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JOINT SELECT COMMITTEE ON IMPLEMENTATION OF THE NATIONAL REDRESS SCHEME

Monday, 30 March 2020

Members in attendance: Senators Siewert, Dean Smith, Marielle Smith and Dr Allen, Ms Claydon, Mr Dick, Dr Webster.

Terms of Reference for the Inquiry:

To inquire into and report on:

The Joint Select Committee on Implementation of the National Redress Scheme was appointed by resolution of the House of Representatives on 10 September 2019 and resolution of the Senate on 11 September 2019.
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Evidence was taken via teleconference—

Committee met at 09:39

CHAIR (Senator Dean Smith): I welcome everyone to this meeting of the Joint Select Committee on Implementation of the National Redress Scheme. The committee had scheduled hearings in Sydney and Newcastle today and tomorrow. In the current circumstances, the committee has decided to keep holding hearings by teleconference, so there will be one hearing today covering both Sydney and Newcastle. Going forward, the committee is still planning on talking to the communities of Brisbane and Perth in April, again via teleconference. The committee website will provide details of when these will take place, and the secretariat will contact potential witnesses over the next week. The committee website continues to be the best place to get information on the work of the committee, and I remind everyone that submissions can still be made via the website or by email. Further details are on the website.

I declare open this public hearing of the Joint Select Committee on Implementation of the National Redress Scheme. In accordance with the committee's resolution of 5 December 2019, this hearing will be broadcast on the parliament's website. The proof and official transcript of proceedings will be published on the parliament's website. I remind members of the media who may be present or listening on the web of the need to fairly and accurately report the proceedings of this committee.

I now call Shine Lawyers to give evidence. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed to discussion.

Ms Flynn: Thank you for allowing us to be heard and to give evidence to this committee. We have advised and acted for thousands of survivors and victims of child sexual abuse over a number of years—in excess of at least 20 years. It's been a privilege to be able to represent these courageous survivors and victims of abuse. We have also represented, and currently represent, many survivors of abuse who have made applications to the National Redress Scheme, and it is in that capacity that we are offering our views and evidence today.

We are happy to address any questions the committee has of us, but, in opening, I am hoping to address and share our clients' concerns and our concerns relating to five issues within the current National Redress Scheme as it exists currently. These topics include, firstly, the time frame that it's taking for applications to be completed and for offers of redress to be made to survivors. Secondly are our clients' concerns in relation to the absence of reasons being given when applications are decided and the refusal to make the assessment framework policy guidelines publicly available. Thirdly I would like to ask if my colleague Katrina Stoupos can share our experiences in relation to suggested improvements to the claims management process within the Redress Scheme, because Katrina currently does have day-to-day interactions with the Redress Scheme. We would like the opportunity for Katrina to share those experiences and some ideas for suggestions for improvement. Fourthly, there is an issue of the arbitrary time frame for survivors and victims of abuse to make a decision in relation to the offer of redress. It is causing difficulties for a number of survivors and victims of abuse. Finally, we are concerned—as we understand many are concerned—with the number of institutions that have not opted into participating in the scheme.

If it's okay, I'd like to talk about those five broad issues in relation to the scheme and our experiences with these. Currently in our experience, with the redress applications that we are assisting survivors with, on average it's taking 12 to 14 months for the redress scheme to come back to these survivors with an offer of redress and with the determination. We know that many survivors of abuse, by the time they have come forward, shared their story and sought assistance, have dealt for many years with the burden, the pain and the shame of the abuse that they suffered. The royal commission found that on average it takes around 25 years for someone to speak about the abuse that they suffered as a child, so many when they do come forward and access redress through the National Redress Scheme need help as quickly as possible. When making the decision in terms of their options around redress or whether they commence a common law claim, which is civil litigation, one of the factors that a large majority consider is how long the process will take.

The National Redress Scheme was created as an alternative to civil litigation and was designed to be easier, more efficient and a quicker process for survivors to obtain this assistance that they need. However, in practice
our clients aren't reporting that it is. Our experience is that it is taking longer than 12 months for the National Redress Scheme to provide outcomes. Eighty per cent of the applications that we have assisted survivors with where an offer has been made took longer than 12 months to come back with a determination. I think the longest that we had was 16 months for an outcome, and a number of applications that we have still outstanding have had longer than 12 months since the application was made.

We've had two clients' applications that were fast-tracked as a result of them suffering from malignant illness. In one of those examples, a man was very terminally ill. We requested a quicker turnaround from the scheme so that he could access this redress before he died. We received a standard response from the scheme, saying that they were processing it. Our client took it on himself to go to the media, and once that was reported it was only then that a decision and a determination was turned around within a week or two. But it shouldn't have to come to that. Some of our common law, civil claims that we're assisting people with are being resolved in less time than the 12 to 16 months that it is taking for offers of redress to be made under the redress scheme. Therefore, in some circumstances the scheme isn't really delivering in practice what in theory it was designed to do, which was to be a faster, more efficient means of getting this assistance to survivors.

We do have a lot of experience with other redress schemes, and one is the Defence Force Ombudsman scheme, which provides redress to people who have suffered abuse and mistreatment within the Australian Defence Force. We also assisted hundreds of people through the previous Defence Force redress scheme, called DART. In our experience those outcomes were a lot quicker. Our experience is determinations were, and are, being made within approximately eight to 10 months, although I don't have the current numbers. It is a significantly less period of time than the National Redress Scheme is taking, or is taking in the matters that we have been involved with and have experience with.

Secondly, I will move to the lack of transparency and consistency in the offers of redress. We're in a position where we do see not only one outcome but a number of outcomes because we do act for a number of people in assisting them to access the National Redress Scheme. In our experience it's important for justice to be seen to be done, for it to be done and for all survivors of institutional abuse to be treated fairly and equitably under the scheme. Unfortunately, because of the lack of transparency, there's little to provide confidence that this is being done when there are no reasons given for the determination by the scheme. When the National Redress Scheme provides an offer of redress to a survivor in writing the Redress Scheme does not provide commentary on the reasons for its decision and so it's difficult for a survivor of abuse to gauge the reasons behind why they were offered that certain amount of redress that they were offered.

I will offer an example of two clients. I've de-identified them. This was our experience with two clients. Firstly, Allan was a junior recruit at a naval establishment, HMAS Leeuwin, where he experienced sexual abuse on a daily basis. He sought discharge in order to escape the abuse. During the time he was there he was regularly kicked and beaten in the testicles and groin area. He was also penetrated with a foreign object, likely a toilet brush, by another junior recruit. He describes this penetration as being 'scrubbed with the toilet brush', which also penetrated him. The abuse was perpetrated by a group of about four to five perpetrators. Allan has suffered lifelong trauma as a result of the abuse. Allan was entitled to $150,000 in redress under the scheme, which is the maximum amount.

Another of our clients is Tom, who was also a junior recruit at HMAS Leeuwin, where he experienced brutal sexual abuse by a group of junior recruits. So it's the same institution. In this case, on two occasions Tom was 'nuggeted', which included having boot polish applied onto and inside his genitals using a brush, in a very similar manner to Allan. In addition, Tom was subjected to regular physical abuse. Tom suffered lifelong trauma as a consequence of the abuse and was entitled to $100,000 in redress.

In the above examples Allan and Tom were subjected to very similar abuse at the exact same establishment, however, Allan was entitled to a much higher level of redress than Tom, and unfortunately this is without any explanation from the scheme as to the difference. What is clear is that the decision relates to the recognition of extreme circumstances of sexual abuse, so that's the additional $50,000 that occurs where there are extreme circumstances, if the abuse was penetrative abuse and it would be reasonable to conclude that the sexual abuse was so egregious, long-term or disabling to the person as to be particularly severe.

It's unclear, with respect to the definition of extreme circumstances of abuse, where the difference in Tom and Allan's circumstances arise. And absent the ability to obtain clear written reasons for the decision and without access to the guidelines it seems that the reasons will never be apparent. So survivors are left in a somewhat impossible position not knowing whether they have grounds to appeal the decision, whether they should even make a redress application and whether they would be entitled to that additional recognition for extreme circumstances. And it's very difficult for legal advisers in giving legal advice in terms of a person's options where
there is no real clarity in terms of when extreme circumstances have occurred, in terms of being able to advise survivors on what they may be entitled to under the scheme. Because there are no reasons for the determination, it's difficult when survivors are required to provide reasons as to why they seek a review of the decision. When there are no reasons given in the determination, it is very difficult to know what to put into the review application if a survivor of abuse is unhappy with the offer of redress that has been made.

