit and the pressure on our wraparound daily support is huge, because we are trying to meet the multiple needs from these injustices of a large and very disadvantaged group of survivors. Over the last 10 years our overall care leaver numbers have more than doubled, from 417 to 835 in the last 12 months. The number of First Nations clients has increased sixfold. We have an excellent relationship with the Department of Communities and appreciate that they have funded us since 2014, but the amount of funding – \$330 000 a year – has not increased at all since then ... yet the cost of providing our services has tripled. The small amount of federal funding we receive goes nowhere near covering the cost of additional services sought by our Redress clients.¹³⁶

- 5.25 There are other impacts of insufficient funding. Phoenix advised that funding constraints meant they were unable to provide a service full-time and now only operate three days a week. Ms Lamont, their CEO, told the Committee how that reduction came about:

... if you averaged it over those 14 years, the CPI was probably around 4.6 per cent but the award that our staff come under has had an increase of 22.2 per cent. That was to address some of the gender equity issues in community services. So you can imagine with that increase in the wages and the CPI not keeping up, this is part of why we have had to reduce to the three days a week.¹³⁷

- 5.26 Tuart Place's funding woes have taken another route. The lack of capacity due to funding constraints means that they do not promote their phone counselling service:

131 Mr Michael Rowe, Department of Communities, *Transcript of Evidence*, 13 March 2024, p. 3.

132 These are: Child Sexual Abuse Therapy Services; Parent's and Children's Therapeutic Service; UnitingCare West Child and Family Therapeutic Service; Peel Child Sexual Abuse Therapeutic Service; Waratah Child Sexual Abuse Therapeutic Service; Anglicare Great Southern Child Sexual Abuse Therapeutic Service; Goldfields Child Sexual Abuse Therapeutic Service; Child Sexual Assault Counselling Service; Parkerville Therapeutic Services; Carnarvon Sexual Assault Response Service; Yaandina Child and Family Counselling Service and Indigenous Child Sexual Abuse Response Service – Marooloo. [Child Sexual Abuse Therapeutic Services and Indigenous Healing Services \(www.wa.gov.au\)](http://www.wa.gov.au).

133 These are the Yorgum Aboriginal Corporation and Mackillop Family Services. [Child Sexual Abuse Therapeutic Services and Indigenous Healing Services \(www.wa.gov.au\)](http://www.wa.gov.au).

134 Submission 23, Department of Communities, p. 3.

135 Mr Chris Twomey, Western Australian Council of Social Service, *Transcript of Evidence*, 8 May 2024, pp. 1-2.

136 Ms Susan Vaughan, Tuart Place, *Transcript of Evidence*, 20 March 2024, p. 3.

137 Ms Louise Lamont, Phoenix Support and Advocacy Service, *Transcript of Evidence*, 17 April 2024, p. 2.

Dr WHITE: There is lots we cannot do and that needs to be done – the help that people need – that we just do not have the resources to provide.

Ms VAUGHAN: Particularly counselling – phone counselling. We do not ever publicise that service hardly at all because we do not have the capacity to meet demand. Quite a lot of our people have got mobility issues or are ageing so really that would be a need that we are sort of glossing over in [a] way. In terms of trying to find other funding, because, you know, it does cost us triple that amount, we spend a lot of time. I am a clinical manager, but for me to give clinical direction to our other staff and to do some of even that more complex work myself, the time is not there, so we have more waiting lists and people are being offered less support than they really could do with to move on.¹³⁸

- 5.27 Communities has announced \$2 million further funding over 2024-25 and 2025-26 for CSATS and IHS providers. This is a 15 per cent increase over base funding. The Department has also extended contracts from 1 October 2024 to 30 September 2026. The additional funding is to increase service capacity, provide outreach and sector development.¹³⁹ Both the increase in funding and the extension of contracts is welcome, but it is not clear that they will be sufficient to ensure optimal functioning of the services.

Finding 21

Support services currently operating in Western Australia do not have sufficient resources to adequately support the needs of survivors of institutional child sexual abuse resulting in a reduction of the number of hours of counselling services on offer.

- 5.28 There is no denying that the shortfalls in service delivery, and the gaps in the types of services that are available (of which, more below), can sometimes have dire personal consequences for individuals. Notwithstanding these important issues, however, we want to recognise the strengths of survivors. We learned throughout this inquiry of the resilience and compassion that survivors have demonstrated over decades, including the capacity to advocate for others who have been impacted by child sexual abuse.

Finding 22

Notwithstanding the shortfalls in service delivery, we want to recognise the strengths of survivors, whose resilience and compassion has been demonstrated over decades, including the capacity to advocate for others who have been impacted by child sexual abuse.

Impact of short-term contracts

- 5.29 The short-term nature of contracts provided by the WA Government compounds the challenge in providing services. These contracts have generally run between six months and two years. The operational impact of this is significant on several fronts:
- the short contract term makes it harder for organisations to plan in general;
 - it makes it more difficult to retain appropriate experienced staff; and

138 Dr Philippa White, Ms Susan Vaughan, Tuart Place, *Transcript of Evidence*, 20 March 2024, p. 9.

139 Mr Michael Rowe, Department of Communities, *Transcript of Evidence*, 13 March 2024, p. 3.

- it can make it difficult for them to secure accommodation.

5.30 The CEO of Phoenix explained the impact of this short-term funding model:

We had quite a long series – for about four or five years – of one-year funding extensions on our contract. There were 10 other services that delivered on this contract as well and they had similar experiences. I guess the difficulty around that was that we were not notified until the end of the financial year whether we would have another one-year contract. That had quite a serious impact on the organisation. Just to give you an example, for around 2.2 FTE for the counselling component of our service, during that four- or five-year period of the one-year extensions, I turned over 18 counsellors during that time. Because all our counsellors work part time, that had quite a serious impact for our clients. That therapeutic relationship is so important with child sexual abuse, so it was interrupting that relationship. It was not that the staff did not want to stay on but these days, with mortgages and so on, people needed security of tenure. Staff would start asking me about March-April whether I could offer another one-year contract and I really could not answer that for them.¹⁴⁰

5.31 Mr Twomey from WACOSS talked about impact of the funding model. He also told us that WACOSS believed the Government should implement alternative longer-term grant-based funding, including a preferred provider model, to minimise these problems:

the competitive tendering is not the best way to do these things. It actually goes against the grain of the work we are trying to do when we are trying to develop place-based and integrated responses, where we are wanting services to work together so that your other frontline services can then be collaborating with your specialist services, so you have referral pathways. Certainly, what is critical to see is more longer-term grant-based funding, tending to go with preferred provider models as well. Obviously, there is some need to have evaluation mechanisms in place, to be making sure that services are delivering effective outcomes. Part of that we can do by building into our contracting and commissioning consistent outcomes frameworks across all of our services so that we are measuring the impact and we are able to see what is working and what is making a difference.¹⁴¹

Finding 23

The short-term model used by the State Government to fund support services works against the provision of secure and effective supports for survivors. It:

- works against support services securing long-term accommodation;
- limits the ability to provide long-term employment security, which in turn leads to high staff turnover that negatively impacts client relationships; and
- diminishes the chances of survivors being properly supported to seek justice for wrongs done to them.

140 Ms Louise Lamont, Phoenix Support and Advocacy Service, *Transcript of Evidence*, 17 April 2024, pp. 2-3.

141 Mr Chris Twomey, Western Australian Council of Social Service, *Transcript of Evidence*, 8 May 2024, p. 5.

Recommendation 16

That the State Government ensure that funding models for support services for survivors of institutional child abuse are improved, to provide more certainty and stability to providers and their staff. This should include longer-term funding, offering grants rather than short-term contracts, and supporting accommodation requirements for preferred providers.

