



UNITING CHURCH IN AUSTRALIA

NATIONAL FRAMEWORK FOR INTERIM REDRESS MEASURES

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1. Introduction

- 1.1 On 14 September 2015, the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) released its final 'Redress and Civil Litigation Report' which incorporates 99 final recommendations.
- 1.2 The Uniting Church in Australia (the Church¹) remains committed to participating in a single national redress scheme.
- 1.3 However, the Church recognises that redress is important to the wellbeing of survivors and measures must be taken as soon as possible. Accordingly, the Church will establish other interim measures, either in its own name or in co-operation with other organisations, until such time as a single national governmental scheme is established, to ensure justice for survivors.

2. Purpose

This National Framework is created to provide the Church and its institutions guidance in adopting the final recommendations of the Royal Commission and to provide a process which ensures provision of equal access and equal treatment for survivors, regardless of the location, operator, type, continued existence or assets of the Church and its institution in which they were abused.

3. What is redress?

The chair of the Royal Commissioners, Justice Peter McClellan, has said *"the fundamental object of redress must be to help those who have suffered to heal and live a productive and fulfilled life"*. Redress for survivors of child sexual abuse seeks to provide a measure of acknowledgement of harm done and assistance to the survivor.

4. Scope of this interim redress framework

- 4.1 This interim redress framework applies to those adults and children who experienced sexual abuse as a child in an institutional context while in the care of the Church through its institutions, and the abuse² occurred, or the first incidence of the abuse occurred, before the cut-off date.
- 4.2 Child sexual abuse will be taken to have occurred in an institutional context in the following circumstances:
 - (a) it happens:
 - (i) on premises of an institution,
 - (ii) where activities of an institution take place, or
 - (iii) in connection with the activities of an institution

¹ 'The Church' refers to any or all of its institutions, including Synods, services and/or congregations, depending on the context.

² See Glossary for definitions of "child sexual abuse" and "abuse" and "harm" and "past wrongs"

in circumstances where the institution is, or should be treated as being, responsible for the contact between the abuser and the applicant that resulted in the abuse being committed;

- (b) it is engaged in by an official of an institution in circumstances (including circumstances that involve settings not directly controlled by the institution) where the institution has, or its activities have, created, facilitated, increased, or in any way contributed to (whether by act or omission) the risk of abuse or the circumstances or conditions giving rise to that risk; and
- (c) it happens in any other circumstances where the institution is, or should be treated as being, responsible for the adult abuser having contact with the applicant.

- 4.3 This interim redress measure applies to abuse which has occurred up until the date upon which the Royal Commission's recommended reforms to civil litigation in relation to limitation periods and duty of institutions commence (the 'cut-off date').
- 4.4 An offer of interim redress can only be made if the applicant survivor is alive at the time the offer is made.

5. Principles of this Interim Redress Measure

The Church's interim redress measures will offer or provide redress in accordance with the following principles:

- (a) Interim redress will be survivor focused.
- (b) There will be a 'no wrong door' approach for survivors in gaining access to interim redress. Access will not be denied because the method of approach was deemed to be wrong.
- (c) All interim redress will be offered, assessed and provided with appropriate regard to what is known about the nature and impact of child sexual abuse (institutional child sexual abuse in particular) and to the cultural needs of survivors.
- (d) All interim redress will be offered, assessed and provided with appropriate regard to any special needs of particularly vulnerable survivors. Measures provided will be appropriate to both the nature of the abuse and its impact on the survivor.
- (e) The process will enable survivors to engage with the Church without needing to engage lawyers.

6. Elements of Interim Redress

The Uniting Church interim redress measures will include:

- (a) direct personal response
- (b) counselling and psychological care
- (c) monetary payments.

7. Direct personal response

- 7.1 The Church will offer survivors, if they wish, the opportunity to meet with a senior member and the opportunity to receive pastoral care from a suitably skilled person. Where possible the Church will continue to provide a broad range of direct personal responses to survivors, such as:
- (a) assistance with gaining access to records
 - (b) family tracing and family reunion
 - (c) memory projects
 - (d) collective forms of direct personal response such as memorials, reunions and commemorative events
 - (e) culturally appropriate collective redress for Aboriginal and Torres Strait Islander survivors
 - (f) culturally appropriate redress for survivors from culturally diverse backgrounds.
- 7.2 For survivors who seek these forms of direct personal response but who do not wish to have any further contact with the Church and its institutions, the Church will consider requests for the provision of a written apology, a written acknowledgement and/or a written assurance of steps it has taken or will take to protect against further abuse in the Church.
- 7.3 The Church will accept the survivor's choice of intermediary or representative to engage with the Church on behalf of the survivor, or with the survivor and a support person, in seeking or obtaining a direct personal response.

8. Counselling and psychological care

Treating practitioners should be required to conduct ongoing assessment and review to ensure treatment is necessary and effective. If the Church has concerns about services provided by a particular practitioner, they will negotiate a process of external review with that practitioner and the survivor. Any process of assessment and review should be designed to ensure it causes no harm to the survivor.

The costs of counselling and psychological care shall be supported through the interim redress measures by the Church in accordance with the following principles.

- (a) Counselling and psychological care shall be available throughout a survivor's life.
- (b) Counselling and psychological care shall be available on an episodic basis.
- (c) Survivors shall be allowed flexibility and choice in relation to counselling and psychological care and will be encouraged to link with counsellors with expertise in the area of child sexual abuse.
- (d) There will be no fixed limits on the counselling and psychological care provided to a survivor.
- (e) Counselling and psychological care may be provided to appropriate members of a survivor's family members if necessary for the survivor's treatment.

9. Monetary payment

- 9.1 The purpose of a monetary payment under this interim redress framework is to provide a tangible recognition of the seriousness of the hurt and injury suffered by a survivor.