I might keep going with my other points, and then I'll hand over at the end to my colleague Katrina to talk about the claims management process. One of the things that I will talk about is the time frame to accept offers. Once an offer of redress is made to a survivor of abuse, the scheme imposes a time frame for a survivor of abuse to accept the offer of redress within six months, with the possibility of a further six months if that extension is applied for and granted within the initial six months. This arbitrary time frame for survivors to accept or make a decision around the offer of redress is quite inadequate and is unfair to survivors of abuse. Applicants under the scheme are very vulnerable. They're usually suffering psychiatric illness. It's really unfair to impose this arbitrary time frame for them to make a decision in terms of whether to accept the offer, which does require them to sign a deed and not bring any further claim.

In my experience, often people who have suffered childhood abuse come and seek advice or start the process of an application for redress but then can't deal with it anymore, for personal circumstances or for the memories of the traumatic abuse that come back. They just can't face the paperwork or do anything about it again. We've had a number of clients who will start a process with us and then just disappear or tell us that they are really struggling and they can't deal with it at that moment, but many times these clients do come back, sometimes 12 months later. To impose this, when they're feeling healthy and well enough to be able to deal with a process that does, by its very nature, bring back memories of abuse, it can be very difficult.

It is important to note that once an offer has been declined, either by not accepting it before the end of the acceptance period of six months or by declining it, that person is unable to ever make an application to the National Redress Scheme in the future. This is problematic in circumstances where a survivor receives an offer of redress that he or she is unsatisfied with or needs further information on in terms of what other options they may have. A period of six months doesn't provide a lot of time for that person to consider what the offer is to make a determination as to whether to seek a review of that offer of redress or to seek legal advice in relation to the offer, or for the legal adviser to really assess the circumstances of the case to properly advise the client as to whether they may be best to accept the redress or what their prospects of success would be in a civil claim against the institution. The implication is that in most cases it will be very difficult for a survivor to consider that offer, obtain legal advice and investigate the common law claim in the period of less than six to 12 months. It therefore puts a lot of pressure on the survivor. They feel like there is a gun to their head to take the offer, sign it and accept it or it will be taken away. In our experience, it's not helpful for survivors or victims of abuse to feel in a position like that. It would be our recommendation to remove that six-month arbitrary time frame, for people to respond to the offer of redress, because we think it does cause more difficulty for survivors of abuse.

Finally, in terms of participation in the scheme, we do understand that institutions have until 30 June to opt in to participate in the scheme. We, like many others, are disappointed that so many institutions have failed to participate. We understand that more could possibly be done to persuade institutions to participate. We're aware consideration is being given to stripping institutions of charity status where institutions refuse to or fail to participate. We would support that measure, and if the committee is considering other measures we would be pleased to hear those and offer our views.

I'll hand over to my colleague Katrina Stouppos, if the committee is happy for me to do this, to talk a little further about our experiences with the current claims management processes within the Redress Scheme.

**CHAIR:** That would be most valuable. Thank you very much.

**Ms Stouppos:** Good morning. I'd like to offer some observations about the claims management process of the Redress Scheme. Our experience at the moment is that applicants are not kept well informed about the progress of their application through the, approximately, 12 to 15 months of waiting. The scheme doesn't offer an update to an applicant unless the applicant initiates that contact themselves. When we have requested an update, regarding the process of an application, we've found we're often receiving approved language regarding delays and are finding that pre-approved language is oftentimes frustrating and unhelpful. Examples of some of these programmed phrases include things like, 'We are doing the housekeeping on your claim,' or 'Progress is being made.' I must say, I am tempering my client's language for your benefit this morning when I say that survivors of institutional child-sex abuse find these responses to be unsatisfactory.

Claims managers have clearly been directed that they're not permitted to provide more substantive information. So when asked for further information about what housekeeping has been done, if not provided, or what progress
has been made or what progress is yet to be made, or perhaps what the next step in an application might be, it is not shared. In the survivor focused scheme, a scheme that ought to operate in a trauma-informed manner, surely it's not too much to ask that more substantive updates be made available to applicants. By way of comparison, I point to the reporting-of-abuse scheme the Defence Force Ombudsman provides, for abuse in the military, that Lisa mentioned earlier. Our experience in interacting with that scheme is that genuine and helpful communication is offered throughout the report of a child-sex abuse report and that communication is proactively offered to the reporter of abuse, which benefits the survivor and keeps our client, the survivor, informed throughout the process.

Finally, on the topic of claims management, I'd like to suggest consideration be given to the way survivors can engage legal representatives to assist with their applications. Presently, survivors have the choice between two options: they can engage a legal nominee or an assistance nominee. A legal nominee is someone who holds a power of attorney. As such, a person with a power of attorney document can make, accept or decline an offer of redress standing in the shoes of the survivor. The legal nominee is required to act in the best interests of the survivor; however, they're not technically bound to follow the instructions of that person.

For this reason, we as a firm have chosen not to act as legal nominees but, instead, as assistance nominees. As an assistance nominee, however, the scheme's only prepared to communicate in a more limited manner. For example, the scheme will sometimes contact the client, a survivor of abuse, directly and will deliver an outcome in their application for redress out of the blue, without notice and without informing the person's engaged legal representative. I don't feel that this is a trauma informed practice when clearly the survivor has made their intentions known that they wish all communications to be made through their legal representative. In response to this concern, we suggest the scheme simply allows applicants to engage private legal representatives without requiring a power of attorney. Again, I'd point to the ombudsman's reporting of redress scheme as an example of where this works with great success, and we see no reason why the Redress Scheme should not be able to accommodate applicants who choose to engage legal representatives but without appointing them as a power of attorney.

CHAIR: That was very informative.

Ms CLAYDON: Thank you to both witnesses for that fantastic overview of where your experiences in the scheme are to date. I think my first question is to Ms Flynn on some of the evidence you just provided. With regard to your recommendation to remove the six-month arbitrary time frame to consider an offer of redress, it was my recollection that the royal commission recommended a 12-month period, and, for whatever reason, the National Redress Scheme opted to not go with that recommendation and to go for the six months. Is it your opinion that 12 months as recommended by the royal commission is a satisfactory period of time?

Ms Flynn: Yes, it would be my recommendation, in line with the royal commission's recommendation, for 12 months. I would also recommend that there be the ability for people to apply for a longer period of time in addition to the 12 months in certain circumstances if they feel that they need further time to consider the offer and respond to it.

Ms CLAYDON: So go with the 12 months with the possibility of a further extension.

Ms Flynn: Yes.

Ms CLAYDON: I'm not sure if this is a question for you, Ms Flynn, or Ms Stouppos. There are a surprisingly low number of applications that have been received by the Redress Scheme. The royal commission estimated 60,000 people would be eligible, and there are 6,425 applications that have been received to date and, of course, much fewer than that have actually had offers made. You are dealing with people going through the Redress Scheme but also people choosing to take civil action. What are your thoughts as to why there are so few people applying to the Redress Scheme, notwithstanding the obvious one that you've raised, which is the number of institutions that have not yet applied for the redress which is holding up a great deal of the applications that have been received already?

Ms Flynn: I think part of it is the difficulty that survivors have in coming forward and sharing their stories. That continues to be a difficulty for people—even addressing within themselves that they have suffered child abuse and that they do have legal options. Certainly, when the Redress Scheme was introduced, there was a lot of work done to let people know about the scheme. However, that needs to continue, particularly in some communities where people still don't know about the Redress Scheme. So I think that it is a continuous requirement for people to talk about the existence of this scheme and how people who have suffered abuse within institutions have this as an option or should seek legal advice in relation to alternatives. But I think that it's continuing to educate people that, if these things happen to them, this is an option, or civil litigation is an option, or they can reach out and talk to someone and get legal advice or assistance, and people know to point them in the
direction of the Redress Scheme or other avenues that they may require assistance from. So I think that the opportunity for us is continued education of people about their rights and about the existence of this scheme.

**Ms CLAYDON:** Given the reference on a couple of occasions to the Defence Force Ombudsman scheme, has your legal firm, in its dealings with that, experienced more readiness, perhaps, with the system? It seems like it's a system that has been easier to navigate from a survivor point of view, and I'm wondering if your experience of that Defence Force Ombudsman scheme provides other insights, I guess, for the Redress Scheme in terms of ensuring that it is a more survivor focused, speedier remedy for people who don't wish to go down the civil law action path. Are there lessons you've learnt from that Defence Force Ombudsman scheme?