Workforce crisis

5.32 Retention and attraction of a skilled, trauma-informed workforce is another major issue facing the community service sector and a contributing factor to the lack of capacity of support services. We were told there is a State-wide shortage of psychologists, social workers and counsellors,¹⁴² exacerbated by the short-term nature of funding contracts. As organisations cannot offer certainty of employment, people go elsewhere. WACOSS provided an insight to various aspects of this issue:

workforce attraction and retention is a huge issue for the community sector at the moment, particularly regional, when we are not paying the wages that people can afford to rent a place in town unless they have a partner who is working in the mining industry for instance. Yes, so that being able to have longer-term contracts but also making sure that the turnover time in contracts is very clear, because often what is happening is one contract is ending and the agency is still waiting on the department to confirm their contract after the contract has run out. They are technically trading insolvent and their board members are obliged to be telling them, "You can't go on doing this." The problem is, in that three- or six-month period, staff will often go, "I've got no certainty of employment; I can get better paid somewhere else."¹⁴³

5.33 It is clear to the Committee that more needs to be done to attract people to the industry. The demand for services is likely to increase, especially given that recent studies show the prevalence of child abuse in Australia is much higher than previously thought. A groundbreaking research project has shown that nearly one in four Australians experience child sexual abuse and six in ten experienced some form of maltreatment.¹⁴⁴ The WA Government's implementation of the Royal Commission recommendations around mandatory reporting and child safety has seen the introduction of child safe principles and practices and a promotional campaign that will encourage more victims of sexual abuse to come forward to seek help. Service levels need to be increased to meet this additional

142 Ms Kati Kraszlan, Commissioner for Victims of Crime, *Transcript of Evidence*, 21 February 2024, p. 11.

143 Mr Chris Twomey, Western Australian Council of Social Service, *Transcript of Evidence*, 8 May 2024, p. 5.

144 Mathews, Ben, 'The Australian Child Maltreatment Study', *The Medical Journal of Australia*, 3 April 2023, Vol 218, No 6. The various 'forms' include physical abuse, sexual abuse, emotional abuse, neglect, exposure to domestic violence. As we noted in our first report, WA is unusual in that it limits 'sexual abuse' more closely than other jurisdictions.

demand.¹⁴⁵ Part of this should involve initiatives to increase the workforce in WA, including additional training support.

5.34 As part of the review that WACOSS recommended, they specified that workforce needs be included:

... what are we doing to look forward to make sure that we are actually training the specialist support staff that we are going to need into the future so that we are able to meet that demand?¹⁴⁶

Recommendation 17

That the State Government take urgent action to address the shortage of skilled workers in the community services sector. This should include considering subsidising professional training for social workers and other support workers.

Service gaps for survivors who do not use the NRS

5.35 The NRS does not provide any support to survivors of institutional child sexual abuse who choose not to participate in the Scheme but would otherwise be eligible for redress. This includes those who pursue civil litigation. While it initially seems logical that a system only supports the people who use it, we are concerned that this approach has unintended consequences. In our view this approach unfairly penalises the many survivors of institutional child sexual abuse who are in dire need of support but are being denied essential services solely because they are choosing not to participate in the NRS. Lack of support for this cohort is a significant omission of both the Commonwealth and State Governments.

5.36 Throughout the inquiry, we heard that there are gaps in the service provision for these survivors. They include:

- no support for survivors after they have exited the NRS system;
- limited support for survivors who choose to pursue civil litigation; and
- lack of services to support survivors who are experiencing post-traumatic stress.

No support for survivors after NRS

5.37 We have described the lack of support for people who choose to seek justice outside the NRS, what we might call a ‘decision-based’ shortfall. But there is also what we might call a ‘time-based’ shortfall: there is no ongoing support provided to survivors after the NRS process concludes, particularly for those whose application was unsuccessful.

5.38 The NRS provides 20 hours of free counselling and psychological care (CPC) up to the value of \$5,000 to eligible successful applicants.¹⁴⁷ This is a strong feature of the Scheme, and we

145 Submission 25, Children’s Policy Advisory Council. See also Phoenix Support and Advocacy Service, *Transcript of Evidence*, 17 April 2024, *passim*.

146 Mr Chris Twomey, Western Australian Council of Social Service, *Transcript of Evidence*, 8 May 2024, p. 2.

147 Submission 16, Department of Social Services, p. 3.

applaud its existence. However, it is a capped allocation, and once it has been used, the survivor cannot get further support.

5.39 Capping the amount of CPC offered to survivors fails to meet the Royal Commission's recommendations that CPC be available throughout a survivor's life.¹⁴⁸ Given that the impact of child sexual abuse on the survivor is enduring, the importance of ongoing support to survivors to help them cope with and manage the impacts of the abuse cannot be understated.¹⁴⁹

5.40 Mrs Dunjey from Relationships Australia WA told us another aspect of the problem:

[There are] ongoing gaps in counselling and psychological support for clients once they have left our service, particularly for those clients who have been unsuccessful. While funding can be accessed through the Department of Justice, there is limited options to be supported by people who have the necessary skills in supporting people who have gone through this kind of trauma.¹⁵⁰

Limited support of survivors who pursue civil litigation

5.41 The Royal Commission did not make specific recommendations for survivors who choose to pursue civil litigation. And while courts provide some support for civil litigants, it is not specific to the unique and multidimensional needs of survivors of sexual abuse. There is a common understanding a plaintiff in a civil case might require counselling and care, but the presumption is that the cost of that counselling and care would be recovered as part of the damages from a successful litigation. The lack of general care for litigant survivors, especially compared to people applying to the NRS, was raised by Mr Luscombe from Survivors of Child Abuse:

I think one of the things is that the Redress Scheme actually can provide a lot of assistance through support services – psychological support services or counselling more so – for survivors going through the National Redress Scheme. There is nothing for the civil case survivors. That needs to be across the board. We need further assistance here.¹⁵¹

5.42 Relationships Australia WA made a similar point:

Where clients have engaged in civil process in parallel with a Redress application...[they] report a lack of counselling, case management, advocacy support services when they attend lawyers, mediators or medico-legal appointments.¹⁵²

5.43 Mrs Dunjey from Relationships Australia WA also told us that lawyers are approaching them for assistance to support their clients through the civil process as lawyers are not adequately

148 Royal Commission into Institutional Responses to Child Sexual Abuse, *Redress and Civil Litigation*, Commonwealth of Australia, 2015, p. 196.

149 Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 9, Advocacy, support and therapeutic treatment services*, Commonwealth of Australia, 2017, p. 34.

150 Mrs Kylie Dunjey, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, p. 3.

151 Mr Jarrod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, p. 7.

152 Mrs Kylie Dunjey, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, p. 3.

trained to do so. However, that is not a service that Relationships Australia WA provides, although they recognise it presented unmet need.¹⁵³

5.44 The Royal Commission's Volume 9 recommendations were intended to address the service gaps and needs of survivors. Whilst the WA Government has committed to the recommendations and is making substantial progress,¹⁵⁴ they have not been fully implemented, and much-needed services are still not available.

5.45 The sad result is that some survivors are being left to fend for themselves. It appeared to us from the breadth of submissions and evidence we received that there are some limited services and supports available to civil litigants through the District Court and State Solicitor's Office. But these are not widely known to survivors, nor are they specific to victims of institutional child sexual abuse. Survivors going through civil litigation should be afforded the same services as those participating in the NRS. Should a civil case be successful, it would be reasonable to expect that the survivor could repay the cost.

Finding 24

There are several weaknesses in the provision of support services for survivors of child abuse in Western Australia:

- There is no support provided to people whose applications to the National Redress Scheme are unsuccessful;
- There is no ongoing counselling or psychological support provided to survivors once they have exhausted that provided through the National Redress Scheme process; and
- There is no ongoing counselling or psychological support provided to survivors that choose to pursue civil litigation rather than participate in the National Redress Scheme.

Recommendation 18

That the State Government work with the Commonwealth to increase options for support services for survivors. This should include:

- funding ongoing counselling services for survivors once they leave the National Redress Scheme; and
- funding counselling services for survivors who choose to seek compensation through the civil courts in a similar manner to that available under the National Redress Scheme.

WA lacks dedicated support for complex trauma

5.46 It is evident to the Committee that WA lacks specialist trauma management services, as well as gender-specific services to support survivors of institutional child sexual abuse. In particular, WA lacks a dedicated facility that is equipped specifically to deal with complex trauma, a place with specialist support staff who understand the impacts of child sexual

153 Mrs Kylie Dunjey, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, p. 3.

154 Government of Western Australia, *Creating a Safer WA for Children and Young People, Progress report on Western Australia's implementation of the Royal Commission into Institutional Responses to Child Sexual Abuse*, 2022, p. 17.

abuse and the complex trauma that often results. As we heard from witnesses, a trauma centre is required that is survivor-informed, flexible and adaptable to individual need. The majority of services that are currently available are not equipped to help sufferers of complex PTSD, for example. There were concerns that support provided that is not trauma-informed can be more harmful than helpful to the survivor.¹⁵⁵ Mr Luscombe from Survivors of Child Abuse spoke of the need for a dedicated trauma centre to assist survivors dealing with complex post-traumatic stress disorder:

As mentioned in our submission, we need a collaborative, integrative and comprehensive approach to support survivors of institutional abuse. Sending them off to psychological support services that are not experts in institutional child abuse, gender specific or are single-minded in their approach can do more harm than help. We need a dedicated trauma centre funded in WA that offers more than hourly psychological appointments. There is no one-size-fits-all model for dealing with complex childhood trauma. It needs to be adaptive to the needs of the client, from talk therapy or eye movement desensitisation reprocessing to equine therapy, support groups, yoga or neurofeedback, which all have been proven to be highly effective in treating complex PTSD. This needs to be co-funded by all stakeholders, including the institutions. Perhaps these institutions can fund it by way of a tax.¹⁵⁶

5.47 The Royal Commission made its recommendations recognising gaps in service provision, but also in the knowledge that improvements in service should be available to victims of child abuse outside of institutional settings. The establishment of a dedicated trauma centre providing psychosocial care that is government funded is consistent with those recommendations, and would help all current and future victims, through a dedicated system of community based-support. We commend the idea to the Government.