- 9.2 The assessment and determination of monetary payments under this interim redress framework will take into account:
- Severity of abuse;
 - Impact of abuse; and
 - Additional elements.
- 9.3 The 'Additional elements' factor could include the following elements:
- (a) 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
 - (b) whether the applicant experienced other forms of abuse in conjunction with the sexual abuse, including physical, emotional, spiritual or cultural abuse or neglect
 - (c) whether the applicant was in a 'closed' institution or without the support of family or friends at the time of the abuse.
 - (d) whether the applicant was particularly vulnerable to abuse because of his or her disability.
- 9.4 Decisions made in relation to monetary payments will be based upon the detailed assessment procedures and guidelines for implementation.
- 9.5 Survivors who have received monetary payments in the past – whether under other redress schemes, statutory victims of crime schemes, through civil litigation or otherwise – should be eligible to be assessed for a monetary payment under interim redress measures.
- 9.6 The amount of the monetary payments that a survivor has already received for institutional child sexual abuse should be calculated as follows:
- (a) monetary payments already received should be counted on a gross basis, including any amount the survivor paid to reimburse Medicare or in legal fees
 - (b) no account should be taken of the cost of providing any services to the survivor, such as counselling services
 - (c) any uncertainty as to whether a payment already received related to the same abuse for which the survivor seeks a monetary payment through redress should be resolved in the survivor's favour.
- 9.7 The monetary payments that a survivor has already received for institutional child sexual abuse should be taken into account in determining any monetary payment under redress by adjusting the amount of the monetary payments already received for inflation and then deducting that amount from the amount of the monetary payment assessed under redress.

10. Amount of monetary payments

The levels of monetary payments under this interim redress measure framework shall be:

- (a) a minimum payment of \$10,000

- (b) a maximum payment of \$200,000.00, if the matter can be closed to conclude the process.

11. Independence.

The Church shall seek to achieve independence in the interim redress measures by taking the following steps:

- (a) Provision of information on the application process, including online, so that survivors do not need to approach the Church if there is an independent person with whom they can make their claim.
- (b) The Church will ensure that anyone they engage to handle or determine interim redress claims together with those who deliver direct personal redress elements is appropriately trained in understanding child sexual abuse and its impacts and is provided with training in cultural awareness and sensitivities.
- (c) All decisions about the amount of the monetary payments offered to survivors during the interim redress measures will be assessed by a panel, which is independent of the Church. The panel will possess a mix of legal, medical and psychosocial skills, including experience in issues relating to institutional child sexual abuse and will be given training and guidance in the application of the redress measures.

12. Application Process

- 12.1 The interim redress measures will primarily rely upon a written application form. However, if a survivor wishes to, they may choose to address the panel orally.
- 12.2 In the event that the written application does not contain sufficient information, the process in gathering the additional information needs to be clearly set out.
- 12.3 A Statutory Declaration sworn by the applicant may be required to support their written application.
- 12.4 Counselling is to be offered - and, if required, funded - to the survivor by the Church during the period of the approach to the Church for interim redress including the stages of application, offer and post acceptance.

13. Offer and Acceptance

- 13.1 An offer made under this interim framework will remain open for acceptance for a period of one year from the date of the offer.
- 13.2 An applicant may seek to review the interim redress offer within three months of the date of the offer.

14. Connection between the institution and abuse

- 14.1 The panel will consider the connection between the Church, the survivor and the abuse. Such consideration will be conducted in a non-adversarial manner.

14.2 Elements of their consideration will include:

- (a) Confirmation of a connection between the survivor and the Church institution and the children who are or where in the care, supervision or control of the relevant institution
- (b) A reasonable likelihood that abuse happened in circumstances where a Church institution was directly or indirectly responsible for the circumstance in which the abuse took place
- (c) Information about the abuse.

15. Cooperation with claims involving more than one institution

If a survivor alleges abuse in more than one institution - as well as a Uniting Church institution - where the survivor applies for redress with the Church, the Church shall, with the survivor's consent, approach the other named institutions to seek cooperation on the claim and work towards a mutually agreeable resolution.

16. Deeds of Release

The Church may require a Deed of Release to be signed.

17. Review

Within three months of receiving notification of an assessment of monetary payment or notification of a decision that the applicant is not eligible for redress during the interim redress measures, a survivor may request - in writing - re-consideration of the payment.

18. Standard of Proof

Applications made under the interim redress measures will be assessed against the 'reasonable likelihood' standard of proof.

19. Period of the Interim Redress Measures

This interim framework will remain in place until such time as the Assembly Standing Committee of the Uniting Church in Australia resolves otherwise, or the commencement of a government run redress scheme, whichever is the earlier.

20. Glossary

'Abuse' and 'Harm' and 'Past wrongs' are interchangeable terms that mean: physical or psychological abuse or neglect or ill treatment, which caused and continues to cause serious pain, or physical or psychological harm. 'Abuse' and 'Harm' and 'Past wrongs' include 'child sexual abuse' which is defined below in a manner consistent with the Royal Commission's definition.

'Child' means everyone under 18 years of age.

'Child sexual abuse' means any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with a child.

21. Version control

Version No.	Written by	Approved by	Date approved	Review Date
1	Royal Commission National Engagement and Response Task Group	Assembly Standing Committee	November 2015	November 2016
1.1	Royal Commission National Engagement and Response Task Group	Assembly Standing Committee	December 2015	November 2016

22. Revisions

Revision made	Reference	Made by	Approved by	Date approved
Inconsistency in standard of proof identified.	18. Standard of proof	National Task Group	Assembly Standing Committee	December 2015 (by email, outside fixed meeting time)