**Ms Flynn:** Part of the reason with the Defence Force Ombudsman scheme is that it's a certain sector of the population that is entitled to that scheme, so it's a little bit easier to educate people and let people know about the scheme. Also, the feedback on the scheme and how people are treated within that scheme is, on the whole, quite positive, whereas with the National Redress Scheme I think it's a broader group of people. The potential 60,000 are spread all around Australia and have had a number of different experiences, so it's harder, I guess, to let everyone know. But I also think that there is a perception that the National Redress Scheme can be difficult to navigate, that it does take some time and that, in many cases, civil litigation may be a better alternative for people as well.

**Ms CLAYDON:** My final question—because there are other people on the committee wanting to ask questions, I'm sure—is: in your experience, do you have a sense of how many of your clients won't go down the Redress Scheme path because they are following your advice that it's going to be better for them to take a civil action?

**Ms Flynn:** We give individual advice on each case as to whether they may be better off with a civil claim or a Redress Scheme application. A large majority of the people who are coming to us and seeking legal advice opt for a civil claim rather than applying through the National Redress Scheme. Does that answer your question?

**Ms CLAYDON:** Yes, it does. In your opinion, what is it that would encourage someone to go down the civil pathway?

**Ms Flynn:** The main thing that I as a lawyer advise clients on is the amount of compensation or redress that they may be entitled under a common-law claim versus a redress claim. Usually, the compensation under a common-law claim if a person is successful is much more than what they would be entitled to under redress, because it's a different way of assessing the amount of compensation. In a civil claim we can take into account the impact that it has had, the injury it has caused, the impact on someone's ability to earn an income and the medical treatment that they may need in the future or that they've had to pay for in the past. So the compensation amount is a factor. The process involved in terms of civil litigation and redress—people do want to know what's involved in terms of what they have to work with for an application for a common-law claim. In circumstances where we can say, 'Look, it is possible that we may be able to resolve your claim within 12 to 18 months,' and the redress claim is taking similar time frames, that is a factor that our clients do consider.

There are parts of a civil claim that are a bit more re-traumatising in the process than going down the Redress Scheme path. We would often need to get medical evidence to show the impact of the abuse on a client. So the client does need to understand that they would have to be assessed by a psychiatrist—and perhaps more than one psychiatrist—and tell this story to the psychiatrist, which they wouldn't need to do in the Redress Scheme.

They're the sorts of factors involved when a client is making up their mind as to what is best for them. It is the time involved; it is the amount of compensation that they may receive—on that note, the maximum amount under the National Redress Scheme is less than what the royal commission recommended, the $200,000—and also what's involved in the process. Based on that advice and the prospects of success within a civil claim versus the standard of proof in a redress claim, the client balances all of that, and, for the majority of people that we are seeing, who are actually coming to us, it's often that they elect for the common-law claim. However, sometimes our advice is that they would be better off under the Redress Scheme. But, in all circumstances, we will set out what's involved in a civil claim and what's involved in a Redress Scheme application and claim.

**Ms CLAYDON:** Thank you. I wonder if you might provide to the committee any particular recommendations you have in terms of increasing the level of transparency. You alluded to the problems with not having any reasons given for a determination and the lack of clarity that provides for any capacity for people to ask for an appeal or to understand what is happening in the system. So it would be very helpful for the committee to see any specific recommendations that you might like to put to us for how we would best increase the sort of transparency you're seeking in terms of both those reasons and the other thing you pointed to, which was the refusal to make the guidelines available. There were two aspects to the transparency concerns that you raised with us.
Ms Flynn: The access is one part—making those available in terms of the policy guidelines so that we know what the scheme does take into account in determining extreme circumstances. I can consider further and, perhaps, submit something in writing on what might be enough in terms of the determination or the reasons for decisions. However, it would be quite simple in terms of where that person has been assessed and why they haven't qualified for the extreme circumstances. It may be dot points that would satisfy that so that we would know and a client would know. I can give some further thought in relation to specific recommendations in that way, but my ideas at the moment would be dot points as to why someone does or doesn't qualify for the extreme circumstances.

Ms CLAYDON: Thankyou very much. If you do have any further consideration, by all means shoot it through to the secretariat so that we can take that into account as well. Thanks very much to both of you for your evidence this morning.

Senator SIEWERT: Thank you for your excellent evidence. Can I clarify a few things? In terms of the process and the length of time that it's taking, the department has said, 'Well, we've improved the process, we've made a number of changes and we do update people.' Have you seen any change to the length of time it's taking to process applications, given that the department says that they've made some changes?

Ms Stouppos: Unfortunately, it's probably too soon to tell whether those changes have made any noticeable difference. For applications that we have received an outcome on, as Lisa has mentioned, between about 12 to 14 months is the average. We have in excess of 10 who are presently still waiting for an outcome in excess of 12 months. So it's probably too soon to tell whether any changes made in recent months have led to any improvement.

Senator SIEWERT: In terms of the more recent ones, has there been a difference in outreach from the department in terms of updating people about where the application is at, coming back for more information and that sort of thing? Are there any of those signs that things are progressing more quickly?

Ms Stouppos: I have not observed any changes.

Senator SIEWERT: I want to follow up on what Ms Claydon was asking about in terms of the scheme versus the civil law approach. You said they often go for the civil law approach. What proportion of your clients are going down the Redress Scheme route versus the civil law approach?

Ms Stouppos: I don't have the exact proportion. I could take that on notice and come back with it—I would say the large majority of the clients that come to us initially for advice. It would be over 70 per cent that would elect for a civil claim rather than a Redress Scheme claim. However, that's just my gut feel; I've not looked at the numbers. I will come back with the figures if they're different to what I've given in evidence.

Senator SIEWERT: Thank you. Could I get an understanding of the process for civil law? I take onboard very clearly the issue around it sometimes being a much more intrusive process. How many would be settled out of court?

Ms Stouppos: Again, a large majority do resolve out of court rather than going through to a trial and an outcome. That's because processes within each of the jurisdictions around Australia are really designed to force parties together in alternative dispute resolution processes to try to resolve claims prior to a trial and needing a judge or jury decision. A large majority do resolve without the need for a trial. Ninety per cent of matters are resolved without a trial. Some matters can resolve without the need to commence proceedings within court. So some institutions and defendants are now required—based on the royal commission recommendations that it should be less litigious and remove some of the challenges that survivors faced—in many cases to adopt model litigant guidelines which require them to consider the merits of the case and to try and resolve cases at the earliest possible time. What we are seeing is that matters do resolve, sometimes within a shorter period of time than the Redress Scheme and often before the need for trial.

Senator SIEWERT: Thank you; you've already answered my next question about the time frame. In terms of the size of the payment that people receive, are you able to give us an average of what people would then receive? I'm trying to look at this in terms of the size compared to what somebody might get from the Redress Scheme.

Ms Flynn: It's very difficult to give an average. However, every case is quite individual in terms of the impact and the strength of the case. But it would certainly be in the hundreds of thousands of dollars rather than the current average of the Redress Scheme, being $80,000. In terms of judgements in the courts for survivors of abuse, it's not uncommon for a survivor to achieve a general damages award, which is only one head of damage of $300,000 or more. And then you add on the amount of economic loss that someone has suffered and you look at the treatment that they will often require for the rest of their lives. That's a lot higher than the $150,000 maximum under the Redress Scheme.
The National Redress Scheme is certainly a very important option for people when civil litigation isn't for them either in terms of the case and proving negligence or where their personal circumstances wouldn't allow them to go through the process, but the amount of compensation is often a lot higher. The amount that we're achieving for survivors through civil litigation is obtaining compensation a lot higher than the Redress Scheme average.

Senator SIEWERT: I wanted to chase up the issue about institutions and the time for them opting in. I take your point: you support the process of using charity status to encourage institutions to sign up. I'm extremely concerned about the deadline in June and those institutions that haven't signed up yet. But, also, what we're seeing are applicants naming institutions that weren't aware there was going to be a claim coming. For institutions that didn't know that there would be an application coming or that they were in scope, it's very difficult for them to apply. Have you then given any thought to how we handle that situation both beyond June for institutions that were named and haven't signed up, and particularly for those institutions that nobody is aware of or are even in scope? You can take it on notice if that's easier.

Ms Stouppos: Perhaps we can take that on notice.

Senator SIEWERT: Thank you. That would be very much appreciated.