Finding 25

Western Australia lacks:

- a dedicated complex trauma centre providing psychosocial care; and
- sufficient well-resourced gender-specific support services.

This leaves many survivors of abuse without the best avenue for support.

Recommendation 19

That the State Government fund the establishment of a dedicated complex trauma centre that provides psychosocial care, and also ensure there are sufficient well-resourced gender-specific support services in Western Australia.

A model of gender-specific services – SAMSN

5.48 Beyond a broad trauma centre, WA also lacks gender-specific services to support victims of child sexual abuse, especially for men. Having gender-specific services is important as men

155 Mrs Kylie Dunjey, Relationships Australia WA, *Transcript of Evidence*, 13 March 2024, p. 3; Mr Jarrod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, pp. 12-13.

156 Mr Jarrod Luscombe, Survivors of Child Abuse, *Transcript of Evidence*, 21 February 2024, pp. 3-4.

and women often react, behave and process things differently, and might not feel comfortable in a mixed-gender environment. There is a limited number of services available only to women, and there is only one male survivor network operating in WA, Survivors of Child Abuse, which is small, has limited capacity and is volunteer-based.

5.49 It is not the norm for a Committee to recommend individual organisations as potential ‘solutions’ in areas as complex as child abuse. However, the evidence in this case leads us to suggest that one such organisation be invited to help establish a much-needed service in WA. The Survivors and Mates Support Network (SAMSN) is the only dedicated specialist support for male survivors operating in Australia based on a professionally facilitated peer-support model. SAMSN is a not-for profit charity founded in 2011 by a small group of male survivors of child sexual abuse, for male survivors, their supporters, family and friends. The service arose from its creators’ identification of a lack of support for survivors in New South Wales. Since its inception it has grown into a support service offering a range of professional and peer support services and resources including an eight-week group program for men, monthly support meetings, individual planned support, counselling and practical support. SAMSN also provides tailored training to health professionals, community organisations and government departments that support men impacted by childhood trauma. It is seen as a lifesaving and lifechanging service by the men that access the service.¹⁵⁷

5.50 SAMSN understands the need for a service like theirs in other States and has been approached by many in this regard. They were supportive of replicating the model they had developed in other jurisdictions, of sharing the programs they have developed, and of supporting, training, mentoring and supervising. Such a service would require two or three social workers or psychologists, an administrative staff member and psychologists to run the eight-week programs. They estimated the establishment cost at \$700,000-\$800,000.¹⁵⁸ As Mr Hughes-Cashmore told us:

It is replicating that model, basically. So, it is finding people on the ground here who we can support to grow their own state-based organisation to respond to the needs, because I do not want to come in from the eastern states and go, “Right, you guys need to do this, this and this.” What we have got is a suite of programs that I think would work anywhere in the country and that are needed – that is for sure – but to basically share our IP, and to train, mentor, supervise and maybe accredit local chapters.¹⁵⁹

Recommendation 20

That the WA Government:

- Invites SAMSN to facilitate the establishment of a gender-specific service in Western Australia to allow it to offer immediate services to Western Australian victim/survivors. This should include SAMSN bringing local victim/survivor groups such as Survivors of Child Abuse in the planning and operation of the WA program; and

157 Mr Craig Hughes-Cashmore, Survivors and Mates Support Network, *Transcript of Evidence*, 7 March 2024, p. 3.

158 *Ibid.*, p. 15.

159 *Ibid.*, pp. 14-15.

- Provide long-term funding for this service.

Other issues

Tuart Place accommodation

- 5.51 With the current demand and challenges facing the support service sector in Western Australia, it has distressed the Committee to learn that the ongoing operation of Tuart Place is threatened by accommodation issues. Tuart Place provides invaluable support to the community it serves, largely elderly vulnerable clients. As well as being a Redress Support Service for the NRS, it supports adults who were in any type of out-of-home care when they were children. This includes the 'Forgotten Australians', former child migrants from the UK and Malta, members of the Stolen Generations, and other Aboriginal people placed in out-of-home care during childhood. It is recognised as a best practice model of community service; a leading model of authentic trauma-informed practice, co-designed with survivors; and ideally adapted to the needs of people who experienced institutional child abuse. Survivors have grown to trust it as a place of safety, with a 'no wrong door' approach.
- 5.52 Tuart Place has been served an eviction notice from their home of 18 years in Fremantle. The current owner of the building, the Christian Brothers, intends to sell the property with vacant possession in 2025. Attempts to find a buyer for the property who would continue their lease have failed, as have efforts to raise funds to purchase the property themselves. The organisation has been unable to receive funding from the Commonwealth for this purpose, and failed to gain funding from Lotterywest. Thus far they have been unable to find alternative premises that suit their needs.¹⁶⁰

Finding 26

Tuart Place is a valuable support service to survivors of institutional child sexual abuse in Western Australia, but it is currently being evicted from its premises, owned by the Christian Brothers, and at serious risk of having to cease operations if it is unable to find new suitable accommodation.

Recommendation 21

That the State Government urgently works with Tuart Place to ensure it can find sustainable long-term accommodation to enable it to continue to provide its valuable services.

¹⁶⁰ Submission 3B, Tuart Place.

Appendix One

Committee's functions and powers

The functions of the Committee are to review and report to the Assembly on: -

- a) the outcomes and administration of the departments within the Committee's portfolio responsibilities;
- b) annual reports of government departments laid on the Table of the House;
- c) the adequacy of legislation and regulations within its jurisdiction; and
- d) any matters referred to it by the Assembly including a bill, motion, petition, vote or expenditure, other financial matter, report or paper.

At the commencement of each Parliament and as often thereafter as the Speaker considers necessary, the Speaker will determine and table a schedule showing the portfolio responsibilities for each committee. Annual reports of government departments and authorities tabled in the Assembly will stand referred to the relevant committee for any inquiry the committee may make.

Whenever a committee receives or determines for itself fresh or amended terms of reference, the committee will forward them to each standing and select committee of the Assembly and Joint Committee of the Assembly and Council. The Speaker will announce them to the Assembly at the next opportunity and arrange for them to be placed on the notice boards of the Assembly.

Appendix Two

Findings and recommendations from Volume 1

Finding 1

All Australian jurisdictions have removed civil statutes of limitation for child sexual abuse claims. However, only Western Australia restricts the scope of the amendments to 'sexual' abuse alone.

Finding 2

Western Australia's current laws make artificial distinctions between types of abuse that together form larger patterns and create exploitative power imbalances between victims and perpetrators.

Recommendation 1

That the Attorney General introduce amendments to Western Australia's civil liability legislation to remove limitation periods for personal injury claims relating to 'physical' or 'serious physical abuse', and 'associated psychological or emotional abuse' against minors, in addition to 'child sexual abuse'.

Recommendation 2

That the Attorney General, through the Department of Justice, monitor the implementation of Recommendation 1 to ensure the court system is adequately resourced to manage any additional claims.

Finding 3

The process for setting aside deeds of settlement extends the time it takes to initiate and finalise a civil claim of child abuse with little benefit to any party.

Finding 4

While it is important that respondents can oppose the setting aside of deeds, and this option has been taken up, we heard no evidence that applications were refused.

Recommendation 3

That the Attorney General introduce legislation to ensure applications to set aside settlement deeds can run concurrently with civil claims that had previously been statute-barred (including any brought under legislative changes resulting from Recommendation 1).

Finding 5

There is evidence that the State may have sought to impose too wide a restriction on claimants when settling cases of child sexual abuse.

Recommendation 4

That all defendant institutions, including the State, ensure that they do not extend the scope of any deeds made to settle cases of child abuse (including those brought under legislative changes resulting from Recommendation 1) beyond the immediate issue at hand.

