ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

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ISSUES PAPER 7 – STATUTORY VICTIMS OF CRIME COMPENSATION SCHEMES

Thank you for the opportunity to provide a submission in relation to Issues Paper 7.

Statutory victims of crime compensation schemes (VOCC schemes), or financial assistance schemes, offer victims of sexual assault an important alternative to civil injury claims when seeking resources to help them recover from their experience. However there are shortcomings in the current design of most VOCC schemes, which limits their accessibility to claimants. The ACT Victim of Crime Financial Assistance Scheme is currently under review\(^1\) and we understand changes are also underway in other states and territories.

As the Royal Commission is restricted by terms of reference to consider sexual abuse only in institutional settings, I will not discuss the circumstances of children and young people who experience sexual abuse by family members, friends or neighbours (even though the number of children and young people in this category is larger).

Important features for making statutory victims of crime compensation schemes effective for claimants

Children and young people who experience sexual abuse in an institutional setting (such as a school, childcare centre, holiday camp, sporting team, dance or music class, outdoor recreation group, or religious congregation) need the VOCC scheme in their jurisdiction to include the following elements:

- An accessible, transparent and streamlined assessment process, with clear procedures and timeframes, based within an administrative agency of government (rather than a complex, slow and adversarial court-based scheme which currently exists in some jurisdictions).
- A designated agency to provide applicants with information, assistance and casework support during the application and assessment process.
- The agency must be sensitive to the needs and interests of children and young people, and must implement child safe and child friendly policies and procedures.
- Access to support, counselling and other services to promote the victim’s recovery, and for such services to be available as soon as possible in order to maximise their effectiveness (rather than delaying access until the final outcome of an application).
- Access to support and counselling services for parents, siblings, and other important people in the victim’s life who have been distressed by the experience, and who may need help to enable them to support the victim into the future.
- If a time limit is applied to submission of applications, then an accessible process for requesting an extension of time, and a clear public message from the assessing authority that there are potentially many reasons why a victim may not immediately make an application, and that requests for extension are welcomed in those situations.


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• Capacity, when appropriate, to consider a child or young person to be a ‘victim’ for the purposes of the scheme, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.
• Capacity, where appropriate, to assess an application based on the information available to the decision maker at the time of making the application, rather than waiting for the conclusion of parallel criminal proceedings.
• Sufficient flexibility in the scheme to make interim payments as well as final payments, and to increase final payments to address changing needs of child victims as they grow to adulthood.
• Flexibility in the scheme to provide redress in a non-financial way, according to the needs of individual children and young people.
• Capacity, where appropriate, to modify the requirements for proof of injury in situations of child sexual abuse; given the impact of young age on the victim’s capacity to provide evidence, and the impact of trauma on the victim’s capacity to provide evidence or to disclose abuse in the first place.

When abuse occurs while a child is in out of home care (kinship care, foster care, residential care, or youth justice detention), or under legal supervision of child protection authorities but remaining with their birth family, my previous comments (in my submission in response to the Royal Commission Issues Paper 5, relating to civil litigation) apply also in the context of VOCC schemes:

Given the importance of obtaining timely legal advice, and the position of conflicting interests that a Government agency may face where a child or young person suffers abuse in care, it is critical that there are robust systems in place to ensure that independent legal advice is facilitated automatically in these situations, rather than relying on the discretion and judgement of the Government agency.

**Early identification of potential claims for victims of crime compensation**

Children and young people can disclose abuse at any time; immediately after abuse has occurred, or years later, even decades. There can be many reasons for delays in disclosure, including the child’s fear of the consequences of disclosing, or the ongoing and compounding impact of the trauma of the experience.

As a community we need to support victims to come forward and disclose their experience, so we can protect children from ongoing abuse, and promote their recovery. Research shows there are barriers to disclosure, but also strategies that will assist children to talk about their experiences; and the initial response to a child’s disclosure is crucial.\(^2\) Organisations working with children must have protocols to ensure adults respond quickly and effectively to disclosures of abuse, and build a culture that is supportive of people who raise concerns.

At a recent meeting between the Royal Commission and the Australian Children’s Commissioners & Guardians, the Royal Commission mentioned that the average length of time for a disclosure of sexual abuse is approximately 20 years. Some children and young people may attempt disclosure at an earlier time, or exhibit behavioural signs that would lead an informed person to be concerned about possible abuse. This reinforces the need for organisations to implement child safe and child friendly policies and procedures, which train adults in identifying and responding to signs of possible abuse.

Additionally, victims of sexual assault who cope alone for many years with the trauma of their experience are at risk of mental health problems, breakdown in family relationships, problematic drug and alcohol use, and disengagement from school or employment.

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Rather than provide financial compensation after decades of suffering, we should take steps to facilitate children’s disclosure, and invest resources as soon as possible in their recovery. These resources may be financial, or may be in other forms, and the Royal Commission may wish to talk with children and young people about how best to achieve this.

Use of language

In coming months I will undertake a research project in partnership with Dr Sharon Bessell, Director, Children’s Policy Center, Australian National University, on the use of language in the child protection system. We will speak with children and young people about their views of terms such as ‘out of home care’, ‘foster care’ and ‘care plans’, and learn what language they prefer to use to describe their care experience.

I am aware that some adults have views about the use of language in the context of the Royal Commission; for example some people prefer to identify as a ‘survivor of sexual abuse’ rather than a ‘victim of crime’. If resources permit, the Royal Commission might speak with children and young people about how they perceive the use of language in this context.

Again, I thank you for the opportunity to contribute to the Commission’s work on preventing sexual abuse of children and young people in out of home care, and look forward to reading your report on the issues canvassed in Issues Paper 7.

Yours sincerely

Alasdair Roy
Children & Young People Commissioner

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