Dr ALLEN: Thank you very much for this very illuminating level of evidence. I have a question for Ms Stouppos regarding the difference between the civil litigation approach and the redress scheme. There's been a line of questioning that we've had about why people haven't necessarily been taking up the redress scheme in numbers that might have been anticipated. There have been many arguments for, essentially, why that has been, including problems with the scheme or issues with people themselves choosing not to take that step. But you've been explaining to us that there is almost a two-stream economy when it comes to litigation versus redress and that the differentiation between the level of requirement for evidence or psychiatric assessment may be regarded as a deterrent to litigation, but this is not so for redress. The opportunity after going through the difficulties of reactivating what might be a very painful process can result in a larger envelope of redress from a financial point of view in civil litigation.

Firstly, I was wondering whether you could illuminate for us how you guide your clients with regard to one process versus the other. Secondly, has that changed over time? Sometimes when there are two systems people may flood one system, so to speak, and it then potentially becomes clogged up with a longer waiting list and taking more time, so then people move to another scheme. I was wondering whether you could give us some sort of understanding. When redress schemes first became available, was there an increase in people approaching the redress scheme, which then becomes a bottleneck, so there are fewer people accessing it, or was it that after the royal commission there was an overall increase in the litigation envelope, so to speak, so there's always been the same proportion of litigation and redress? Has it changed with time, potentially due to bottlenecks within one system or the other?

There are two questions there, and I realise it's a long-winded question, so the first one would be: could you explain to us the proportion going through litigation versus redress and whether that's changed over time? As the practice manager or leader, that's probably more appropriate for you, Ms Flynn. The other question might be better for Katrina and is: could you give us some guidance or some illumination about what at this point in time encourages a lawyer to suggest one line of approach versus another?

Ms Flynn: In terms of the changeover time, the National Redress Scheme has been an option since July 2018, and I think that, with the introduction of the scheme, a lot of people did apply for redress at that time when it was introduced. We then found that it was taking 12 months or more for people to receive offers of redress under that scheme. That really took us through to the middle of last year, where we started seeing offers come through for people and people seeking advice at that time as well. We obviously don't see everyone who applies for redress, so some people will and did apply for redress without seeking any legal advice. They just made their applications with the assistance of knowmore, which is some legal advice. But certainly they just had in their mind redress because of what they heard in terms of the scheme, the maximum amount and what was involved.

I think that, over time, that probably did drop off in terms of redress, and the people who are coming to us are often coming with an open mind. They've heard about the redress scheme, but they want to understand their legal rights and entitlements in terms of what option is best for them. I think what has changed a little bit over time is that when it was introduced people were a bit fixated on redress—that was what they were going to do—whereas what has happened over time, maybe because of the time that it's taking for redress offers to be made—I don't know exactly the reason, but people are coming to us not so much about the Redress Scheme but more about wanting to understand their legal rights and entitlements.
Our job as lawyers is to explain both. We explain the National Redress Scheme, the maximum amounts and how the matrix works in terms of what abuse they've suffered, what amount of redress they may be entitled to and what process is involved. We would then say: 'You can complete this document. You can go to knowmore, who will assist you. You won't be charged any legal fees through that process. This is what would be involved.' We show them the paperwork in terms of what's involved. We let them know that in our experience it's taking, on average, 12 months for a response and that they'll have six months to make a decision about the redress amount. Then we explain what's involved in a common law claim. Part of that is setting out that we would need to prove negligence on the part of the institution, and the risk involved in bringing a claim against an individual perpetrator. The client has to make the decision at that point in time as to what is best for them. In our experience, the amount of compensation that they may be entitled to, which is a lot more than the average amount of what they would be entitled to under the Redress Scheme, is often a motivating factor. However, we do have a number of people who will say: 'The process of a civil claim seems too much for me at the moment. I am going to go through the Redress Scheme.'

I don't know if that does answer the question at all. At the start, when the scheme was introduced, I think people wanted redress because it was what was being talked about—it was a new scheme that was introduced, and they were wanting to go down that path—whereas people that are coming to us now are coming to understand their rights and to be educated on what civil litigation looks like compared to redress.

Dr ALLEN: Thank you, Ms Flynn. That actually explains it really well. I suppose I personally wasn't quite aware that the envelope of people who are claiming is increasing and that people may choose one over the other based not just on how long it's taking but on what level of evidence is required and what amount they may be able to claim—the role that all of those factors together might play as to which scheme a person decides to move into. We've been asking the question in this inquiry about the uptake of the Redress Scheme. What you've said provides a better understanding. For me anyway, about why one may choose one scheme versus the other and that if we are to look at the uptake in the Redress Scheme we should really also look at common law claims as part of that—to see whether more people are taking up that option instead, perhaps because they've been provided more of an opportunity to think about it, following the royal commission.

Ms Flynn: Yes. That makes sense.

Dr ALLEN: Would Ms Stouppos like to add more of a case example, perhaps, to help us understand the details of why one would choose one over another and whether that has changed over time, since the introduction of the Redress Scheme?

Ms Stouppos: I think I probably can't add more than what Lisa has explained there.

Dr ALLEN: Okay. So it's just a combination of level of evidence, amount that can be claimed, potentially the time it might take and also how quickly they may wish to progress through one process versus another. I suppose the question following on from that would be: if the Redress Scheme were shorter in time, would that make a significant impact? Or do you think the other factors that may influence a decision would be more overwhelming than the time it takes?

Ms Flynn: I think the time it takes is one factor. In my mind it's an important factor, but it is only one factor. The key factors that I see are the time that it takes; what's involved, so what's asked of the survivor in terms of how many times they have to tell their story, whether they'll be cross-examined and that sort of thing; the amount of compensation that they're entitled to under both schemes; and also the strength of the case in terms of what other evidence would be available to support them, whether it would meet the standards of proof under a civil claims versus what's required under redress. They're the main factors. The turnaround time from application to offer is a factor. I think it's an important factor, but it's one of probably four key factors.

Dr ALLEN: Just to clarify: with litigation, if it settles out of court, what is the average time frame for that? Not for going to court, but to settle out of court. What is the time frame for settling out of court versus going to court?

Ms Flynn: In my experience it's around 12 to 18 months to resolve a claim without the need for going to trial, and it can be quicker. We've got cases that can resolve within that six- to 12-month period of time, but, on average, I would say 12 to 18 months to resolve a claim.

Dr ALLEN: So that's for out of court claims. If they go to court, what period of time would that be?

Ms Flynn: That may be an additional 12 months, or more. Sometimes it can be a lot more, depending on court availability, but we would try to get a matter to trial within two years of the commencement of the claim.
**Dr ALLEN:** Just to be clear: it sounds like the time frames are not too dissimilar, but the amount that is received or potentially could be received could be significantly different. The third thing would be the contestability, is that potentially one of the—

**Ms Flynn:** Yes.

**Dr ALLEN:** Litigation is likely to be cross-examined unless it's settled out of court, and the contestability of whether you are telling the truth or not is a higher level of concern. Would that be more of a distinctive factor, of people not wishing to go to that contestability step?

**Ms Flynn:** That's exactly right. The time frames are similar. The third factor is that of contestability—often survivors of abuse have had bad experiences with those in positions of authority and so going to court, being cross-examined, having to see a psychiatrist—all of those things are very difficult for a number of survivors. That is an important factor for many people.

**Dr ALLEN:** With the litigation, what aspect of it is publicly accessible versus a redress, which is presumably completely private?

**Ms Flynn:** In civil litigation court documents do form part of the public record; however, there are steps that can be taken to protect an individual's name so that it's suppressed or not made publicly available. But that certainly is a factor that people consider as well when they're making their determination and what we have to give advice on. So there are some protections for survivors of child abuse—their names can't be published, and it's harder to access them—but it is certainly more public once proceedings are commenced. However, it's not in every civil case that proceedings have to be commenced. It is very possible, and does happen, that cases can resolve without the need for proceedings to be commenced in court, which means that all of that information is kept confidential between the parties.

**Dr ALLEN:** Thank you. Ms Stouppos, your commentary about a survivor focused scheme is very welcomed. Your specific technical question was about claims management and engaging representatives, and the distinction between a legal nominee and an assistance nominee and that a legal nominee requires power-of-attorney documentation and is then not technically required to follow the guidance of the payment. Your comment, that if legal nominees didn't need to have power of attorney, they may be kept in better communication, was noted. The question in my mind is: can you see, technically, why a legal nominee could remain in communication with the state redress process or whether the power-of-attorney documentation has a distinction that is required? I'm a bit confused about it, I suppose. It seems a very simple thing to make sure that everyone who is a legal nominee or an assistance nominee stays within the communication envelope. I'm a bit confused about what you said.