Finding 6

Western Australia has not followed the recommendations of the Royal Commission to impose a non-delegable duty on institutions, or to reverse the onus of proof for institutions in child sexual abuse claims.

Recommendation 5

That the Attorney General introduce amendments to Western Australia's civil liability legislation to ensure that an organisation is presumed to have breached its duty of care for children who are victims of abuse perpetrated by anyone employed, engaged or associated with that organisation (including abuse covered by legislative changes resulting from Recommendation 1) unless it can establish that it took reasonable precautions to prevent that abuse.

Finding 7

If a claim to the National Redress Scheme has been finalised before the claimant dies, the deceased person's estate can receive the redress payment.

Finding 8

The common law position currently means that any civil litigation on matters of child sexual abuse dies when the plaintiff dies, and cannot be carried on by their estate.

Recommendation 6

That the Attorney General introduce amendments to the relevant legislation to ensure that civil litigation on matters of child abuse (including those brought under any legislative changes resulting from Recommendation 1) can be continued by the estate of the plaintiff.

Recommendation 7

That the Attorney General introduce amendments to the relevant legislation to allow family members of the victims of child abuse to make civil claims consistent with the position in Victoria following the decision handed down by the Victorian Supreme Court of Appeal in the Catholic Archdiocese of Melbourne v RWQ, incorporating any legislative changes resulting from Recommendation 1.

Finding 9

Permanent stays have a place in the justice system to ensure fair proceedings for all parties, but it is currently possible for permanent stays to be misused, leading to unfair outcomes for plaintiffs seeking to have their claims adjudicated.

Recommendation 8

That the Attorney General introduce legislation to ensure that applications for permanent stays in child abuse cases can only be made after the conclusion of the trial of the matter.

Recommendation 9

That the Attorney General introduce legislation to ensure that when an application for a permanent stay is granted against a claim of child abuse made in good faith, the claimant should not be made liable for the applicant's costs.

Recommendation 10

In light of the recent High Court majority judgement in the GLJ case, that the Attorney General introduce legislation to allow any permanent stays granted against child sexual abuse claims prior to that judgement to be reconsidered by the courts.

Finding 10

The District Court of Western Australia currently has no dedicated list for institutional or other child sexual abuse claims, despite their distinct characteristics. This appears to contribute to claims in Western Australia taking longer to finalise than in other States.

Recommendation 11

That the Attorney General work with the District Court of Western Australia to implement a dedicated court list or case management system for child abuse claims (including any brought under any legislative changes resulting from Recommendation 1).

Finding 11

There was a broad consensus that certainty about trial dates was important to survivors, and that the Victorian Supreme Court's Institutional Liability List approach to setting trial dates quickly was a worthy model for Western Australia to follow.

Recommendation 12

To provide certainty for survivors and to increase the efficiency of the civil claim process for child abuse cases, that the Attorney General work with the District Court of Western Australia to enable trial dates to be set as quickly as possible in child abuse cases. In doing so, they should consider the approach taken by the Victorian Supreme Court's Institutional Liability List.

Appendix Three

Recommendations from the Royal Commission Final Report Volume 9

Recommendation 9.1

The Australian Government and state and territory governments should fund dedicated community support services for victims and survivors in each jurisdiction, to provide an integrated model of advocacy and support and counselling to children and adults who experienced childhood sexual abuse in institutional contexts.

Funding and related agreements should require and enable these services to:

- a. be trauma-informed and have an understanding of institutional child sexual abuse
- b. be collaborative, available, accessible, acceptable and high quality
- c. use case management and brokerage to coordinate and meet service needs
- d. support and supervise peer-led support models.

Recommendation 9.2

The Australian Government and state and territory governments should fund Aboriginal and Torres Strait Islander healing approaches as an ongoing, integral part of advocacy and support and therapeutic treatment service system responses for victims and survivors of child sexual abuse. These approaches should be evaluated in accordance with culturally appropriate methodologies, to contribute to evidence of best practice.

Recommendation 9.3

The Australian Government and state and territory governments should fund support services for people with disability who have experienced sexual abuse in childhood as an ongoing, integral part of advocacy and support and therapeutic treatment service system responses for victims and survivors of child sexual abuse.

Recommendation 9.4

The Australian Government should establish and fund a legal advice and referral service for victims and survivors of institutional child sexual abuse. The service should provide advice about accessing, amending and annotating records from institutions, and options for initiating police, civil litigation or redress processes as required. Support should include advice, referrals to other legal services for representation and general assistance for people to navigate the legal service system.

Funding and related agreements should require and enable these services to be:

- a. trauma-informed and have an understanding of institutional child sexual abuse
- b. collaborative, available, accessible, acceptable and high quality.

Recommendation 9.5

The Australian Government should fund a national website and helpline as a gateway to accessible advice and information on childhood sexual abuse. This should provide information for victims and survivors, particularly victims and survivors of institutional child sexual abuse, the general public and practitioners about supporting children and adults who have experienced sexual abuse in childhood and available services. The gateway may be operated by an existing service with appropriate experience and should:

- a. be trauma-informed and have an understanding of institutional child sexual abuse
- b. be collaborative, available, accessible, acceptable and high quality
- c. provide telephone and online information and initial support for victims and survivors, including independent legal information and information about reporting to police
- d. provide assisted referrals to advocacy and support and therapeutic treatment services.

Recommendation 9.6

The Australian Government and state and territory governments should address existing specialist sexual assault service gaps by increasing funding for adult and child sexual assault services in each jurisdiction, to provide advocacy and support and specialist therapeutic treatment for victims and survivors, particularly victims and survivors of institutional child sexual abuse. Funding agreements should require and enable services to:

- a. be trauma-informed and have an understanding of institutional child sexual abuse
- b. be collaborative, available, accessible, acceptable and high quality
- c. use collaborative community development approaches
- d. provide staff with supervision and professional development.

Recommendation 9.7

Primary Health Networks, within their role to commission joined up local primary care services, should support sexual assault services to work collaboratively with key services such as disability-specific services, Aboriginal and Torres Strait Islander services, culturally and linguistically diverse services, youth justice, aged care and child and youth services to better meet the needs of victims and survivors.

Recommendation 9.8

The Australian Government and state and territory government agencies responsible for the delivery of human services should ensure relevant policy frameworks and strategies

recognise the needs of victims and survivors and the benefits of implementing trauma informed approaches.

Recommendation 9.9

The Australian Government, in conjunction with state and territory governments, should establish and fund a national centre to raise awareness and understanding of the impacts of child sexual abuse, support help-seeking and guide best practice advocacy and support and therapeutic treatment. The national centre's functions should be to:

- a. raise community awareness and promote destigmatising messages about the impacts of child sexual abuse
- b. increase practitioners' knowledge and competence in responding to child and adult victims and survivors by translating knowledge about the impacts of child sexual abuse and the evidence on effective responses into practice and policy. This should include activities to:
 - i. identify, translate and promote research in easily available and accessible formats for advocacy and support and therapeutic treatment practitioners
 - ii. produce national training materials and best practice clinical resources
 - iii. partner with training organisations to conduct training and workforce development programs
 - iv. influence national tertiary curricula to incorporate child sexual abuse and trauma-informed care
 - v. inform government policy making
- c. lead the development of better service models and interventions through coordinating a national research agenda and conducting high-quality program evaluation.

The national centre should partner with survivors in all its work, valuing their knowledge and experience.

Appendix Four

Correspondence with the Christian Brothers

From: [Community Development & Justice Standing Committee](#)

[Redacted]

Good afternoon [Redacted]

Some further information for the Brothers about next Thursday's hearing with the Community Development and Justice Standing Committee, including requests for information about the people who will be attending (whether remotely or in person).

As we've discussed, the meeting will start at 10am Perth time and run for no more than two hours. People attending remotely simply need to click on the 'join the meeting now' link below. They'll then be taken to a virtual waiting room, and then let in to the meeting itself. The meeting will be public and streamed live on the Parliamentary website. For all who will be attending as witnesses, I've attached a witness details. If we can have those completed and returned by Wednesday we'd be grateful – it helps admin, Hansard and the IT folk prepare.

You mentioned that [Redacted] might attend in person – if you could confirm that we'd also be grateful. There's a bit of building and works in progress at present so we'll need to collect [Redacted] from the ground floor.

Finally, I have attached a set of data-based questions that the Committee are keen to consider. They would appreciate if they can be replied to before the hearing – we know that it can be difficult to answer such things on the fly, and rather than get bogged down as people try to look things up, they thought it better to let you know beforehand. There will of course be more general questions about the NRS and litigation and the experiences the Brotherhood, but these cover the numbers in some detail.

