



The representative voice of crime victim services

The Solicitor

Royal Commission into Institutional Responses to

Child Sexual Abuse

GPO Box 5283

SYDNEY NSW 2001

Dear Sir/Madam

ISSUES PAPER #6: REDRESS SCHEMES

This submission from Victim Support Australia Inc. (VSA) is in relation to the Issues Paper No.6 on Redress Schemes. VSA regrets the late submission but hopes, nonetheless, that it may be considered by the Royal Commission.

VSA is the national professional association representing services and other interests concerned with responses to and rights of persons who are victims of crime. Member services respond to and assist over 40,000 men, women and children each year across Australia. Approximately 15-20% of those assisted have experienced a sexual offence whether as a child or as an adult or both. While approximately 10-20% of those assisted are people under the age of 18 years, member services also assist families, friends and others who may be supporting the primary victim.

Member services have considerable experience in working with people seeking redress following their experience of crime and violence. We note that Issues Paper No.7 invites submission in relation to the state and territory-based financial assistance or compensation schemes and so do not address these here. This submission is in general terms and focusses on redress as a broad framework comprising different components. This submission is guided by relevant international frameworks to which Australia is signatory (Appendix A). Although twenty years apart, the 1985 UN Victims Declaration and the 2005 UN Principles on Remedy and Redress both rest on recognition that people who are victimised by abuse, violence and other crime require a range of responses that address emotional, material and psycho-social needs, and that responses are both individual and communal. This speaks to the significant disruption that abuse and violence bring to a person's life opportunities, their trust in others, and their connections to and engagement with social, economic, cultural and political spheres of life. Responses to victimisation have a private and a public face.

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VSA is acutely aware of the diversity of individuals who have been victimised by sexual offences, their different life circumstances and the different trajectories of offending to which they were subjected (and may still be). Therefore any redress framework needs to be flexible and multi-layered in its design. VSA would particularly emphasise the involvement of victims/survivors and their significant others in the design, implementation and evaluation of redress frameworks. This is especially important as the consequences of victimisation unfold over time. This involvement, therefore, needs to constitute a dialogue where different aspects evolve.¹

VSA accepts that the recommendation for ongoing dialogue with and involvement of survivors and their significant others may be difficult to design and manage. This challenge connects also to the recommendation for an evolving or phased redress framework. With both issues in mind VSA recommends that a redress framework work closely with the existing service infrastructure. A sustainable relationship between survivors and services does, however, require a coordinating mechanism. A coordinating centre should be about facilitating and networking, and helping survivors make the right connections for themselves. A coordinating centre – indeed the redress framework itself – should avoid costly and bureaucratic processes.

The components of a national Australian redress scheme should adhere to the van Boven/Bassiouni Principles that comprise the 2005 UN document. The key values upon which any scheme should rest include:²

- Fairness and reasonableness
- Inclusiveness
- Equity
- Consistency and predictability
- Flexibility and adaptability to individual needs
- Sensitivity

VSA is aware of the existence of a wide variety of legal and non-legal mechanisms and of services that are currently available to victims/survivors for redress, reparation and restitution. VSA accepts that 'double-dipping' is generally undesirable when considering the public purse. However, in principle and in general terms, VSA disagrees with suggestions that close off access to these mechanisms as a basis for accessing a new scheme. Peoples' legal and civil rights should not be foreclosed or compromised as a condition for

¹ See for example, the report on the Canadian Grandview Agreement (Graycar & Wangmann July 2007).

² Adapted from the Irish report, *Towards Redress & Recovery*, Compensation Advisory Committee, January 2002, p.232.

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accessing redress and support. A national redress framework can establish processes that accommodate and 'set-off' an individual's multiple engagements.

VSA also generally agrees that a package of measures for a redress scheme should include features for offender accountability as well as support and recognition for individuals from the public purse. Given the multiplicity of offending about which the Royal Commission has received evidence and given existing avenues and schemes for financial assistance/compensation, an additional suggestion is that relevant institutions be invited to contribute to a trust fund. A trust fund could be a sustainable vehicle for activities such as scholarships for victims/survivors, recognition activities and commemorations, research activities, and education and prevention. Great care would need to be taken in ensuring the activities of a trust accorded with the priorities of victims/survivors and those working closest with them. A trust fund should not replace responses to individuals and substitute for robust measures for individual assistance. However, it would be a mechanism that could facilitate varieties of public and communal recognition, recognition of evolving needs, and act in a dynamic fashion with individuals, families and communities rather than pose a static and one-off response.

VSA also wishes to place on the record its deep appreciation of the many individuals and institutions who have come forward to the Royal Commission to give evidence and information about victimisation, and the harms it generates. We are acutely aware that many people have done so on the basis that no one else should be left exposed to sexual and physical exploitation and abuse.

Yours sincerely

M Mahashini Krishna
A/g Chair

Harvey Hatch
Deputy Chair

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Appendix A

International Standards for Victim Redress

The UN Declaration of Basic Principles of Justice and Abuse of Power (1985) specifies the responsibilities of states and others to (amongst others):

- implement social, health, including mental health, educational, economic and specific crime prevention policies to reduce victimization and encourage assistance to victims in distress
- provide and facilitate access to justice and redress
- enable offenders and/or third parties to make 'fair restitution' including 'the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights'
- state-based compensation where this is not fully available from offenders

See <http://www.un.org/documents/ga/res/40/a40r034.htm>

While the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation (2005) focusses on Victims of Violations of International Human Rights and Humanitarian Law, its attention to the requirements for compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition echo the specifics of the 1985 Declaration. The notion of 'satisfaction' is taken to include, where applicable,

- cessation of the violations,
- verification of facts and truth-telling,
- official recognition and restoration of dignity, reputation and rights
- public apology, acknowledgement of facts and acceptance of responsibility
- sanctions on those liable
- commemorations and tributes to the victims, and
- inclusion of accounts of violations in educational and other materials.

See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

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