**Ms Stouppos:** Our suggestion is simply that survivors have the choice of engaging a private legal representative in the same way they would with any other scheme, such as the Ombudsman or when making a claim to Comcare, for example—that someone engages their private lawyer and that lawyer is able to represent the person in any of their interactions with the scheme. At the moment, instead of having that—

**Dr ALLEN:** Sorry, just to shorten this: could the assistance nominee be a legal representative? That then short-circuits that requirement—

**Ms Stouppos:** That is what we are currently doing. Unfortunately, when we are acting as someone's assistance nominee, at some point we're being left out of the communication process. That's resulting in clients receiving sometimes traumatic, direct contact from the scheme, even though they've asked that all communications be made through their lawyer.

**Dr ALLEN:** I see. So, if there was some way we could ensure that all assistance nominees are required to be communicated with to assist their clients, that would be a way to solve that problem?

**Ms Stouppos:** Perhaps, yes, if all communications could be done through the assistance nominee.

**Dr ALLEN:** You're saying 'through' rather than 'as well as', which is a different situation?

**Ms Stouppos:** Yes. The main point of concern coming from our clients is receiving direct contact with the outcome of their application for redress. That call has not come through the nominee.

**Dr ALLEN:** I see. So they could ask for their assistance nominee to be contacted first but not to have power of attorney, as a form of buffer with regard to communication, because sometimes communication can be extremely distressing. Is that what you're suggesting?

**Ms Stouppos:** If that could be permitted, that would improve the experience for survivors, yes.

**Dr ALLEN:** Thank you for that clarification.
Dr WEBSTER: Thank you, Ms Flynn and Ms Stouppos, for your information, which has been very enlightening. Ms Claydon made the comment that there are a low number of applicants for the Redress Scheme and wondered how that could be mitigated, if it needed to be mitigated. I think you talked about improvement in communication of the Redress Scheme and also education about the Redress Scheme. I’m just wondering how it currently takes place, how communication of the Redress Scheme and the opportunities for victims of abuse are informed, and how it could be improved.

Ms Flynn: When the National Redress Scheme was initially introduced, there was a lot of media around it. There was training in communities; knowmore went out to regional communities and spoke to support groups for survivors in relation to it in the same way that they did during the royal commission—updating certain regional communities and going into prisons and educating the prison population about the royal commission and the Redress Scheme. I don’t believe that that education about people’s rights is continuing, so that would be one suggestion—the appropriate people going out to communities, sitting down with support services for survivors of abuse and reinforcing that this scheme does exist and what’s involved with the process.

That would be one suggestion or recommendation that could be engaged but, otherwise, in my experience it’s just ongoing sending out of information trying to reach as many people as possible. I don’t know, Katrina, if you’ve got any further ideas but it really is just communication with support groups and trying to get in touch with as many survivors as possible, which is difficult because they have suffered abuse in many different institutions all across Australia. I don’t underestimate how difficult it is to reach everyone, but I think we need more activity in terms of getting out into communities and letting people know about this scheme and the fact that it can assist survivors as well as letting medical practitioners know so that if they’ve got survivors coming and reporting what has happened to them, or they suspect it, that they can refer people to the scheme as well.

Dr WEBSTER: Ms Stouppos, did you have any further comments to make about that?

Ms Stouppos: I’ll just mention one particular group of survivors, military veterans, and an appropriate way of reaching out to those survivors of abuse. Acknowledging what Lisa’s just said, and the incredibly broad variety of institutions that may be involved, perhaps outside-the-box communication methods are needed to reach out to different people in different age groups and demographics.

Dr WEBSTER: I’m also wondering about what kind of—and I hate to use the word—marketing goes to professions such as psychologists, psychiatrists, mental health agencies so that they are informed and able to work with their clients. Do you think that there is enough being done on that score?

Ms Flynn: I don’t think there is enough being done. I think the more that can be done, particularly for that group of people, the more it would certainly help them understand that this is an option for them.

Dr WEBSTER: My second quick question—I hope it’s a quick one—is around the difference between redress, the process, and civil litigation. While clients may end up with a larger redress through civil litigation, I’m just wondering what the legal costs are for clients. Obviously, they’re going to vary—I assume they vary. Could you enlighten us as to how that all works?

Ms Flynn: Certainly when we provide client advice, we need to try and give them advice as best we can as to how much they would receive in their hand after payments such as refunds and legal fees are deducted. We always try and give people the best indication of what that is. Legal costs are assessed in accordance with the work that’s been done on them and with the general rules that the other side will pay a portion of those legal costs but certainly a smaller portion does come out of someone’s compensation. At all times that we give our clients advice we do try and indicate what those legal costs will be and what amount of compensation they would receive in the hand based on the evidence that we have at that time.

Dr WEBSTER: Excellent. Thank you very much—no further questions, Chair.

Senator MARIELLE SMITH: I want to come back to a point you made around when your clients seek an update from the scheme about their cases and their received pre-approved language in response. I just want you to talk about why that’s distressing for people accessing the scheme and what kind of approach you would like to see instead.

Ms Stouppos: People who are waiting on an outcome for their redress application—perhaps it’s been nine months; perhaps it’s been 12 months or more—are seeking substantive information about what’s happening with their application. What they need to know is that their application is being processed, if there’s anything further that needs to be done or what is happening next or, ideally, when they will have an outcome. When they’re seeking this sort of information, including when I’ve sought that on behalf of a survivor, the responses, ‘We’re doing the housekeeping,’ or ‘Progress is being made,’ don’t answer many of those questions and don’t provide any substantive information that assists the survivor. It certainly doesn’t provide a time frame. For example, if the
claims manager were to indicate what further housekeeping had been done since the time of the last call or what progress had been made since the last contact or what progress is yet to be made and will be done, perhaps that would assist.

Senator MARIELLE SMITH: Is this something you've raised with the agency or had any feedback on?

Ms Stoupos: Raised on a case-by-case basis, yes. My impression has been that claims managers are not permitted to share further information.

Senator MARIELLE SMITH: But I imagine there could be an in between, where there's a more personalised and careful response, which you'd be looking for, in this instance, your clients and yourself.

Ms Stoupos: Absolutely.

CHAIR: I thank you both very much for your very valuable evidence to the committee today. We have run over time a little bit, but the quality of the evidence and some of the issues that you've brought to our attention have been very valuable, so we thank you for that. If the committee has any further questions, they'll be put to you in writing and you will be sent a copy of the transcript of your evidence and will have an opportunity to request any corrections to transcription errors, if they arise. I thank, again, our representatives from Shine Lawyers. We are most appreciative.
BIGGS, Ms Jennifer Louise, Private capacity

Evidence was taken via teleconference—

[10:58]

CHAIR: Welcome to this public hearing via teleconference of the Joint Select Committee on Implementation of the National Redress Scheme. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and, therefore, has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The evidence given today will be recorded by Hansard and does attract parliamentary privilege. You're now invited to make a brief opening statement before we proceed to questions and discussion with other committee members.

Ms Biggs: Thank you. I was under DoCS care when I was a child. There was sexual abuse. I was an adopted child. My parents divorced when I was four. My mum had multiple different boyfriends and one of her boyfriends sexually abused me while I was under DoCS's care, in the home. I was removed from the home.

I ended up in a refuge—many refuges—as a kid and then I went to a teenage refuge. We all went out one night to the club and I was gang raped in a car. I was about 15 or 16. I've had to live with this for most of my life. I told my children about it because I have two girls and I needed to keep them safe within themselves. At the time, my daughter was 15 and she said to me, 'Mum, I think you should make a claim through the Redress Scheme.' I had to think about it. I had to do it to show her that it wasn't acceptable: that she was right and to show her that you don't stand for that sort of behaviour. I'm very grateful to her for saying it and, as much as it's been really painful, I needed to show her that women deserve better, and I think I have.

Since I was on the Redress Scheme, I had a great lawyer at the start. Then I had a phone call—I tried ringing my lawyer over the Christmas period and then I had a phone call stating that I had a new lawyer, which I was really, really upset about, because I was told that was going to be my lawyer through the scheme. To open up and tell my story again was really uncomfortable. Since I've been on the scheme I've had a fantastic caseworker through Human Services. I really connected with her, and then earlier this year I tried contacting her for two weeks. On the third week I had a call from my new case manager, telling me that Beth had gone. I was really heartbroken about that. When you make a connection with someone, it just seems right. I wasn't very happy with this lady and then I spoke to a counsellor about it. I told her I needed to ring back and apologise because it actually wasn't her fault. I rang her back and she said that, no, I was right, and I had every right not to be happy about it.