If you have any questions, please let me know.

Regards,

[Redacted]

Dr Alan Charlton

Principal Research Officer

Community Development and Justice Standing Committee



Legislative Assembly of Western Australia
Parliament House, 4 Harvest Tce, West Perth WA 6005
T: (08) 9222 7496 [Redacted]



[Redacted]

Questions for the Christian Brothers – Hearing 11 July, 2024 (emailed to Christian Brothers, 4 July 2024).

Assets

1. What is the value of the assets held by the Christian Brothers and related entities in Australia and in WA?
2. What are the nature of those assets. E.g. Buildings, Cash etc.
3. How much of those assets is available to meet claims for child sexual abuse compensation?
4. Do the Christian Brothers believe they have the financial assets to meet the claims for child sexual abuse compensation?

National Redress Scheme

5. How many claims have been lodged against the Christian Brothers under the National Redress Scheme, including figures for WA?
6. How many claims under the NRS have resulted in a finding in favour of the applicant, nationally and in WA?
7. How many claims under the NRS have resulted in a payment to the applicant, nationally and in WA?
8. How much in total have the Christian Brothers paid out under the NRS, nationally and in WA? And what has been the average payment?
9. How many claims under the NRS have resulted in a Direct Personal Response from the Christian Brothers to the applicant nationally and in WA?
10. How many claims are yet to be finalised nationally and in WA?
11. How many individual Christian Brothers or other staff have been named as perpetrators in NRS claims?

Civil Litigation

12. How many civil claims for compensation for child sexual abuse have made against the Christian Brothers in Australia? How many have resulted in financial payments to the victims? What is the total amount of compensation paid? What is the average payment?
13. How many claims for compensation for child sexual abuse have made against the Christian Brothers in Western Australia prior to the 2015 Guiding Principles referenced in your submission dated 4 August 2023? How many resulted in financial payments to the victims? What was the average payment to victims.
14. How many claims for compensation for child sexual abuse have made against the Christian Brothers in Western Australia after the introduction of the 2015 Guiding Principles referenced in your submission dated 4 August 2023 but before the introduction of the *Civil Liability Legislation Amendment Act (Child Sexual Abuse Actions) Act 2018*? How many resulted in financial payments to the victims? What was the average payment to victims.
15. How many claims for compensation for child sexual abuse have made against the Christian Brothers in Western Australia since to the introduction of the 2018 Act? How many have resulted in financial payments to the victims? What was the average payment to victims.

16. How many civil litigation claims are yet to be finalised? How many in WA?
17. How many individual Christian Brothers or other staff have been named as defendants in civil litigation claims? How many in WA?
18. What is the average time taken in WA for civil litigation claims to be finalised? What is the average time taken in each of the other states?
19. Are the schools previously run by the Christian Brothers and now run by Edmund Rice Education Australia available to be used to meet compensation costs for child sexual abuse?
20. What was the value of these schools at the time they were transferred to EREA?

Other Claims

21. How many claims for compensation have been made for child sexual abuse against the Christian Brothers outside the NRS and Civil Litigation? How many of these claims have resulted in financial payments to the victim? What was the average payment to victims?
22. How many claims are yet to be finalised? How many in WA?
23. How many individual Christian Brothers or other staff have been named as perpetrators in claims outside the NRS or civil litigation? How many in WA?

Claims against Christian Brothers

24. How many Christian Brothers have served in Australia and in WA?
25. How many Christian Brothers in Australia, and in WA, have been the subject of allegations of child sexual abuse?
26. At which Christian Brother's schools in WA have there been allegations of child sexual abuse?
27. How many Christian Brothers does the order accept were sexually abusing children in WA?
28. How many Christian Brothers in WA have been referred by the Order to police for investigation?
29. What are the names of those Christian Brothers, both living and deceased, that the Order accepts were sexually abusing children in Australia, and in WA?

Outreach to former students

30. Has the Christian Brothers done any outreach to former students where the Brothers are aware a paedophile has been active in one of its schools? If so when? If not, why not?
31. Has the Christian Brothers raised the possibility of outreach to former students with EREA?

Tuart Place

32. Is the Christian Brothers terminating the lease held by Tuart Place to the property the Brothers own in High Street, Fremantle? If so, why?
33. Does the Christian Brothers fund any services to assist the victims of child sexual abuse in Australia? Any in WA?

Br Daniel McMahon

34. During what years was Daniel McMahon a Christian Brother?
35. Can you provide a timeline of which schools Br McMahon was at in each Australian State?
36. At which of these schools have allegations be made of child sexual abuse by Br McMahon?
37. How many allegations of child sexual abuse have been made against Br McMahon at each school?
38. How many NRS claims have named Br McMahon as the perpetrator? How many in WA?
39. How many civil claims have named Br McMahon as the perpetrator? How many in WA?
40. In total how many former students have named Br McMahon as having sexually abused them? How many in WA?
41. In total how much has been paid to applicants under the NRS where Br McMahon has been named as the perpetrator?
42. In total how much has been paid to applicants through civil litigation where Br McMahon has been named as the perpetrator?
43. When did the Christian Brothers first become aware that Br McMahon may be sexually abusing children?
44. When did the Christian Brothers first receive complaints that Br McMahon was sexually abusing children?
45. What action was taken when the Christian Brothers became aware that Br McMahon was or may be sexually abusing children?
46. Did the Christian Brothers ever report allegations of child sexual abuse made against Br McMahon to the police? If so when and in what state?
47. When did the Christian Brothers first make a payment to a victim in relation to allegations of sexual abuse by Br McMahon?
48. Provide a chronological list of the amounts paid to victims of alleged sexual abuse by Br McMahon?
49. What action was taken by the Christian Brothers to protect children during the period McMahon was a priest in Tasmania?
50. Does the Christian Brothers accept that Br McMahon did in fact sexually abuse children while a member of the order?



9 July 2024

Dr D J Honey MLA
Chair
Community Development and Justice Standing Committee
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Dr Honey

RE: COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE INQUIRY

I write to you in your capacity as Chair of the above Committee Inquiry.

The Christian Brothers Oceania Province has been assisting the Committee in its important work through two detailed submissions to date.

I note that the Committee's Terms of Reference are as follows:

1. *The impact of the Civil Liability Legislation Amendment Act (Child Sexual Abuse Actions) Act 2018 (the Act), including:*
 - a. *the experience of survivors who have used the civil litigation process;*
 - b. *the response of government and non-government institutions to civil claims brought by survivors;*
 - c. *the efficiency with which courts deal with civil claims;*
 - d. *State monitoring and reporting on the progress and impact of the Act.*
2. *The effectiveness of WA's support of the National Redress Scheme, including:*
 - a. *the experience of survivors who have accessed the Scheme;*
 - b. *the response of Government and non-government institutions to the Scheme.*
3. *The resourcing and provision of services to support survivors in whichever path they take.*
4. *Other options to provide justice, resolution and/or compensation to survivors and their families, including lessons from other jurisdictions.*

In the Committee's interim report released in November 2023, you wrote as Chair:

"The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was a 5-year inquiry and it submitted its final report on 15 December 2017. One of the Royal Commission's key recommendations was to remove the limitations period for claims relating to child sexual abuse that had prevented survivors from obtaining remediation through civil court action. Five years have passed since the initial response by the Western Australian Government, which included removing the limitation period for child sexual abuse claims. The Committee decided that it was timely to review the outcomes of that response and to determine whether improvements could be made to better serve justice for survivors of child abuse".

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Further, I confirm that the Committee has, quite correctly, undertaken to the Christian Brothers via Dr Charlton that matters arising in ongoing litigation would not be raised during the Christian Brothers appearance before it.

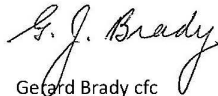
With those Terms and that undertaking in mind, I was troubled to receive a document on 4 July 2024 which is recorded as having been authored by the Hon. David Kelly MLA, which poses 50 proposed questions, the majority of which are not relevant to the Terms of Reference and/or seek information in relation to matters which are squarely at issue in ongoing litigation and run contrary to the sub judice convention.

For instance, there are 17 of the 50 questions regarding the history of one former Christian Brother, Daniel McMahon. Those questions relate directly to matters which are the subject of civil litigation and the Christian Brothers will not respond to questions which fall afoul of the sub judice convention

As Chair, I seek an assurance from you that the Committee will not ask any questions relating to this matter or any other matter which is the subject of civil litigation, nor matters which are outside the Terms of Reference, during the planned hearing on the 11 July 2024.

