

1 June 2018

Committee Secretary  
Senate Standing Committees on Community Affairs

By email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Dear Committee Secretary,

**NSSRN submission in relation to the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 and National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018**

1. The National Social Security Rights Network (NSSRN) is a peak community organisation in the area of income support law, policy and administration. Our members are community legal centres across the country that provide free and independent legal assistance to people experiencing issues with social security and family assistance payments. The NSSRN draws on this front line experience in developing its submissions and policy positions.
2. The NSSRN welcomes the opportunity to comment on the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (“the Bill”) and National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018 (“the Companion Bill”).
3. The Bill and the Companion Bill propose to establish a national redress scheme for survivors of institutional child sexual abuse. The Bill’s proposed scheme aims to provide an accessible, appropriate and survivor-focused redress. It provides for monetary payments, access to counselling services and a direct personal response from the institutions responsible.<sup>1</sup>
4. The bills have been drafted in response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (“the Royal Commission”), and in light of the Senate Committee of Community Affairs inquiry report on *the Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017* (“the previous Commonwealth bill”) that was introduced to Parliament in October 2017.
5. Although this is proposed Commonwealth legislation, this Bill strives for a national redress scheme by including institutions of the States who have opted into this redress scheme. At time of writing, all States and Territories have committed to the scheme, except for Western Australia.<sup>2</sup> We understand that negotiations between WA and the Commonwealth are still on foot.
6. The participation of the States and Territories is essential to ensuring an accessible and inclusive redress scheme. An actuarial report provided to the Royal Commission estimated that there may

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<sup>1</sup> Explanatory Memorandum, National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 & National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018 (Cth), 3.

<sup>2</sup> Michael, L., Support Grows For National Redress Scheme’, *Pro Bono News Australia* (online), 29 May 2018, <<https://probonoaustralia.com.au/news/2018/05/support-grows-national-redress-scheme/>>.

be 60,000 redress scheme claimants nationally.<sup>3</sup>

7. This submission restates our position on how the proposed monetary payments under the redress scheme should be treated for the purposes of social security law.<sup>4</sup> Principally, we argue that the payments should be exempt from social security asset assessments.

### **Impact on social security income and asset assessments**

8. The Royal Commission recommended that any redress scheme include “monetary payments as a tangible means of recognising the wrong survivors have suffered.”<sup>5</sup> The Bill proposes to provide monetary payments to a maximum of \$150,000. It is important that this amount, as a token acknowledgement and reparation of the wrongs experienced by survivors, is able to be used at a survivor’s discretion and should not impact on other income sources or any social security entitlements.
9. The NSSRN supports the proposed amendment to the *Social Security Act 1991* (Cth) contained in the Companion Bill. This amendment will exempt redress scheme payments from income tests under social security law.<sup>6</sup>
10. The NSSRN also supports the proposals that these payments will not be subject to income tax, and they will not be directly garnished to recover any outstanding debts that may exist to the Commonwealth, such as those arising from social security overpayments.<sup>7</sup>
11. The NSSRN also supports clauses 49 and 52 of the Bill that states that the redress scheme payment and payments for counselling are not to be treated as compensation, as defined in s17 of the *Social Security Act (1991)*. The effect of this clause is to further reduce the impact of any redress scheme payments on a person’s ability to access social security payments.
12. However, despite these protections, we reiterate our concerns raised in our submission to the previous Commonwealth bill that the redress scheme payments may still impact on a person’s social security entitlement. This is because there are no provisions in the Bill or the Companion Bill that propose payments under the redress scheme be exempt from social security asset assessments. This means that some social security recipients may experience a reduction or cancellation of their income support or pension payments. This will depend on the amount they receive under the scheme, their other assets and payment type.
13. As the redress scheme aims to address and alleviate the impact of institutional child sexual abuse, any interference with a survivor’s social security entitlement must be avoided. The NSSRN urges an additional amendment to s1118 of the *Social Security Act 1991* (Cth) to include payments under this redress scheme, and any gifts or purchases made from these payments, as exempt assets for the purposes of social security asset assessments.

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<sup>3</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, ‘Final Report – Redress and Civil Litigation’, (2015) 8.

<sup>4</sup> Please see our submission to the previous Commonwealth bill: National Social Security Rights Network, Submission No 38 to Senate Standing Committees on Community Affairs Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017, 1 February 2018.

<sup>5</sup> Royal Commission into Institutional Responses to Child Sexual Abuse, ‘Final Report – Redress and Civil Litigation’, (2015) 8.

<sup>6</sup> National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018 sch 1 item 1 proposes to amend s8 of the *Social Security Act 1991* (Cth).

<sup>7</sup> Explanatory Memorandum, National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 & National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018 (Cth), 9.

## **Conclusion**

14. Redress scheme payments are not intended to provide survivors with a means of financial support, rather they are aimed at acknowledging the deep harm caused by abuse. In consideration of this, payments under the redress scheme, and any gifts or purchases made from these payments, should not impact the entitlements available to survivors under social security law. They must be exempt not only from income assessments but also asset assessments.

## **Contact for this submission**

The NSSRN would welcome the opportunity to provide further feedback to the Committee on our submission.

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