I was thinking about how this was affecting not just myself but other people in the Redress Scheme. She told me that when she got off the phone she actually went to her case manager and said that Jennifer was right with regard to the changes and the victims not being thought about. There is the damage that actually leaves you with and how you feel empty again, and then you have to open up to somebody else.

That's it so far—is that okay?

CHAIR: That's very, very informative. Please continue if you're comfortable in continuing to share your experience.

Ms Biggs: I guess that my experience, with the change of the lawyer and then changing the human resources caseworker, made me feel absolutely worthless. I was hurt, but I was more angry because I myself today can say that I have a loving family—a very open and loving family. I have a very supportive partner and my girls are very supportive. But not everybody has that. It took a lot for me to have what I have today and I love what I have. But there are a lot of people out there that are on their own and that's who I really feel for. For them to get this call saying that their solicitor had changed or their case manager had changed—I didn't just have one of those; I had both of those changes—is not acceptable. These people are in pain. I wasn't spoken to about going through other channels bar this one. My lawyer didn't really push for that and probably in some respect I'm grateful because at that time I thought, 'I only need to tell my story to her,' and then when my caseworker came along. But now I've had to tell my story to four people and now you guys.

CHAIR: When you think about your experience, what advice would you give to others that are contemplating using the Redress Scheme?

Ms Biggs: I would say to them: really think about it. Maybe if I'd done a civil suit it might've been totally different. I wasn't just a victim once; I was a victim twice. But really I feel like I was a victim a lot more since all this has been going on. I would say to them: surround yourself with people that you know have your back. Talk about how you're feeling and don't bottle it up, because I dare say ripping that bandaid off you've got that infested

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wound of the past just sitting there, and you're feeling like you're just another number, that you're worthless. So you need to surround yourself with good people. I think that the solicitors and caseworkers need to have your back a little bit more and communicate. That's what I've said to my solicitor and my caseworker: 'I need you guys to communicate because we have trust issues as it is.'

**CHAIR:** Because of the distress that comes from survivors having to retell their story to new people, do you have any ideas about a better way to capture a survivor's story or their experience but without them having to repeat it every time they're going through the system? Do you have any ideas?

**Ms Biggs:** Yes, I have. I think it should be the solicitor having that person's back. You shouldn't be having changes of solicitors. I understand things change. I get that 100 per cent. But having the change of your solicitor or your caseworker is the pinnacle part. I think someone needs to have your back all the way through this because you shouldn't have to be retelling your story all along.

**CHAIR:** Thank you very much. Ms Claydon, do you have any questions?

**Ms CLAYDON:** Thank you, Ms Biggs, for sharing your experiences with us today. That's really very helpful. What do you think a more proactive communication with survivors might look like? You made the very strong point that the change in solicitors and caseworkers was problematic at the very least, and perhaps retraumatising. You've said to both your new solicitor and your new case manager that you need them to communicate more. From your perspective and your experience what might a more proactive communication with survivors look like for the Redress Scheme?

**Ms Biggs:** My solicitor knows that if there's been any communication through what's happening that they need to communicate with me and let me know, because it's the not communicating and not hearing from them—you don't know what's going on. I've said the same thing to my case manager. I've said to her, even though I don't feel warm to her, that she needs to communicate with me. I'm in the process of moving house at the moment and with all this corona and that going on I've said to her, 'Don't send me anything through mail at the moment.' I think that they really need to check in with the victims a little bit more than what they actually are. I understand that there is a backload of victims applying, but I just feel that somebody—even if it's someone through the law firm or through the case manager's firm—needs to communicate with these people.

The place where I was sexually abused, through the refuge where I was, hasn't joined the scheme and we couldn't find the names of who their sisterhood was. We could find newspaper articles about them, but some of these institutions have not been easy to find. The paper trail is not like it is today. Back in the eighties they didn't keep the papers. Everything is electronic today, whereas from back then a lot of paperwork has gone missing or particular paperwork is not there.

**Ms CLAYDON:** Thank you. Again, it sounds to me as though you have been the one who has been proactive in advising your solicitor and—

**Ms Biggs:** Yes.

**Ms CLAYDON:** case manager about the form of communication that you want and the means by which it happens. It is really distressing, because we have taken evidence from the department saying that that was changing and that case managers were actively reaching out and doing this. So we need to do some follow-up on that front. If you have any further thoughts at any point about what you think would work best for you in terms of your communications with the solicitor and case manager then by all means reach out to us at the secretariat at any time. We're happy to take additional information and evidence on that.

I'll just go to your last comment, about the struggle you've had in trying to locate papers and documents, and whether the home in which you were abused hasn't yet joined up to the scheme. Can I just clarify something? You have lodged an application for the Redress Scheme.

**Ms Biggs:** Yes.

**Ms CLAYDON:** Have all the institutions named in your application currently joined, or are you still waiting?

**Ms Biggs:** I think there is a question mark around the refuge. We know the name of the refuge, but we don't know who the actual organisation was. I took the case manager there through Google maps. We walked from Stanmore station and I could visualise where I was walking. I gave her the address, the number and all of that.

I also have sat up really late at night trying to Google all of this information, and that's where I've come up with newspaper clippings about it. It was me who actually found all that. Then I would relay that to my caseworker and also to my solicitor.

**Ms CLAYDON:** Okay, so that burden has very much been on you in trying to locate those and any documentary evidence.
Ms Biggs: Yes.

Ms CLAYDON: When you have asked for your case manager to respect certain kinds of communication now—and you gave the example that you are currently moving house and so, obviously, getting written communications is not appropriate—is that being followed? Do you have a level of trust that that is going to be taken on board?

Ms Biggs: I don't. But in the same breath, I do feel like because I've jumped up and down and said, 'This isn't acceptable,' that they're going to try to respect that. But, by the same token, DoCS had 21 days—I guess it was FACS back then—to get back to my caseworker with information. I rang her the other week, and she said, 'Yes, they've replied,' but I haven't heard what they replied with. So that's now on my mind, and that's been two or three weeks. So you think, 'What's going on?' You don't know whether you've got the information that they were asking for or not. It's just a big black hole—it really is.

Ms CLAYDON: Would it be helpful, in your mind—and maybe you just want to think about this. Some people like their communication in writing, whether it's email or snail mail, while others prefer to have telephone conversations. Do you think the scheme should have that level of flexibility where survivors can actually note their preferred method of contact—

Ms Biggs: Yes.

Ms CLAYDON: and how regularly that should happen?

Ms Biggs: Yes.

Ms CLAYDON: Would you like to see that?

Ms Biggs: Yes. I think there needs to be more communication, but the problem is they don't do anything by email. It's all by either phone or paper mail correspondence. Nothing is on the computer.

Ms CLAYDON: Okay. Were you given a reason why you can't shoot an email to your case manager?

Ms Biggs: No. That's how it has always been. I'm blanked about that because we're in 2020.

Ms CLAYDON: Indeed. That is something else we'll need to pursue with the department.

Ms Biggs: One other thing: they did ask me to see a counsellor. I've actually spoken a few more times with my lawyer's counsellor. They've got a counsellor at the lawyers. She said to me, 'We want you to see this counsellor,' and I said: 'Why would I do that? So she can listen to my story and then she's gone in a couple of months or a year? Why would I want to open myself up to another human being with regard to this when I feel like it's all going to be taken away from me again?'

Ms CLAYDON: Since you've raised that, counselling and psychological support services are available under the Redress Scheme.

Ms Biggs: That's correct.

Ms CLAYDON: Is that something that you think you've had enough information about and enough access to? There's been a concern that in many ways it just happens once your determination is made. What kind of support are you getting through this early part of the application process? You haven't got a determination yet, so what kind of support in terms of counselling and/or psychological support services are you receiving to assist you with the process of actually getting—

Ms Biggs: I think it's been very poor. They do ask you at first. There's a counselling service there if you want it, but then—

Ms CLAYDON: Is that the Redress Scheme?

Ms Biggs: Yes, that's correct. But then it sort of doesn't really get talked about. It was only because I was so emotionally upset when I found out that my lawyer had gone and when my case manager went that they said: 'I think you should see someone. Do you want to see somebody?' And that's when I said: 'Why would I want to do that? So they can be taken off me again?'

I will give credit to my new case manager. She really did go to her manager and tell them how I was so upset and that it wasn't acceptable. I also apologised to her profusely because I did go off at her, and she said, 'No, it's not your fault.' So I have tried to be respectful, but, at the same time, it's just like a mixed bag of lollies; it's so emotional.

