

Children in Care Collective



Submission to the review of the National Redress Scheme for Institutional Child Sexual Abuse

INTRODUCTION

The Children in Care Collective was formed in 2016 by a group of out-of-home care service providers and leading experts in working with children with complex needs in out-of-home care.

The aim of the Collective is to share experience, discuss best practice informed by research, provide advocacy and learn from policy and practitioner experts in out-of-home care. The Collective seeks to address solutions to difficult systemic practice issues faced by the sector and to improve outcomes for children and young people with complex needs living in out-of-home care. The Collective's website is at <http://childrenincarecollective.com.au/>.

Members of the Collective are: Allambi Care, Anglicare NSW South, NSW West and ACT, Anglicare Sydney, CareSouth, Key Assets, Life Without Barriers, Mackillop Family Services, Settlement Services International, Stretch-a-Family and Australian Catholic University Institute of Child Protection Studies.

Several of the agencies who are members of the Collective are in various stages of engagement with the National Redress Scheme and some are making individual submissions. This submission does not seek to replicate individual agency submissions, but rather to draw on the experience of the Collective to address some of the broad difficulties arising from the current implementation of the National Redress Scheme.

FEEDBACK

Department of Social Services (DSS) support

Agencies have appreciated the support and assistance provided by DSS Relationship Managers and the Services Australia Scheme Helpdesk. It is acknowledged that DSS is constantly reviewing and refining the process to make it more user-friendly. The appointment of a dedicated Relationship Manager for each institution seeking to join the Scheme is a helpful way to assist institutions in this process and Collective member agencies have noted that the process of joining the Scheme was made much easier by having this dedicated resource.

Training for participating institutions

The Collective recommends that significantly more practical training be provided to participating institutions on Requests for Information (RFIs). There is little information provided in the printed material (three short paragraphs in the NRS overview for non-government institutions) and the online and face-to-face training sessions about this process, particularly compared to the advice and training on Direct Personal Responses (DPRs).

It would be valuable if some detailed procedural guidance and practical training on RFIs could be developed and provided to participating institutions. A mock-up or model RFI response that could be circulated as a pro forma document in the training session would be extremely useful.

As most of the information about the alleged abuse is likely to be provided by the participating institution, the Collective believes it is important that practical training is available for participating institutions to meet their obligations under the Scheme, and to assist the Independent Decision Makers in their determination of applications.

Request for Information process

Applications with minimal/vague details of the alleged abuse and the alleged abuser

The Collective recommends that the Scheme provide additional assistance to applicants in completing the application form, and that applications be reviewed/screened to ensure they are adequately completed before being provided to the participating institution with the RFI.

When the information provided is very vague, it may require a complete review of all records held by the institution about the applicant and any person who may fit the description of the alleged abuser.

Provision on the Application for Redress for an estimated date or date range, if the applicant can recall, would be of real assistance. With the current application form, the participating institution has to try work out the relevant timeframe of the alleged abuse – taking into account the age of the applicant (if the applicant's date of birth is known to the participating institution) and the length of time that the alleged abuse is said to have occurred.

RFI Question 1

The Collective notes that the first question in the RFI is: 'Do you accept the information provided by the applicant in their application about the alleged abuse?', with the option to respond only being 'Yes', 'No' and 'Uncertain', and with no field for providing further details.

Responding to this question is difficult as it is not clear whether the participating institution's response requires the application of the 'reasonable likelihood' standard of proof, or another standard of proof (for instance, the standard applied when participating institutions investigate allegations of abuse in care – on the balance of probabilities).

A further question arises as to the participating institution's reporting obligations (to NSW Police, Child Protection Helpline, NSW Children's Guardian).

The Collective recommends that further guidance be given to participating institutions on how to answer this question.

Requesting further information

The Collective notes that there is no mention in the training for participating institutions that there could be further requests for information during the Redress application process, the advice being that there was one RFI.

The Collective recommends that participating institutions be made aware of this possibility through training and detailed procedural guidance.

Reportable allegations

The Collective notes that information received about alleged abuse through a RFI may give rise to the possibility of reportable allegations that have not previously been reported and investigated.

All allegations of abuse against children should be treated seriously. Nonetheless, reportable conduct allegations/investigations, child protection reports/investigations and NSW Police reports/investigations can have significant implications on a person's life, family and employment and should only be made when the relevant legislative threshold is reached.

The Collective notes that little guidance is provided in the training material or the face to face / online training modules about how institutions can proactively manage claims when one survivor has made an allegation of abuse against an abuser but upon review of the institution's material, there may be other persons who may also have a right to make a redress claim. In these instances, no guidance is provided on the extent of the obligation on the institution to do any or some of the following:

- (a) Track down any other survivors who may have a right to bring a redress claim (for example, if the alleged abuser was a long term foster carer who cared for many children and young people over a 10 year period, but only one child formerly in the care of the alleged abuser brings a redress claim, does the institution have an obligation to proactively track down all the other children who may also have had contact with the abuser).
- (b) Inform any former or subsequent employers of the alleged abuser and how this may interplay with privacy legislation and defamation law.

Counselling

The Collective recommends that the Scheme give further consideration to allowing a survivor to access counselling before the financial aspect of the claim is finalised.

Noting the difficulties experienced by the majority of survivors of institutional abuse, the Collective believes individuals may need support to be able to begin the process of claiming redress. Ready access to counselling and other therapeutic services is generally considered to be in the best interests of survivors. This support would also be of assistance if the determination of claims is taking longer than anticipated.

FURTHER QUERIES

If there are any further queries about this submission please direct them to Roderick Best, Co-chair of the Children in Care Collective at Roderick.Best@lwb.org.au .