



Board Discussion Paper

The provision of redress to victims of child abuse within the YMCA

August 2014

1. Introduction

In acknowledging and understanding our history, and the nature and extent of past allegations and incidents of child sexual abuse, the issue of redress is a matter of importance for the YMCA to consider in the current context.

This paper seeks to outline the central issues of consideration, the elements of an effective redress scheme and the ways in which the process should be structured and managed to ensure the needs of individuals are met in an ethical and transparent manner.

Drawing on the work of the Royal Commission to date on this issue and the various responses of individuals and organisations to [Issues Paper 6: Redress Schemes](#), this paper aims to provide a foundation for discussion and also raises some important questions for the YMCA to consider.

2. Background

The issue of redress has and will continue to be a major focus of the Royal Commission's work.

The Royal Commission is considering the efficacy of a national redress scheme, something which has been called for by a number of organisations, institutions and victims' advocacy and support groups. Some of the questions being considered by the Commission include:

- if it is appropriate in principle to recommend a national scheme
- if it is possible to devise a scheme that is fair to both claimants and institutions
- how that scheme might fit with existing redress schemes and options like civil litigation.

In understanding the issue of redress, the Royal Commission is considering existing schemes in Australia and internationally, and is importantly listening closely to the experiences of individuals who have sought redress in a variety of ways.

Four Australian states have offered redress schemes to former residents of institutions for children. The schemes in QLD, SA, TAS and WA have different coverage, eligibility rules, validation procedures and payment options. In addition, the Defence Abuse Reparation Scheme was established in 2013.

Several non-government redress schemes exist including those of the Catholic Church, the Anglican Church, and the Salvation Army and these are being examined by the Royal Commission.

In their Interim Report, the Royal Commission have indicated that 2 in 5 people attending a private session have sought compensation for their abuse. While almost 70 percent of those people received compensation they were broadly dissatisfied with the process and almost 9 in 10 people were dissatisfied with the outcome.

A decade ago, recommendations included in the [Forgotten Australians Report](#) called for a national reparations fund and while the Royal Commission are again looking at this issue, if agreed it could be many years before an equitable and sustainable scheme is functioning. Many survivors of child sexual abuse are in the latter years of their lives and need support and assistance now.

3. What is redress?

The Royal Commission refers to 'redress' as a remedy that fixes a wrong. This may include financial compensation, the provision of support services, acknowledgement of the abuse and apologies. Some other terms used include 'reparations', 'restorative justice', or 'ex gratia payments'. For the purpose of this discussion paper, the term redress will be used.

Existing schemes vary significantly in their design and development, their processes, features, oversight and outcomes for individuals. Various examinations by the Royal Commission to date have highlighted the positive elements of redress, in addition to revealing the manner in which redress schemes have failed many individuals.

4. Why is redress important?

Redress schemes are important because they can offer victims an acknowledgement that abuse occurred, that they are believed and that it was not their fault. The [Australian Psychological Society](#) (APS) suggests this can be a valuable part of recovery. However, there is recognition that redress schemes, if implemented poorly, can have the potential to re-traumatise individuals.

In their submission to Issues Paper 6, Berry Street stated that, *"The passage of time should never diminish our responsibility to fully respond to allegations of abuse and neglect. The passage of time does not of itself provide healing, recovery and restorative justice for children victims of abuse or neglect. What can is the willingness to confront failures in caring for and protecting children, to place the interest of the victim ahead of organisational interests and to fully commit to reparations."*¹

Redress can provide an opportunity for individuals to express their experience of abuse and the impact of this abuse directly to the organisation or institution, and this can be an important element towards recovery. Seeking redress can also empower individuals to move beyond the sense of helplessness that abuse and trauma can bring (APS, 2014).

¹ [Berry Street](#) (2014) Submission to Issues Paper 6: Redress Schemes. P. 2

5. Understanding the impacts of abuse and how we respond.

It is important to consider the length of time before which many people feel able to disclose or speak about their abuse. For those attending private sessions with the Royal Commission, the average time taken before the abuse was disclosed is 22 years. While we know the impacts of abuse will differ for each individual and will depend on a number of complex and interrelated circumstances, many individuals disclosing their abuse and seeking redress may be experiencing:

- Health impacts – physical health, impacts of drug and alcohol misuse, disability;
- Emotional/social impacts – social isolation, isolation from family and loved ones, inability to form stable and positive relationships, issues relating to sexual identity and sexual intimacy;
- Psychological impacts – depression, anxiety, dissociative disorders;
- Financial impacts – financial difficulties associated with poor employment outcomes, financial strain due to costs of counselling and other specialist treatment services.