Ms CLAYDON: Sure. My final question: if you already had an existing relationship with a counsellor or someone providing psychological services, would you have been able to retain that relationship rather than be referred across to somebody new that you would have to tell your story to again through the Redress Scheme's referral process? Were you given an option? I don't know if you had somebody—
Ms Biggs: That's a good question. No, I wasn't, but, if I was seeing somebody, I think that would have been less stress. They say: 'This is Paris in Goulbourn. This is her phone number. Give her a call.' That's it.

Ms CLAYDON: Your evidence has been extremely helpful, and I really appreciate you taking the time to share it with all of us today.

Senator SIEWERT: I'll be quick because Ms Claydon covered most of the areas I want to cover. Ms Biggs, thank you for your evidence this morning. It's very informative. We have just talked about counselling. Are there other things, in terms of support and help to get through the process, that you consider should have been offered?

Ms Biggs: Most definitely, now that I've thought about it. I think there could be help at the start with even filling out the application form. You speak to your solicitor on the phone. Yes, they're doing stuff when you're speaking to them, but not everybody has support. I think they should have someone like a counsellor to do the application form with or something like that so that way they know that they're in a safe place.

Senator SIEWERT: Do you mean in terms of understanding the process and application form?

Ms Biggs: Yes.

Senator SIEWERT: So that then stops the back and forth with the lawyers and the department if it has been filled out correctly—

Ms Biggs: Yes.

Senator SIEWERT: So right from the very start—

Ms Biggs: They need support.

Senator SIEWERT: You would signal that you want to be involved in the process and then access the support from that moment.

Ms Biggs: Yes, 100 per cent.

Senator SIEWERT: If you've been offered, for example, the counselling at that point you could have built up a trusting relationship and—

Ms Biggs: Yes, 100 per cent.

Senator SIEWERT: Thank you very much for your time today. It's extremely appreciated.

Ms Biggs: Thank you.

CHAIR: Are there any other questions from committee members? There being none, I thank you very much for your time today and for giving evidence. We are very appreciative. If the committee does have any further questions, they will be put to you in writing. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to transcription errors. Again we thank you very much for your evidence and your consideration of these matters today. Thank you very much.

Ms Biggs: Thank you, committee and chairperson.
MORRISON, Dr Andrew, RFD SC, Spokesperson, Australian Lawyers Alliance

Evidence was taken via teleconference—

[11:23]

CHAIR: Welcome, Dr Morrison. Do you have any comments to make on the capacity in which you are appearing today?

Dr Morrison: I am the spokesperson for the Australian Lawyers Alliance in relation to matters arising out of the royal commission into institutional abuse.

CHAIR: Although the committee does not require you to attend evidence under oath, I advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed to questions and discussions from my colleagues.

Dr Morrison: Thank you. Good morning, ladies and gentlemen. Could I first say that my expertise, to such an extent that it exists, comes from experience in a couple of cases—running Lepore in the High Court in 2003 in respect of the carer's liability for sexual abuse and in respect of the Ellis case, in which I was Senior Council back in 2007. The matters of which the Australian Lawyers Alliance is particularly concerned relate primarily to the structure of the Redress Scheme. The way it operates is a matter on which we can say very little, because lawyers are, to pretty fair extent, excluded. But the structure of the Redress Scheme gives us some very real concerns.

First of all, the amount of compensation is so inadequate that it must inevitably drive more people to go to common law for compensation. The Irish scheme started at about 300,000 euros and could be increased in particular cases. The royal commission recommended $200,000 as the starting point, and that was reduced by the agreement between the Commonwealth and the states and territories to $150,000. That alone was a concern, but it was made far worse by the design of the Redress Scheme.

What was done was to say that the method of awarding the compensation depends not upon the degree of injury but upon the method of abuse, and that is bizarre. No reputable lawyer or doctor would design a scheme like that. Some people who have experienced relatively minor abuse—in the sense of non-penetrative abuse—may have been catastrophically injured. Others who have been raped on multiple occasions are capable of getting over it to a pretty fair degree. The test should not be whether or not a person is penetrated in order for the maximum amount to be available, let alone the fact that half of the money depends upon whether or not the abuse involved penetration. That is, frankly, bizarre, irrational and illogical, and it damages the Redress Scheme's value enormously.

There are some other matters which are of concern as well. The fact that the Redress Scheme does not extend to those who were sexually abused in immigration detention—a Commonwealth responsibility—is a matter of very grave concern to us as well. That also seems to us to be totally inappropriate. To those who were abused as children on Manus Island, and Nauru in particular, the Redress Scheme should extend to them. One would have thought that the Commonwealth owes them a non-delegable duty of care. In those circumstances, for the Commonwealth to be avoiding involving those individuals in the Redress Scheme, it seems to us to be utterly inappropriate. I say that not because we as lawyers have an interest in the outcome—the Redress Scheme is taking work away from us—but because we want it to work and reduce the number of people who have to go through the trauma of the courts. We think that's the appropriate and best outcome for many of the victims. That's very much where we're coming from in this matter.

Ms CLAYDON: Thank you, Dr Morrison, for agreeing to present evidence to our committee again. I believe you gave us evidence during the last parliament. Is that correct?

Dr Morrison: That's correct.

Ms CLAYDON: I wanted to touch base now. We're 19 months down the track since the introduction of the Redress Scheme. You'd be aware that there's a legislative requirement for a review of the operation of the scheme to be undertaken by the end of June, three months away. Are the structural components of the scheme, which you've raised in both your submission and the oral evidence today, still the primary focus that you would like to draw the government's attention to at the moment—these issues around the inadequacy of the amount of compensation there and the fact that the scheme has actually not gone with the spirit of the royal commission recommendations, instead focusing on the type of abuse rather than, as you mention, the degree of injury that is
caused? Are these the most important issues that you would like to see examined as part of the legislative review of the Redress Scheme?

**Dr Morrison:** Very much so. We don't have much practical experience in relation to the day-to-day running of the Redress Scheme. We certainly have some early concerns about the slowness of responses and the fact that the ability to review is extremely limited. But, in respect of the day-to-day running of the scheme, there are others who are far more expert and would be more helpful. It's the structural issues which are of prime concern to us. In addition to the ones you've mentioned, there is the institutional abuse which has occurred in immigration detention, which the Commonwealth would be taking responsible for. The Redress Scheme should extend to those individuals as well.

**Ms CLAYDON:** Thank you. There are still some 295 non-government institutions that have not yet joined the Redress Scheme, and that is causing additional trauma, obviously, for those survivors awaiting outcomes when the institutions in which the abuse took place are not participants in the scheme. There have been some proposals, and this committee's predecessor in the last parliament made recommendations around stripping of charitable status and tax concessions that could be removed. Do you have a view, from the Australian Lawyers Alliance perspective, as to responses that government might make, with less than three months to go before the deadline, to encourage these 295 organisations—and maybe more—to join the scheme?

**Dr Morrison:** I think, indeed, it was the suggestion I made on the last occasion, which the committee adopted in its report, to remove charitable status from any institution which chose not to join the Redress Scheme. It seems to me that that is the one thing which is likely to be effective. Some of these organisations are clearly trying to avoid responsibility. It's curious to me that they would do so, because the institutions which have looked at it carefully, like the Catholic Church, have concluded that the scheme is vastly cheaper for them overall than being vulnerable to common-law liability. So it's not in the interests of these institutions themselves, but they are not seeing it that way. I think the threat to their charitable status would be the one thing that might well be effective, and I would like to see them given a date by which they would have to have joined the scheme or lose their charitable status and become liable for tax. I think they would suddenly join up.

**Ms CLAYDON:** Should that date be 30 June, given that that has been the date on the table for the last two years? For those that were named through the royal commission, this is now seven years down the track since they were first alerted to the possibility of a redress scheme happening, and 19 months ago one in fact was created. Is 30 June, which is the date that we've been operating with for some time now, a reasonable cut-off deadline?

**Dr Morrison:** Very much so. I would have thought that would be the proper and appropriate deadline in all the circumstances. They've had plenty of warning and, clearly, many of them just don't intend to get involved in the scheme. Why should they retain their charitable status and avoid any tax responsibilities and circumstances where their major social responsibility is being avoided in the first place as the social responsibility which gives rise to their charitable status?

**Ms CLAYDON:** I will ask this question so that others have an opportunity to ask other questions. It's around your observation about the decision to lower the cap to $150,000 in the amount of compassion payment available to survivors. You mentioned that that was a concern in and of itself, to waver from the royal commission's recommendation of $200,000 and go down to $150,000. Do you think this is making it worse? Are you seeing it as a driver for survivors to go down the civil litigation path rather than the Redress Scheme? Could you just speak to us a little more about that and what you see as the implications of pushing survivors through the civil pathway as opposed to the National Redress Scheme?

