



ACWA Response to ISSUES PAPER 7

STATUTORY VICTIMS OF CRIME COMPENSATION SCHEMES

1. What are the advantages and disadvantages of statutory victims of crime compensation schemes as a means of providing redress or compensation to those who suffer child sexual abuse in institutional contexts?

The advantages of statutory victims of crime compensation schemes include

- Recognition of the crime and the impact on the victim
- Some financial redress to assist the victim with rebuilding their life in terms of health and well-being and partial loss of income

The disadvantages of statutory victims of crime compensation schemes

- A governments' ability to change victims compensation laws as they see fit
- Changing compensation payments retrospectively because of pressing budget concerns
- Different laws and schemes across the different states in Australia
- Different views of the seriousness of sexual abuse as a crime across the States
- Often lengthy, expensive and bureaucratic processes for victims of crime
- Some schemes have time limits relating to applications and how much compensation they receive
- In the case of a young person leaving out-of-home the compensation is not received because they were not informed about the option of compensation or were not assisted to make the application
- The statutory child abuse and neglect body in each state should have responsibility for making claims for recognition on behalf of young people living in out-of-home care Community Services NSW should send each young person's file sent for audit to the Community Services legal team no later than the young person's 15th birthday.

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- Often there is a lack of consultation with the community about changes to victim's compensation
- Often these compensation schemes do not reflect the impact and severity of the crime on a victim's whole of life experience, which can impact on social skills, education, employment and social isolation

2. What features are important for making statutory victims of crime compensation schemes effective for claimants?

- Any scheme must be consistent with the International Covenant on Economic, Social and Cultural Rights
- There should be no upper time limits imposed on recognition payments for victims of domestic violence, child abuse or sexual assault.
- Limits on the time that applications are reviewed and outcome decided
- An effective scheme would include legal and social work advice and referral for a victim to access services for welfare, education employment and psychosocial issues
- One contact person throughout the process e.g. Victim Support Officer
- Contact person to be trained in working with trauma and abuse
- A process that is transparent and efficient for the victim
- That this scheme has systems in place to reach potential recipients who are socially isolated with no networks to inform them of the scheme or those who cannot read or write. The scheme should be about compensating all people who have experienced abuse and trauma
- Recognition of a continuum of trauma relating to severity of impact e.g. has it impacted on a person's social skills leading to unemployment or leaving school early with no or low literacy and numeracy skills
- A range of services aside from counselling e.g. numeracy and literacy assistance, social skills, employment skills, relationship skills, integration into society. These services could be provided by specialist teams from within the Attorney Generals department or the provision of extra funding to non government services to provide these services for victims
- Focus on promoting citizenship and state responsibility to assist in restoring the citizen to be able to participate in society
- Offering an apology and commitment to bringing justice where abuse and trauma are the result of being in an institution

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3. Are there elements of statutory victims of crime compensation schemes, as they currently operate, that raise particular difficulties for claims by people who suffer child sexual abuse in institutional contexts? For example:
- some schemes have time limits and discretionary provisions to extend the time limits to make claims;
 - all schemes have caps on payments;
 - some schemes have lower caps on payments for offences committed earlier in time and one scheme does not apply to offences committed before 1971;
 - some schemes require that the act of violence or offence be reported to the police, or require an explanation if not reported to police; and
 - most schemes require repayment of victims' compensation if the recipient later receives compensation from another source (e.g. via damages or settlement in civil litigation).

ACWA agrees that all of the above present difficulties for people who have suffered child sexual abuse in institutional contexts.

4. What changes should be made to address the elements of statutory victims of crime compensation schemes that raise particular difficulties for claims by people who suffer child sexual abuse in institutional contexts?
- Documentary evidence in NSW is burdensome and narrow for some applicants. Time caps and fear of making a report are barriers to lodging a report to Police or government agency. Reports to non-government services including welfare, health, counselling and legal aid services should also be accepted as satisfactory evidence.
5. What forms of redress, including services and payments, should be offered through statutory victims of crime compensation schemes?
- Specialist team of lawyers experienced in abuse and trauma cases to be able to offer of advice in cases of conflict with outcome of application
 - Appropriate counselling no less than 30 hrs/sessions (if required)
 - A victim's support officer trained in dealing with abuse and trauma for each claimant



- One contact person throughout the process e.g. Victim Support Officer
 - Paid medical consultations
 - Financial assistance for economic loss
 - No cost FOI requests
 - All services provided should be based on a continuum based on the level of impact of the abuse and trauma. For example has the victim reached any level of educational achievement, what is their health like, have they a relatively stable work history
 - No time caps
6. To what extent, if any, should those who suffer child sexual abuse in institutional contexts be eligible for additional or different compensation and services, compared to victims of other crimes? Why?

Any crime of abuse must be recognised as a crime, however for sexual abuse in institutional contexts there is a reasonable argument that compensation in these cases does require additional compensation and services because the children were placed in institutions that had a mandate to care and protect. The institution where the abuse occurred should pay these additional payments.

In cases where the institution is religious the impact on a victim's belief system or worldview has been destroyed the impact may be incalculable.

7. Are the levels of verification or proof required under statutory victims of crime compensation schemes appropriate for claims by those who suffer child sexual abuse in institutional contexts?

Documentary evidence in NSW is burdensome and narrow for some applicants. Time caps and fear of making a report are barriers to lodging a report to Police or government agency. Reports to non-government services including welfare, health, counselling and legal aid services should also be accepted as satisfactory evidence.

It is also difficult for people who have no real evidence apart from verbal disclosures that may or may not be able to be verified. Consideration should be given to investigations into sexual abuse and trauma in institutions when a single or small number of victims come forward.



Submissions are welcomed on any aspects of statutory victims of crime schemes as they affect claims for compensation by people who suffer child sexual abuse in institutional contexts.

Submissions will be made public unless the person making the submission requests that it not be made public or the Royal Commission considers it should not be made public. That will usually only occur for reasons associated with fairness.

Submissions should be made by **Monday 30 June 2014**, preferably electronically, to solicitor@childabuseroyalcommission.gov.au, otherwise in writing to GPO Box 5283, Sydney NSW 2001