[Bravehearts'](#) submission to Issues Paper 6 states, *"There are a number of well-researched and documented long term impacts of child sexual assault affecting adult survivors. Individuals with a history of child sexual assault are at an increased risk for:*

- *mental illness (anxiety, depression, personality disorders, long-term psychopathology)*
- *substance abuse*
- *homelessness*
- *suicidality*
- *revictimisation, including domestic violence and sexual assault*
- *parenting difficulties; and*
- *health issues"*²

Understanding the potential life-long impacts of child sexual abuse within a trauma-informed framework is critical in how we respond to individuals and also to the development and implementation of redress.

Key principles of a trauma-informed approach include safety, trustworthiness, choice, collaboration and empowerment and recognise that unresolved trauma has pervasive effects, and impairs a wide range of functioning. 'Complex' trauma is cumulative, repetitive and interpersonally generated and includes child abuse in all its forms³.

How we respond will have an impact on the individual and a poor or negative response can lead to re-traumatisation "like the abuse occurring all over again."

A positive response may enable an individual to feel as though they have been listened to and believed. An offer of financial assistance as part of that response may enable an individual to meet physical health and mental health needs and improve their quality of life.

Every individual is different and may present with vastly different needs – our response needs to be individualised, sensitive and ethical. There is a need to prioritise, above everything else, the best interests of the individual.

² [Bravehearts](#) (2014) Submission to Issues Paper 6: Redress Schemes p. 5

³ Adults Surviving Child Abuse, [Trauma Informed Practice – ASCA Fact Sheet for Workers in Diverse Service Settings](#).

6. What are effective elements of redress?

In examining existing redress schemes and particularly those of non-government organisations and institutions, the Royal Commission in their Interim Report has articulated the factors that most contribute to individual satisfaction and an effective redress response. These elements include, but are not limited to:

- whether the best interests of the victim were prioritised;
- their understanding of the process for responding to reports of abuse;
- their expectations of what can be achieved through the response;
- the nature, timeliness and consistency of the response; and
- their treatment by the person who handled the response (such as whether they were believed and offered support) and that person's position of authority in the institution.

In particular, the Royal Commission through Public Hearings and a specific issues paper has undertaken a close examination of the Catholic Church's Towards Healing process and some of the primary concerns centred on:

- gaps between principles and practice;
- the power imbalance between the individual and the organisation and how this affected the way individuals have been treated;
- the role of lawyers and insurers;
- adversarial versus pastoral aspects of the process;
- delays and inconsistencies; and
- lack of transparency.

One individual submission has said the aim of any redress scheme must be to promote the "self-respect, dignity, healing, independence and quality of life" of the individual.

Any process needs to minimise the likelihood of re-traumatisation and it is the individual's "*perception of justice and procedural fairness in the process that is of utmost importance in the resolution of ongoing effects of trauma.*"⁴

The submission from Berry Street also supports a multi-faceted approach in that a redress scheme should not be about compensation alone, but "*be seen within a broader context which ought to include an apology, compensation, priority services, support, and action by the agency to ensure the abuse is not repeated.*"⁵

Important principles of effective redress schemes also include: ensuring that survivors are able to make informed choices about the course of redress process; they have access to counselling and support through the process; and that that process causes no further harm. Those managing the process need to have ongoing training and there needs to be a process of continuous improvement.

The APS submission suggests that survivors may be looking for a number of outcomes including: understanding and compassion; acceptance of responsibility; some means of restitution; compensation; and action to ensure that such abuse does not happen to others.

⁴ [The Australian Psychological Society](#) (2014) Submission to Issues Paper 6: Redress Schemes. P 1

⁵ [Berry Street](#) (2014) Submission to Issues Paper 6: Redress Schemes. P. 2

Similarly, the [Bringing Them Home Report](#) (HREOC, 1997) identified five components including: acknowledgement and apology; guarantees against repetition; measures of restitution; measures of rehabilitation; and monetary compensation.

In its submission, Berry Street suggests that *“the assessment criteria on which a redress scheme is based should include a straightforward and non-technical approach whilst delivering consistent and equitable results for claimants.”*⁶

Ensuring both equity and equality in offering redress is important, in addition to recognising all forms of abuse, such as physical and emotional abuse which can have life-long impacts.

In conclusion, the most important feature of redress should be that the preferences and choices of the individual are the priority.