I seek your commitment in writing no later than 10 July 2024.

Yours sincerely



Gerard Brady cfc
Province Leader
Christian Brothers – Oceania Province

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE



10 July 2024

Gerard Brady c/o
Province Leader
Christian Brothers – Oceania Province

By email care of: [REDACTED]

Dear Brother Brady

Community Development and Justice Standing Committee Inquiry

Thank you for your letter of 9 July regarding your upcoming hearing with the Community Development and Justice Standing Committee. The Committee is pleased that you and your colleagues have made yourselves available, and look forward to discussing these serious issues with you.

The Terms of Reference for this inquiry are, as with all inquiries, the framework on which we based our work. They are not prescriptive, and all Committees retain the right to explore the question before them in whichever way they believe will lead them to better understanding what has happened and what might be done to improve the situation.

In this case, understanding how many instances of harm have occurred, and what actions have been taken in response to them, is central to our inquiry. Similarly, the question of what financial impact redress schemes and litigation have had on religious entities is important to us. The matter has been raised with us numerous times, so we feel it reasonable to explore the facts of the matter with you.

On the question of sub judice, we have acted cautiously throughout this inquiry regarding live court matters, and will continue to do so. We have no interest in putting at risk any matter before the courts, and will act accordingly. But the Committee does not demure from exploring how organisations have responded to sexual abuse of children in their care. If particular issues raise concerns, we always have the ability to take a hearing into closed session.

I hope this provides the assurance you sought and look forward to discussing matters with you on Thursday.

Yours sincerely,

A handwritten signature in blue ink that reads "Dr D.J. Honey".

**DR D.J. HONEY, MLA
CHAIR**

Please note that correspondence addressed to or received from the Committee becomes the property of the Legislative Assembly and cannot be forwarded to any other party without the authorisation of the Committee.

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Parliament House
4 Harvest Terrace
West Perth WA 6005



10 July 2024

Dr D J Honey MLA
Chair
Community Development and Justice Standing Committee
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Dr Honey,

RE: COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE INQUIRY

Thank you for your letter of earlier today.

You will recall that we sought an assurance that the Committee will:

1. not ask any questions relating to former Christian Brother Daniel McMahon (given ongoing proceedings) or other matters arising in current proceedings before the Courts; and
2. restrict itself to matters arising within its Terms of Reference.

We were disappointed to read in your letter that the Committee is unwilling to explicitly provide those assurances.

With respect, in relation to restricting questions to the Terms to Reference, your letter makes it plain that the Committee does not intend to do so.

As to the risk of sub judice contempt arising from questions going to matters arising in ongoing proceedings, your letter does not provide any explicit assurance that such questions will be avoided. This is particularly so in circumstances where 17 of the 50 questions provided on notice directly relate to ongoing proceedings – in some of which the State of Western Australia is a co-defendant. If we take your letter to suggest that matters arising in ongoing proceedings would be dealt with in closed session, I understand that this would not avoid the risk of sub judice contempt being committed.

In the circumstances, we are not comfortable proceeding with a public hearing on Thursday given the obvious and serious risk of sub judice contempt being committed. Putting the risks to the justice system to one side, it would also be most unfair to plaintiffs and defendants (including the State of Western Australia) who are waiting for their ongoing matters to be resolved or determined.

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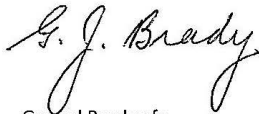


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Whilst we are disappointed that we are unable to attend, and decline with considerable reluctance, the risks to the interests of justice are simply too important to proceed in the absence of the confirmation we have sought.

We will now carefully consider the questions the Committee has provided and will address these in writing in due course. If the Committee would like us to answer any further questions, we would be very happy to receive them and endeavour to answer any we are able to.

Yours sincerely

A handwritten signature in black ink that reads "G. J. Brady". The signature is written in a cursive style with a large, prominent initial "G".

Gerard Brady cfc
Province Leader
Christian Brothers – Oceania Province



COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

[REDACTED]
12 July 2024

Brother Gerard Brady cfc
Province Leader
Christian Brothers – Oceania Province

By email care of: [REDACTED]

Dear Brother Brady

Community Development and Justice Standing Committee Inquiry

Thank you for your letters of 9 and 10 July. I am writing to express the Committee's deep disappointment that you and your colleagues could not appear at the hearing arranged for Thursday 11 July.

You wrote that the agreed hearing posed an 'obvious and serious risk of sub judice being committed'. I reiterate my previous commitment that we are cognisant of the risk of sub judice, and well versed in managing it. If you were concerned during the hearing that any questions dealt with matters actively before the courts, it would be a simple matter for you to alert the committee and that line of questioning would not be pursued.

You also wrote that The Committee's focus is to understand the outcomes following the Royal Commission into institutional child sexual abuse and understand the impacts on both your organisation and the survivors of abuse.

In light of all this, I would like to renew the Committee's invitation for you to appear before it on Wednesday 31 July or another date that you might suggest. Finally, you wrote that you would address the questions previously sent to you. We would appreciate those responses by 4pm Friday 26 July.

If you have any questions, please contact Dr Charlton, whose details are below.

Yours sincerely

A handwritten signature in blue ink that reads "David Honey".

**DR D.J. HONEY, MLA
CHAIR**

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25 July 2024

Dr D J Honey MLA
Chair
Community Development and Justice Standing Committee
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Dr Honey

RE: COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE INQUIRY

Thank you for your letter of 12 July 2024.

It is regrettable that despite requesting a specific assurance from you that questions which fall outside the Committee's Terms of Reference and risk sub judice contempt being committed would not be asked by the Committee, that assurance was not forthcoming.

Your most recent letter indicates that the position of the Committee is unchanged with you proposing that were the questions to be asked in a public hearing, it would be up to the Province to object.

Respectfully, this is entirely unsatisfactory as it does not address the obvious and serious risk of sub judice we have raised. The Province remains deeply concerned that the Committee's intended approach would jeopardise the interests of vulnerable plaintiffs and defendants (including the State of Western Australia) in relevant proceedings.

Further, we note that:

1. your 10 July 2024 letter stated as to the risk of sub judice contempt "*we always have the ability to take a hearing into closed session*";
2. your public comments on 11 July 2024 were "*sub judice relates to matters before the Courts now and very clearly we would not ask questions related to that, so I think that is a bogus excuse*";
3. your 12 July 2024 letter states "*if you were concerned during a hearing that any questions dealt with matters actively before the Courts, it would be a simple matter for you to alert the committee and that line of questioning would not be pursued*".

.../2



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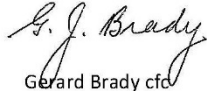


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Respectfully, the various conflicting proposed approaches and the suggestion that the Province's serious concerns are "bogus" only amplify our concerns. We repeat what was stated in our 10 July 2024 letter, namely our understanding that ongoing proceedings being dealt with in closed session would not avoid the risk of sub judice contempt being committed. In the circumstances, we repeat that we reluctantly decline your invitation to appear.

Despite this, the Province reiterates its view that the Terms of Reference, in particular the impact of the *Civil Liability Legislation Amendment Act (Child Sexual Abuse Actions) Act 2018* and the effectiveness of the National Redress Scheme, are fundamentally important matters to be analysed. It is for this reason that the Province has provided two detailed submissions and remains committed to assisting the Committee by providing written responses to questions asked in due course, as we have previously advised you.

Yours sincerely



Gerard Brady cfd
Province Leader
Christian Brothers – Oceania Province



RESPONSE TO QUESTIONS FOR THE CHRISTIAN BROTHERS

Assets

1. **What is the value of the assets held by the Christian Brothers and related entities in Australia and in WA?**

The Trustees of the Christian Brothers is a registered charitable institution with the Australian Charities and Not-For-Profits Commission. As a registered charity we are required to declare the assets and liabilities of the institution on an annual basis. The financial records are on the public record on the ACNC website.

2. **What are the nature of those assets. E.g. Buildings, Cash etc.**

The nature of those assets is a mixture of property and investments.

3. **How much of those assets is available to meet claims for child sexual abuse compensation?**

To date we have met our obligations in regards the payment of compensation and counselling and support to the victims and survivors of child sexual abuse experienced in our facilities. We will continue to do so from our resources.

4. **Do the Christian Brothers believe they have the financial assets to meet the claims for child sexual abuse compensation?**

At present the Christian Brothers do believe we have the financial assets to respond to anticipated liabilities arising from child sexual abuse claims related to our facilities.

