

MELBOURNE ANGLICAN REDRESS SCHEME

A SHORT EXPLANATION

PROPOSED 7.12.2016

Introduction

1. The Anglican Diocese of Melbourne considers all forms of child sexual abuse to be intolerable and unacceptable under any circumstances. We recognise the lifelong impact that child sexual abuse may have on the health and wellbeing of individuals, their families and communities.
2. The Church is committed to the mission of living out and extending the love, care and compassion of Jesus Christ to everyone; through this Scheme, the Church seeks to engage with the survivor in the process with empathy, support and compassion, having regard to the individual circumstances of any person harmed.
3. The Scheme is part of the action the Diocese proposes to take and has taken to provide support to those harmed, and to ensure the safety of children and the broader community now and into the future.
4. The Scheme is an interim approach to redress that is available now to survivors of past abuse connected with the Church in the Diocese. It is to be operated by the Scheme company, Kooyoora Ltd. While the Diocese supports a National Redress Scheme (to be delivered by Government), there are survivors seeking assistance today and the Scheme is intended to offer a sound process by which to make a more timely response.

Guiding principles

5. The following guiding principles and what they mean for you as a survivor inform the provision of redress under this Scheme -

(1) Survivor focused

The Scheme is committed to ensuring that your rights and choices are respected and supported. You are under no obligation to use the Scheme.

The Scheme will consult with a survivor, on their priorities and needs and that their choices will be at the centre of what the Scheme does. The Scheme will offer the survivor support during the process.

(2) Trauma-informed

The approach of the Scheme is trauma-informed, that is to say, it is underpinned by a clear understanding of the nature and impacts of child sexual abuse.

(3) Transforming

The key objective is by a pastoral and therapeutic approach to treat all survivors with compassion and justice, to enable them to feel validated and to rebuild their lives in a positive way to have a productive and fulfilled life.

(4) Independence

The Scheme has a process under which decision making and oversight is independent of all participating dioceses and entities and which is transparent and non adversarial; as a survivor, you will be kept informed during the process.

(5) The process seeks to avoid the traditional Court approach

The Assessment Board will not be obliged to hold a formal hearing or to permit cross examination of witnesses.

(6) Timeliness

The Scheme is committed to a timely process, but one that will allow you the time that you need.

(7) Accessible

The Scheme is to be accessible to all survivors.

Eligibility

6. The Scheme will cover claims of child sexual abuse occurring within the Diocese and serious physical abuse related to that sexual abuse. With the consent of the Melbourne Anglican Diocesan Corporation Ltd (**the Diocesan Corporation**) in a particular case, it may be extended to cover adult abuse.
7. An applicant for redress will need to establish that there is a reasonable likelihood that:
 - (a) the abuse occurred;
 - (b) there was a relevant connection between that abuse and the Church in the Diocese (the formal terms of reference of the scheme will offer greater guidance as to the required connection) and
 - (c) as a result, the applicant has suffered loss or harm.

Care and assistance

8. The Scheme is intended to offer a holistic approach to the care and assistance of survivors. It will recognise that there is no 'one size fits all' remedy. Some survivors may only seek a financial sum; others counselling and other care and support, intended to aid in their healing and restoration to a full and healthy life.
9. The Scheme will operate in as streamlined a process as possible. The main administrative officer will be the Redress Manager (a part time contract position) who will in the first instance receive and respond to the application. Where appropriate, a case worker will be appointed with particular responsibility for the care and support of the survivor. Others may seek assistance with their spiritual healing.

Interim assistance

10. The Scheme would offer Interim redress by counselling or otherwise up to \$5,000, with scope for a higher limit by specific agreement with the Diocesan Corporation, as special circumstances dictate.

The process

11. The Scheme will encourage and facilitate the engagement of the claimant, if agreeable, and the institution at the earliest opportunity facilitated by a settlement conference/adjudication model. The parties will seek at that conference to achieve an agreed resolution and if unsuccessful, with the consent of the parties, the matter will be referred to the Assessment Board to adjudicate the matter, with or without a hearing as circumstances and the need for procedural fairness require.
12. The Scheme will involve rights of review by a single or multiple member Review Board available to both the applicant and the Diocese limited to whether the applicant is eligible for redress. The decision of the Assessment Board on quantum will be final and not subject to review.
13. An application may be determined on the papers, subject to providing due procedural fairness, with the Assessment Board having a discretion whether to conduct a hearing. Subject to a right of review in the case of the Board, any determination by either the Assessment Board or the Review Board is binding on the Diocese and the Diocesan Corporation.

Financial payments

14. Financial assistance under the scheme will be capped at \$150,000 per claim together with counselling expenses.
15. A matrix as recommended by the Royal Commission in its report on redress and civil litigation will be used to guide the assessment of the financial amount, as follows:
- | | | |
|----|---------------------|------|
| a. | Severity of abuse | 1-40 |
| b. | Impact of abuse | 1-40 |
| c. | Additional Elements | 1-20 |
- (i) State care - whether the applicant was in state care at the time of the abuse – that is, as a ward of the state or under the guardianship of the relevant Minister or government agency;
- (ii) Other abuse - whether the applicant experienced other forms of abuse in conjunction with the sexual abuse – including physical, emotional or cultural abuse or neglect;
- (iii) Closed institution - whether the applicant was in a ‘closed’ institution or without the support of family or friends at the time of the abuse;
- (iv) Relevant disability - whether the applicant was particularly vulnerable to abuse because of his or her disability.
16. The Scheme will also provide for the opportunity to seek a written and or personal apology and a personal response from the Diocese which may take the form of a meeting and or a special liturgy of prayer.

17. An Assessment Board may also -
- (a) determine whether the actual loss suffered by the applicant is substantially in excess of the maximum amount that can under the schedule of benefits be awarded to the applicant as a lump sum financial assistance; and if so
 - (b) direct that within a specified period, a respondent institution participate in a mediation of any claim by the applicant for that excess in satisfaction of any legal entitlement, if request be made by that applicant in writing no later than 60 days prior to the expiration of that period.¹

This is to ensure that at every opportunity the Church can respond in a timely, efficient and cost effective way, with civil litigation taken as a last resort.

An independent scheme structure

18. A separate scheme company, Kooyoora Ltd will operate the Scheme and appoint both the Redress Manager, case workers and any member of the Assessment Board and Review Board.

Release from liability

19. An claimant for redress would be expected to sign a Deed of Release releasing the Diocese and its office holders and the Diocesan Corporation from any further liability for the abuse in return for the provision of a lump sum or other redress.
20. A prior Deed of Release would not prevent an application for redress to either the Scheme or any subsequent statutory scheme if there are reasonable grounds for not giving effect to the release having regard to what, in all the circumstances in each individual case, is fair and reasonable.

Legal representation

21. The Scheme will allow a set amount for preliminary legal advice to inform claimants of the options available to them for obtaining redress or pursuing civil litigation and to settle the application. The Scheme would provide a further allowance for legal representation during the second stage of adjudication. Details of amounts are to be settled.

Duration

22. The duration of the Scheme would be the subject of further consideration once a government scheme was introduced. In general principle, it is open to the diocese to continue to operate the scheme as an available alternative, after the introduction of any State scheme.

¹ These provisions are to facilitate a mediation between the relevant parties to resolve that dispute.