7. What can redress include?

The Royal Commission have indicated in the Interim report that in seeking redress, many individuals have sought:

- an acknowledgment of harm done and accountability for that harm;
- an apology;
- access to therapy and education;
- financial compensation;
- some means of memorialising the experiences of children in institutions; and
- a commitment to raising public awareness of institutional child abuse and preventing its recurrence.

*“Bravehearts’ clients have expressed that the most important aspects of redress for them is the recognition of the harm done to them, sufficient financial compensation and access to therapeutic services, of the survivor’s choice.”*⁷

*“Financial compensation is more often than not the best form of redress. It empowers the survivor and provides them with a means to improve their life and wellbeing at a pace and through avenues that are relevant to their needs.”*⁸

It should also be recognised that the seeking of redress can also be a trigger for past trauma, and individuals seeking redress should have access to trauma-informed specialist counsellors throughout the process and following.

⁶ [Berry Street](#) (2014) Submission to Issues Paper 6: Redress Schemes. P. 3

⁷ Royal Commission into Institutional Response to Child Sexual Abuse (2014) [Interim Report Volume 1](#), p 296

⁸ Royal Commission into Institutional Response to Child Sexual Abuse (2014) [Interim Report Volume 1](#), p 296

8. What is an effective process for providing redress?

The process of providing redress needs to recognise that survivors of child sexual abuse often experience a high degree of mistrust in organisations and those in positions of authority. It is therefore critically important for the process of redress to be transparent and one which enables survivors to have choice.

Information about the scheme should be freely available so that survivors and the public are aware of what is being done.

Submissions to the Royal Commission have also suggested that there should be no time limit on individuals accessing redress and that an unsuccessful prior civil claim should not be a barrier to seeking redress.

An important element of achieving an effective process is ensuring that decisions regarding redress should be carried out by a body or group that is independent of the organisation or institution and that these decisions should be subject to external oversight. Submissions also suggested that victim/survivor advocacy groups should also be part of the decision making process, to provide guidance and insights regarding the lived experience of childhood trauma.

The issue of how claims or allegations might be verified is addressed in several submissions to the Royal Commission, suggesting there should be a lower burden of proof than is required through the courts and if verification of claims is required, this should be done by an external body and be independent of the organisation involved.

The Australian Psychological Society (APS) submission suggests that a way to minimise the potential for re-traumatisation is to employ the 'rule of plausibility, rather than proof'. The APS cites the approach taken by the Defence Abuse Response Taskforce (DART) in that DART *"is not required to be satisfied on the criminal burden of 'beyond reasonable doubt', nor the civil burden of the 'balance of probabilities', that a person experienced abuse. Rather, the assessment of plausibility is based on all the available information and has an 'appearance of reasonableness'."*⁹

The Royal Commission have also articulated the challenges in determining or calculating compensation levels and that numerous issues must be considered. Understanding that no one act of sexual assault is the same and the impact of any sexual assault on any given survivor varies greatly, is critical to this process.

In terms of determining a quantum *"an equitable approach would be one which involves understanding the survivor's current life circumstances and tailoring a redress intervention based on the assistance the individual needs to move forward, create opportunity and to have a greater quality of life."*¹⁰ There is also a need to consider future needs an individual may continue to have across their lifespan – such as the ongoing need for counselling, health care and legal services.

The prior receipt of a compensation payment or other form of financial redress should be taken into consideration and should not of itself, preclude an individual from seeking further redress, particularly if the previous payment was not assessed as being adequate to meet the needs of the individual.

Receiving a payment through compensation should not prevent an individual from talking about their case or what payment they have received.

⁹ [The Australian Psychological Society](#) (2014) Submission to Issues Paper 6: Redress Schemes. P 2

¹⁰ [The Centre Against Sexual Violence Inc](#) (2014) Submission to Issues Paper 6: Redress Schemes p. 6

9. Questions for discussion

- a) Does the YMCA consider the offer of financial compensation to be an important component of a broader process of redress for individuals who have experienced abuse within the YMCA?
- b) Should the YMCA consider establishing an independent and external decision-making group to implement a process of redress (including the provision of monetary compensation)?
- c) Is the YMCA supportive of a process of redress that implements principles of 'plausibility' and the 'appearance of reasonableness' when assessing an individual's claim or allegation?
- d) How would a process of redress implemented by the YMCA intersect with our National Insurance Program?
- e) How should a process of redress operate effectively within the federated structure?
- f) What are the considerations in developing and implementing a process of redress, acknowledging that abuse may have occurred in a YMCA that no longer exists? Which is the responsible entity?