National Redress Scheme

5. **How many claims have been lodged against the Christian Brothers under the National Redress Scheme, including figures for WA?**

Whilst the Christian Brothers would otherwise be happy to share this information with the Committee, the information sought is protected information under Division 2 of Part 4.3 the National Redress Scheme for Institutional Child Abuse Act (Cth) (the Act) 2018 which cannot be solicited or disclosed under the Act. The Committee might consider seeking disclosure of this data from the Operator of the Scheme, which, if required, the Christian Brothers would readily consent to.

.../2



6. How many claims under the NRS have resulted in a finding in favour of the applicant, nationally and in WA?

Whilst the Christian Brothers would otherwise be happy to share this information with the Committee, the information sought is protected information under Division 2 of Part 4.3 the National Redress Scheme for Institutional Child Abuse Act (Cth) (the Act) 2018 which cannot be solicited or disclosed under the Act. The Committee might consider seeking disclosure of this data from the Operator of the Scheme, which, if required, the Christian Brothers would readily consent to.

7. How many claims under the NRS have resulted in a payment to the applicant, nationally and in WA?

Whilst the Christian Brothers would otherwise be happy to share this information with the Committee, the information sought is protected information under Division 2 of Part 4.3 the National Redress Scheme for Institutional Child Abuse Act (Cth) (the Act) 2018 which cannot be solicited or disclosed under the Act. The Committee might consider seeking disclosure of this data from the Operator of the Scheme, which, if required, the Christian Brothers would readily consent to.

8. How much in total have the Christian Brothers paid out under the NRS, nationally and in WA? And what has been the average payment?

Whilst the Christian Brothers would otherwise be happy to share this information with the Committee, the information sought is protected information under Division 2 of Part 4.3 the National Redress Scheme for Institutional Child Abuse Act (Cth) (the Act) 2018 which cannot be solicited or disclosed under the Act. The Committee might consider seeking disclosure of this data from the Operator of the Scheme, which, if required, the Christian Brothers would readily consent to.

9. How many claims under the NRS have resulted in a Direct Personal Response from the Christian Brothers to the applicant nationally and in WA?

Whilst the Christian Brothers would otherwise be happy to share this information with the Committee, the information sought is protected information under Division 2 of Part 4.3 the National Redress Scheme for Institutional Child Abuse Act (Cth) (the Act) 2018 which cannot be solicited or disclosed under the Act. The Committee might consider seeking disclosure of this data from the Operator of the Scheme, which, if required, the Christian Brothers would readily consent to.

10. How many claims are yet to be finalised nationally and in WA?

Whilst the Christian Brothers would otherwise be happy to share this information with the Committee, the information sought is protected information under Division 2 of Part 4.3 the National Redress Scheme for Institutional Child Abuse Act (Cth) (the Act) 2018 which cannot be solicited or disclosed under the Act. The Committee might consider seeking disclosure of this data from the Operator of the Scheme, which, if required, the Christian Brothers would readily consent to.

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11. How many individual Christian Brothers or other staff have been named as perpetrators in NRS claims?

Whilst the Christian Brothers would otherwise be happy to share this information with the Committee, the information sought is protected information under Division 2 of Part 4.3 the National Redress Scheme for Institutional Child Abuse Act (Cth) (the Act) 2018 which cannot be solicited or disclosed under the Act. The Committee might consider seeking disclosure of this data from the Operator of the Scheme, which, if required, the Christian Brothers would readily consent to.

Civil Litigation

12. How many civil claims for compensation for child sexual abuse have made against the Christian Brothers in Australia? How many have resulted in financial payments to the victims? What is the total amount of compensation paid? What is the average payment?

This question is outside the Terms of Reference of this Committee.

13. How many claims for compensation for child sexual abuse have made against the Christian Brothers in Western Australia prior to the 2015 Guiding Principles referenced in your submission dated 4 August 2023? How many resulted in financial payments to the victims? What was the average payment to victims.

The total number of claims for compensation (excluding the National Redress Scheme) received by the Christian Brothers relating to schools and institutions operated in Western Australia is 778.

14. How many claims for compensation for child sexual abuse have made against the Christian Brothers in Western Australia after the introduction of the 2015 Guiding Principles referenced in your submission dated 4 August 2023 but before the introduction of the *Civil Liability Legislation Amendment Act (Child Sexual Abuse Actions) Act 2018*? How many resulted in financial payments to the victims? What was the average payment to victims.

What we can advise is that the total number of claims for compensation (excluding the National Redress Scheme) received by the Christian Brothers relating to schools and institutions operated in Western Australia is 778. We consider the quantum of those payments to be outside of the Terms of Reference of this inquiry.

15. How many claims for compensation for child sexual abuse have made against the Christian Brothers in Western Australia since the introduction of the 2018 Act? How many have resulted in financial payments to the victims? What was the average payment to victims.

What we can advise is that the total number of claims for compensation (excluding the National Redress Scheme) received by the Christian Brothers relating to schools and institutions operated in Western Australia is 778. We consider the quantum of those payments to be outside of the Terms of Reference of this inquiry.

.../4

16. How many civil litigation claims are yet to be finalised? How many in WA?

There are currently 41 civil claims notified to the Christian Brothers relating to schools and institutions in Western Australia that are yet to be finalised.

So far as this question seeks information about civil litigation claims outside of Western Australia, we do not consider that to be information relevant to the Terms of Reference of this inquiry.

17. How many individual Christian Brothers or other staff have been named as defendants in civil litigation claims? How many in WA?

We do not have this data so far as it specifically relates to civil litigation claims, as opposed to civil compensation claims generally.

For civil compensation claims notified to the Christian Brothers seeking compensation for abuse in schools and institutions operated in Western Australia, approximately 100 people have been identified as accused perpetrators of abuse.

So far as this question seeks information about civil litigation claims outside of Western Australia, we do not consider that to be information relevant to the Terms of Reference of this inquiry.

18. What is the average time taken in WA for civil litigation claims to be finalised? What is the average time taken in each of the other states?

We refer to our previous submission where we noted that in most cases, a resolution is achieved with a survivor in under 18 months of first notification of their claim. Resolutions have been achieved in under 6 months in some circumstances.

19. Are the schools previously run by the Christian Brothers and now run by Edmund Rice Education Australia available to be used to meet compensation costs for child sexual abuse?

We refer you to the response to Questions #1 through to #4.

20. What was the value of these schools at the time they were transferred to EREA?

We refer you to the response to Questions #1 through to #4.

Other Claims

21. How many claims for compensation have been made for child sexual abuse against the Christian Brothers outside the NRS and Civil Litigation? How many of these claims have resulted in financial payments to the victim? What was the average payment to victims?

As explained above, we do not have data which delineates between a civil litigation claim and a claim for civil compensation. We have otherwise answered this question above.

22. How many claims are yet to be finalised? How many in WA?

As explained above, we do not have data which delineates between a civil litigation claim and a claim for civil compensation. We have otherwise answered this question above.

.../5

23. How many individual Christian Brothers or other staff have been named as perpetrators in claims outside the NRS or civil litigation? How many in WA?

As explained above, we do not have data which delineates between a civil litigation claim and a claim for civil compensation. We have otherwise answered this question above.

Claims against Christian Brothers

24. How many Christian Brothers have served in Australia and in WA?

We refer the Committee to the report of the Royal Commission into Case Study 11 for the information regarding Christian Brothers in WA. The question regarding national data is not considered within the Terms of Reference of this inquiry.

25. How many Christian Brothers in Australia, and in WA, have been the subject of allegations of child sexual abuse?

Please see response to Question 17. The question regarding national data is not considered within the Terms of Reference of this inquiry.

26. At which Christian Brother's schools in WA have there been allegations of child sexual abuse?

We do not consider this to be a question that falls within the Terms of Reference of this inquiry.

27. How many Christian Brothers does the order accept were sexually abusing children in WA?

We do not consider this to be a question that falls within the Terms of Reference of this inquiry.

28. How many Christian Brothers in WA have been referred by the Order to police for investigation?

We do not consider this to be a question that falls within the Terms of Reference of this inquiry.

29. What are the names of those Christian Brothers, both living and deceased, that the Order accepts were sexually abusing children in Australia, and in WA?

We do not consider this to be a question that falls within the Terms of Reference of this inquiry.

Outreach to former students

30. Has the Christian Brothers done any outreach to former students where the Brothers are aware a paedophile has been active in one of its schools? Is so when? If not, why not?

It is not clear what is meant by the term 'outreach'.

