

## Royal Commission into Institutional Responses to Child Sexual Abuse

### Criminal Justice Consultation Paper - key issues for survivors and advocacy and support groups

Thank you for the opportunity to provide input into this consultation. This submission has been prepared by Relationships Australia NSW staff from Wattle Place, where a range of specialised trauma services are provided, including the Royal Commission Community Based Support Service. Our responses are informed by our experience in supporting clients who have experienced childhood trauma and sexual abuse. Our responses are grouped under each sub heading of the consultation paper.

#### **Chapter 3: Issues in police responses**

All police who may come in to contact with child and adult victims of sexual abuse and adult survivors of child sexual abuse should have training and support to respond to complex trauma and work from a trauma informed position. The concern of Wattle Place is ultimately with our client cohort and it is also of concern to us that police officers are placed at risk of trauma through either vicarious trauma or even triggering of their own past experiences without specialised training.

The style of questioning and investigation from police is currently not trauma informed. Wattle Place has examples of victims/survivors being asked to talk to a perpetrator, and be wired while doing so, by police as part of their investigation. This puts the victim or survivor in a position of being re-traumatised and of feeling they are responsible for whether action is taken against a perpetrator.

Making police statements involve many meetings and can take a lengthy period of time. The victims and survivors are asked to recall minute details of the abuse and of the perpetrator. This process often impacts physical and mental health and wellbeing. For adult survivors of childhood abuse there are compounding issues because of the passage of time, memories of the abuse may be disconnected, the client may have disassociated from the memories or suppressed them and then retrieving them leads to being re-triggered, flashbacks and other post-traumatic stress disorder symptoms.

Police should do more to encourage victims and survivors to report their abuse. There have been reports of active discouragement from police when victims and survivors have sought to report

abuse. More reporting options such as telephone and e-reporting would minimise trauma for victims and survivors. It has been suggested there could be a central reporting line possibly organised by regions. Wattle Place has an example of a victim making a report at the local police and the report was not formally recorded and did not go through due process. The client then made the report in a different region where there was some resolution however the client experience was traumatic. It was reported the client found the process exhaustive and compounded her trauma. The option of telephone or electronic reporting could have avoided this situation.

It is our experience that some of our clients who have experienced child sexual abuse also have a history of offending. For these clients there can be a difficulty or limited capacity to separate having been offended against and offending behaviour. Subsequently interviews with police or being in police buildings can be challenging. Understanding from police in this situation is often absent.

It is important for victims and survivors that the police maintain regular communication with them and keep them informed of the status of their report and any subsequent investigation. This communication must be positive and assuring for the victim or survivor that their information is believed and acted upon. This would assist in promoting the emotional safety of the victim or survivor and provide much needed support to somebody who is already feeling vulnerable.

The ideal scenario would be the police officer who takes the report has carriage of all communication with the victim or survivor.

## **Chapter 5: Child sexual abuse offences**

The offence of persistent child sexual abuse should be reformed to recognise that victims and survivors who were abused repeatedly and extensively over a period of time may not be able to identify individual occasions of abuse and identify individual perpetrators of each occasion of abuse.

All remaining limitation periods that prevent charges being brought for child sexual abuse offences should be removed. Survivors of childhood abuse report that they feel they have to 'work so hard' to prove to the present day authorities, the police and judicial system, that they were abused.

## **Chapter 6: Third party offences**

Nationally there should be offences for failing to report child sexual abuse and where senior people in an institution fail to intervene to protect a child from sexual abuse. In the states where offences already exist, those offences should be leveraged to ensure reporting of child sexual abuse.

Similarly, as with workplace health and safety, there should be offences where the institution itself is prosecuted for failing to protect children from sexual abuse.

## **Chapter 7: Issues in prosecution responses**

The importance of co-ordinated care in response to trauma must be instilled across all forms of systems and organisations who work with child and adult victims of sexual abuse and adult survivors of child sexual abuse.

Witness assistance services are vital to help the survivor navigate the legal system across all aspects of the legal process. Every step of the process a child or adult victim of sexual abuse or adult survivors of child sexual abuse is involved in, even straightforward processes such as arraignments or mentions, can be traumatising for a survivor.

It is important to victims and survivors that, as much as possible, the same prosecution staff stay involved in the prosecution so that they can deal with the same people over time. Continuity and stability are known to be critical in supporting people who have experienced trauma.

## **Chapter 9: Evidence of victims and survivors**

It would be very helpful for victims and survivors to have the opportunity to pre-record their evidence. Wattle Place practitioners have witnessed the extreme anxiety victims and survivors experience when sharing their story in a private session with only supportive people present. This demonstrates and highlights how intimidated a victim or survivor may feel during the court process.

Some victims and survivors feel empowered by being part of the judicial process and this option should remain available. Pre-recording of evidence or giving evidence in court proceedings should be the sole choice of the victim or survivor.

There should be intermediaries available, particularly for children and people with a disability that affects communication, to help communication between the victim or survivor (on the one hand) and the court and lawyers (on the other hand).

‘Ground rules’ for how a victim or survivor should be questioned must have their foundation in trauma informed practice. Legal systems are such that multiple questions are often asked in one question. It is the responsibility of the legal practitioners to ensure whether a person who has experienced trauma is giving evidence or being cross-examined that the questions that are asked are not confusing or confrontational so that they can give good evidence.

## **Chapter 12: Sentencing**

Convicted offenders should be prevented from raising their ‘good character’ to seek a reduced sentence. Many perpetrators are perceived to have good character and that perception of good character is leveraged by them to keep their offences hidden.

Convicted offenders should be sentenced according to sentencing standards at the time they are sentenced, rather than the standards that applied at the time they committed the offence. Understanding of the traumatic and lifelong impact of sexual abuse is much better understood and

community expectation demands that convicted offenders should be sentenced according to the standards existing at the time of sentencing.

### **Chapter 13: Appeals**

A victim or survivor's evidence in a trial should be recorded so that they do not have to give evidence again if there needs to be a retrial. Every appeal and retelling of a victim or survivor's experience is re-traumatising.

#### **General**

Many of the survivors of child sexual abuse in institutional care are in their sixties. The perpetrators if still living are older. Some of the survivors feel with such lengthy legal processes that the perpetrators will have passed away before the time any process is finished and therefore the perpetrator will have escaped justice.

Other survivors of sexual abuse in institutional care do not wish to pursue the perpetrator as they perpetrators are of advanced age and will soon be deceased. What they seek is acknowledgement of their experiences and trauma through the judicial system.

**For further information on this submission contact Yvonne Porter, Manager Wattle Place at [yvonnep@ransw.org.au](mailto:yvonnep@ransw.org.au) or (02) 8837 7000.**