

3 November 2020

Our ref: MC

Committee Secretariat
Joint Select Committee on Implementation of the National Redress Scheme
GPO Box 149
Parliament House
Canberra ACT 2600

By email [REDACTED]

Dear Committee Secretariat

Second Interim Report on Implementation of the National Redress Scheme

Thank you for the opportunity to provide feedback on the Implementation of the National Redress Scheme (**NRS**). The Queensland Law Society (**QLS**) appreciates the opportunity to contribute to this important review.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled with the assistance of members across several of our legal policy committees, whose members have substantial expertise in this area.

Generally, our members have raised concerns that the NRS requires improvement so that survivors are appropriately supported and informed throughout the claim and decision making processes. Adequate funding for free counselling and legal services are also critical aspects of ensuring the NRS is accessible to survivors.

Our submissions are based on the experiences reported by our member practitioners, who provide legal advice to survivors and institutions.

Communication issues (delays and transparency)

Our members have reported delays in accessing the NRS. We understand that solicitors often need to contact the NRS for updates and are only contacted when a decision has been made. We understand that more independent decision makers have recently been appointed and it is our members' hope that these additional appointments will go some way to alleviating delays.

Second Interim Report on Implementation of the National Redress Scheme

There is an absence of guidance for survivors explaining how determinations with respect to compensation are made. This absence fuels concerns that have been raised with and by our members about a lack of transparency in the decision making process.

The lack of informative and timely updates and the absence of guidance about the process causes greater anxiety for clients who worry their case has been forgotten and will never be decided. It is paramount this issue is addressed as the abuse survivors who are claiming, are already vulnerable. It would be of great assistance if, in addition to informed guidance being provided, NRS administrators could provide timely meaningful updates on what *has* been progressed or what is awaiting finalisation.

Communication and support of clients by the provision of regular updates on a background of informed guidance is crucial and provides a greater sense of control over claims. Improvements should be made to ensure both informed guidance and more timely and substantial updates are provided between lodgement and decision making.

A need for additional guidance and information

With respect to enhanced guidance, our members have suggested the following further guidance would be of assistance to survivors and institutions.

Guidance for survivors

There is an absence of available guidance on what constitutes grounds for a \$50,000 extreme circumstances case. This means survivors have no real indication of whether the circumstances of their case mean it is likely to satisfy the 'extreme circumstances' case.

Many institutions have maintained their own internal redress schemes which mirror the NRS Assessment Framework but seek to provide more expedient outcomes for survivors, as an alternative pathway. The lack of information regarding the 'extreme circumstances' payment within the NRS means that an institution's internal redress assessment has no means of determining which cases would be eligible for this additional sum, thereby creating potential unfairness and inequity amongst survivors.

The absence of any extreme circumstances guidelines makes it impossible for our members to meaningfully advise their clients on this issue.

Guidance for institutions

It would assist if more guidance was provided to institutions about the information sharing provisions of the legislation, particularly in regards to the circumstances where they receive a civil claim from someone who has had a previous redress claim. There is a real tension between ss 37, 92, 93 of the Act which are the protected information provisions and ss 3, 11, 38, 42 and 43 which allow for the release from civil liability.

Breaches of these provisions are serious offences. It would assist with the interpretation of the legislation for the NRS to provide general guidance on the intended navigation and joint operation of these sections. Consultation with institutions may also be of some benefit, to identify the type of guidance which would be of assistance.

Second Interim Report on Implementation of the National Redress Scheme

Survivor support

Our members have also raised concerns about NRS processes which may act as a barrier to survivor access to the scheme. For example, outbound contact by the survivor to the NRS must be made by phone. For some claimants this is a stressful proposition and written contact would be preferable. It may be prudent to allow a written option as an alternative to assist survivors in contacting the NRS. This may be of additional assistance to self-represented survivors so that they can have someone explain the process or response to them in writing.

Another more practical issue is that the online NRS forms are not in a fillable PDF format, this may mean survivors will need to print the form, fill and scan into a digital format before submitting. This can prove difficult for self-represented survivors or people who do not have access to a computer, printer and scanner.

Counselling funding arrangements

We are informed that when a survivor receives an offer they are told they can receive up to 20 hours of counselling, with more on application. However, the assessment framework provides for a specific dollar amount for counselling depending on the circumstances of the abuse. More guidance is needed in the offer letter on this particularly if there is a monetary cap for counselling. Interestingly and somewhat confusingly, this differs from State to State and the institution has to pay the dollar amount, irrespective of how much counselling is utilised.

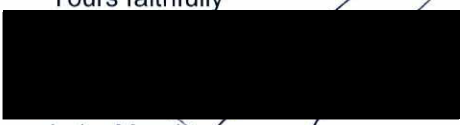
There is potential here for the NRS to have surplus funds from institutions, when survivors do not use, or do not use all of the value of counselling funds paid by the institution. Consideration should be given to this potential outcome and how best any surplus funds can be utilized. This includes whether it might be appropriate to refund the amount to institutions to assist with other redress payments or form part of the claimant's compensation entitlement for future counselling or other out of pocket expenses.

Next steps

If the outcome of the review is to recommend changes to the NRS, we recommend that consultation occur with all stakeholders involved in the scheme, including institutions. Any reforms that are proposed may have a significant impact on the participants in the scheme and it is important that any unintended consequences of proposed reforms are identified early. All stakeholders, including institutions, can assist in this process.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully


Luke Murphy
President