The Christian Brothers have made many public calls for students of their schools and residents of their institutions to come forward and report their experiences to the police or the Christian Brothers if they were sexually abused. It has been our consistent practice since the 1990s to publicly acknowledge the abuse committed in our facilities and to call for people affected to come forward. This message has been widely disseminated.

.../6

31. Has the Christian Brothers raised the possibility of outreach to former students with EREA?

It has been our consistent practice since the 1990s to publicly acknowledge the abuse committed in our facilities and to call for people affected to come forward. This message has been widely disseminated.

Tuart Place

32. Is the Christian Brothers terminating the lease held by Tuart Place to the property the Brothers own in High Street, Fremantle? If so, why?

We do not consider this to be a question that falls within the Terms of Reference of this inquiry. We refer you to our submission on support provided to Tuart Place.

33. Does the Christian Brothers fund any services to assist the victims of child sexual abuse in Australia? Any in WA?

Yes, we refer you to our written submissions.

Br Daniel McMahon

Questions #34 to #50 relate to matters which are the direct subject of ongoing civil proceedings. As previously advised to the Committee, the Christian Brothers responding, or the Committee reporting, risks committing sub judice contempt.

Appendix Five

Other reports and inquiries

There has been a worldwide proliferation of inquiries into institutional child sexual abuse since the 1990s. A research team at La Trobe University in Melbourne has created *The Age of Inquiry Project*, a study which is mapping these inquiries with the aim to develop a publicly available web resource containing information on inquiries across the globe. It aims to extend understandings of inquiries in the present and recent past by documenting and categorizing their key features. The inquiries currently listed are being progressively updated as the research progresses. A few of the inquiries are provided below.¹⁶¹

Nation	Entity	Inquiry title	Inquiry period	Release date
Australia				
	Independent Commission of Tasmania	Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings		2023
	Sport Integrity Australia	Review of allegations in relation to the Women's Artistic Gymnastics Program at the Western Australian Institute of Sport		2022
New Zealand				
	Abuse in Care Royal Commission of Inquiry	Final Report: Whanaketia – through pain and trauma, from darkness to light	1950-1999	2020
Canada				
	The Truth and Reconciliation Commission of Canada	Honouring the Truth, Reconciling for the Future: Final Report	1800s-2015	2015
	Canadian Centre of Child Protection	<i>Child Sexual Abuse and Victimization by K-12 School Personnel in Canada</i>	2017-2022	2022
	Canadian Centre of Child Protection	<i>Child Sexual Abuse and Victimization by K-12 School Personnel in Canada</i>	1997-2017	2019
	Association of Alberta Sexual Assault Services	Summary of Key Findings Prevalence of Sexual Assault and Childhood Sexual Abuse in Alberta	June to September 2019	
	Barbara Fallon, et al	Ontario Incidence Study of Reported Child Abuse and Neglect	2018	2020
	House of Commons Standing Committee on the Status of Women	Taking Action to end Violence Against Young Women and Girls in Canada		2017

¹⁶¹ Wright, K., Swain, S., and Sköld, J. (2020). *The Age of Inquiry: A global mapping of institutional abuse inquiries*. Second edition. Melbourne: La Trobe University. [www.doi.org/10.4225/22/591e1e3a36139](https://doi.org/10.4225/22/591e1e3a36139)

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	Provincial Advisory Council on the Status of Women (Newfoundland & Labrador)	Child Sexual Abuse and Sexual Misconduct within the K-12 Education System		2023
United Kingdom				
	Westminster Independent Statutory Inquiry	Independent Inquiry into Child Sexual Abuse	In living memory	2022
	Westminster Independent Statutory Inquiry	Independent Jersey Care Inquiry	1945-2016	2017
	Scottish Child Abuse Inquiry		1950-2014	ongoing
		Inquiry into Historical Institutional Abuse in Northern Ireland between 1922 and 1995		2017
Ireland				
	The Commission of Investigation into Mother and Baby Homes	Final Report of the Commission of Investigation into Mother and Baby Homes, Department of Children, Equality, Disability, Integration and Youth	1922-1998	2020
France				
	Independent Commission on Incest and Sexual Violence against Children	Commission Indépendante sur l'Inceste et les Violences Sexuelles faites aux Enfants, Violences sexuelles : protéger les enfants. Conclusions intermédiaires		2021
Netherlands				
	Committee for Investigating Violence in Youth Care			2019
Portugal				
	Independent Commission for the Study of Child Sexual Abuse in the Portuguese Catholic Church			2023
Germany				
	Independent Inquiry into Child Sexual Abuse		1949-present	
	Untitled	Sexual abuse of minors and adults by clerics and full-time employees in the Archdiocese of Munich and Freising from 1945 to 2019	1965-2019	

Appendix Six

Submissions received

Number	Organisation/person
1	Private individual
2	Anglican Diocese of Bunbury
3 / 3A / 3B	Tuart Place
4	Catholic Diocese of Bunbury
5	Catholic Education WA
6	Swan Canoe Club Inc.
7	Survivors and Mates Support Network
8	Private individual
9	The Institute of Sisters of Mercy of Australia and Papua New Guinea
10	Parkerville Children and Youth Care
11	Private individual
12	Judy Courtin Legal
13	Anglican Diocese of Perth and the Perth Diocesan Trustees
14	Commissioner for Children and Young People
15	Survivors of Child Abuse
16	Slater and Gordon Lawyers
17	Private individual
18	Private individual
19	Department of Social Services (Commonwealth)
20	Beyond Abuse
21 / 21A	Christian Brothers Oceania Province
22	Catholic Archdiocese of Perth
23	Department of Communities
24	Irdi Legal
25	Children's Policy Advisory Council
26	Thirdman Interim
27	Private individual
28	International Association of Former Child Migrants and their Families
29	Department of Health
30	Child Migrants Trust

Appendix Six

31	knowmore Legal Service
32 / 32A	Maurice Blackburn Lawyers
33	Helena College
34	Holy Trinity Abbey New Norcia
35	Australian Lawyers Alliance
36	Scotch College
37	Uniting Church in Western Australia
38	Bradley Bayly Legal
39	Department of Justice – Office of the Commissioner for Victims of Crime
40	Rightside Legal
41	Kingsway Christian Education Association Inc.
42	Care Leavers Australasia Network
43	Edmund Rice Education Australia
44	Department of Education
45	Catholic Diocese of Geraldton
46	Sisters of Saint Joseph of the Sacred Heart
47	Wanslea
48 / 48A	District Court of Western Australia
49	Private Individual
50	Private Individual
51	Phoenix Support and Advocacy Service Inc
52	Private Individual
53	Mr Dean Williams
54	Mr Peter Cotton

Appendix Seven

Hearings and briefings

Note – this list includes only the hearings held since November 2023, when the Committee tabled its first report into this inquiry.

Date	Name	Position	Organisation
21 February 2024	Ms Kati Kraszlan	Commissioner for Victims of Crime	Department of Justice
	Mr Michael Martin	Coordinator, Redress Coordination Unit	
21 February 2024	Mr Terry Martino	Chairperson/Advocate	Survivors of Child Abuse
	Mr Jarrod Luscombe	Co-founder	
7 March 2024	Mr Craig Hughes-Cashmore	Chief Executive Officer	Survivors and Mates Support Network
	Ms Prue Gregory OAM	Policy, Advocacy and Stakeholder Relations Manager	
13 March 2024	Mr Michael Rowe	Director General	Department of Communities
	Ms Caron Irwin	Assistant Director, Strategy and Partnerships	
	Mr Glenn Mace	Executive Director, Service Delivery	
	Ms Nicole Byrne	Director, Corporate Information	
	Mr Steven Bradford	Claims Manager	
13 March 2024	Mrs Kylie Dunjey	Executive Manager, Clinical Services	Relationships Australia WA
	Mr Camillo Tatascore	Service Promotion and Engagement Officer	
	Mrs Lisa Bailey	Coordinator, Redress Support Services	
20 March 2024	Dr Philippa White	Director	Tuart Place
	Ms Susan Vaughan	Clinical Manager	
	Ms Jan Newman	Social Worker	
4 April 2024	Brother Peter Carroll	Provincial Leader	Marist Brothers, Star of the Sea Province
17 April 2024	Ms Louise Lamont	Chief Executive Officer	Phoenix Support and Advocacy Service

17 April 2024	Archbishop Timothy Costelloe	Roman Catholic Archbishop of Perth	Catholic Archdiocese of Perth
	Ms Margaret Tannock	In-house Counsel	
8 May 2024	Mr Chris Twomey	Leader Policy and Research	Western Australian Council of Social Service



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