**Dr Morrison:** I've got a number of cases myself where the Redress Scheme doesn't apply. These are about sexual and physical abuse in foster care in New South Wales. Because it's not institutional abuse the Redress Scheme doesn't come in, but I am aware from those who I've worked with in regard to those put into institutions in New South Wales that, in general, the Redress Scheme hasn't been used because the common law compensation has been far more adequate and appropriate. Those who are acting for abuse victims—and there are a large number of them—have done very much better out of going to law than they would have if they'd used the Redress Scheme.

The same applies over in Western Australia, in particular with regard to the Christian Brothers. Very few of those, as I understand it, are going to Redress Scheme. Very large numbers are going to common law, because even under the relatively low common law compensation in Western Australia they're still vastly better off in terms of their rights of recovery at common law than they are under the Redress Scheme. So, yes, there is pretty good evidence that the dropping from $200,000, which we thought was inadequate anyway, to $150,000—and then dropping that again by 50 per cent if the abuse wasn't penetrative—has meant that a large number of cases
are going to law which could have been resolved with a great deal less cost, stress and time if the Redress Scheme had been more adequate.

**Ms CLAYDON:** I'm really interested in what you see are those costs from the survivors' point of view. Yes, there's a time cost. In your view, what are the other benefits if we had a redress scheme that did provide more adequate forms of financial compensation and which was not fixed into this framework of having to privilege penetrative abuse above all other forms of abuse and not perhaps first giving consideration to the injury caused rather than the type of abuse? What would the benefits for survivors be to go through the Redress Scheme rather than having to pursue a common law case?

**Dr Morrison:** There a couple of things. One is that the Redress Scheme sets a lower test for recovery. You only have to put up a reasonable version of events to be entitled under the Redress Scheme. You don't have to have that degree of proof which we would require at common law. The difference isn't very great, but it does take some of the pressure off victims. They don't have to give sworn evidence in court. They don't have to undergo cross-examination. They don't have to risk liability for very large sums in costs if they fail. Bear in mind that, in general, victims have little in the way of assets, and legal aid is largely non-existent for most Australians in civil matters, unfortunately. They have to be funded, effectively, by solicitors doing it on a no-win no-pay basis. But they're at risk if there's an adverse-costs order. The delay, their trauma, the stress—these cases take years.

The last case I ran, to the High Court, was a case called TB and DC v State of New South Wales. I was involved in that case for just over 10 years, and my junior was involved for even a year longer than that. That's an awfully long time. There were three first-instance hearings, two Court of Appeal hearings and then finally the High Court, spread out over 10 years. How much trauma does that cause to abuse victims. In that case they were suing the state of New South Wales for a departmental failure to report abuse victims to the police in respect of someone who was already out on bail for abusing another victim. The finding was that he would have been picked up by police had the complaint been made, but it was not made.

The degree of trauma to victims and the number of victims who are prepared to go through the stress and strain of common law proceedings—that's a matter of real concern, and it's indeed why there is virtue in the Redress Scheme. It may not be in the lawyers' interest, but the Australian Lawyers Alliance is much more concerned that the victims get some reasonable compensation and get it quickly, cheaply and with as little stress as possible.

**Ms CLAYDON:** It does seem to be a real failing of the Redress Scheme if it is not distilling the purpose of the original design and intent to be a survivor-focused, much quicker and less traumatic experience for survivors to go through. As your evidence has pointed out, there are going to be some people who are not eligible for redress, but equally there are going to be some people who are not going to get adequate justice through common law and who need the Redress Scheme to be in place and working efficiently. Is it your view that without remedies in place, in terms of the amount of compensation, the way that we're judging injury of abuse and all these issues that you've raised this morning, the Redress Scheme is actually failing to achieve its original intent?

**Dr Morrison:** It's certainly failing in part. It would be unfair to say that it's failing totally. It's not, obviously. There are some victims who are getting sums which at least give them some satisfaction. There's often an apology accompanying it. Those things are important. But the scheme could be a lot better, do a lot better and reduce trauma for the very large number of victims who, at the moment, are having to consider common law proceedings because the Redress Scheme offers them so little, particularly given that any previous, pitiful amounts of compensation are deducted, and not just as the amount paid at the time but at a rate which is increased over the years by calculation. It might have been the usual $15,000 or $20,000 or $30,000 under Towards Healing or the Melbourne Response, but that could be now a deduction of $50,000 and that makes even the Redress Scheme amounts available seem quite pitiful.

**Ms CLAYDON:** Yes, and this is the issue of the way the indexation is working for the past payments—

**Dr Morrison:** Indeed. And one indication of this—and you would be aware of this, I think, as a committee—is that although the royal commission did not recommend it, four of the six states so far have provided for the setting aside of settlements so that people can renew their common law rights on the basis that settlements were entered into at a time when limitation period difficulties and the difficulties of finding someone to sue were such that people settled for pitifully small sums. At this stage, every state but New South Wales, which has an inquiry into that issue, and South Australia—all of the other states have made provision in slightly differing legislation to set aside settlements.

My understanding, from those I speak to over in Western Australia, is the number of applications being dealt with by the Chief Judge of the District Court, where personal injury cases are almost all heard, is very large indeed. He's got a waiting list of applications about 12 months long to set aside judgement, and these are consent
judgments—that is, consent for setting aside—so you can see there's going to be a large amount of civil litigation, particularly by a lot of the child migrant victims against the Christian Brothers over in Western Australia.

Senator SIEWERT: I want to go to this civil litigation issue that you've just been discussing and ask: in terms of the experience of alliance members to date, what proportion of people would you say are going down the civil litigation road versus redress?

Dr Morrison: I think it's impossible to give you any sort of accurate answer to that other than to say that many more are going down the common law litigious process than would be the case if the Redress Scheme was more adequate. I can't put figures on it; all I can indicate is that I'm certainly aware of a fair amount of litigation.

It also varies enormously around the country. The committee will probably be aware that the archbishops of Melbourne and Sydney made an announcement that they wouldn't be taking the Ellis defence; they would be providing someone to sue and they would be compensating victims appropriately. The Bishop of Ballarat apparently forgot that he had agreed to that and has put on defences in a large number of cases, essentially taking the Ellis point about the church not being responsible for its priests. On the other hand you've got the Diocese of Maitland-Newcastle where very large sums of money have been paid out to the hundreds of victims there and where the bishop has behaved in an exemplary fashion. It's enormously variable around the country. And it's not just religious institutions; other institutions are also very variable as well. I can't do more than say that in our experience more people are going to litigation than should have to, and in quite large numbers, but there's no way we can put figures on it.

Senator SIEWERT: Thank you. That gives us an idea about what's going on. Can I ask around the issue of institutions. You made the point about taking their charity status. We're getting closer and closer to the time when that decision is going to have to be made. One of the other issues that I've got strong concerns about and I've been asking about is for those institutions that are yet to be identified in applicants. I don't know if you've seen or heard the evidence that we've been getting from the department that shows that we have asked a high number of applicants where the institution has only just been identified through those applications. Given the flow of applications coming in compared to what was considered at the time—it was considered, when the legislation was being debated and developed, that most of the applications would come in fairly early. That's not happening. What do you think we should be doing in the case that institutions are now being identified and are likely to continue to be identified after the cut-off date? What should we be doing about a fix to enable those institutions subsequently identified to join the scheme?

Dr Morrison: I think the life of the scheme needs to be extended, and extended significantly.

Senator SIEWERT: The life of the scheme or the cut-off date?

Dr Morrison: Both.

Senator SIEWERT: Have you considered that or made any representations to government about it?

Dr Morrison: No. This really, in a sense, has been our first opportunity to do so.

Senator SIEWERT: Outside of the committee processes, you haven't raised it with government?

Dr Morrison: No.

Senator SIEWERT: In terms of the timing of the application process, we've had evidence that the process is still taking too long. We've had evidence from the department that they've been trying to fix up the process. What's your experience of the timing of the handling of applications in terms of getting them resolved?

Dr Morrison: That's where it really is outside of my experience. My experience is in the running of Commonwealth cases. My knowledge of the Redress Scheme is structural rather than in the day-to-day implementation. I would defer to others in respect of that.

Senator SIEWERT: As you know, there's a two-year review process. What do you think the key things are in the review process that will be set up in the near future to meet the two-year deadline? What are the key things, in terms of the issues, that you think are essential to be part of that review process? Also, what would a good review look like?

Dr Morrison: A good review would consider the method by which the amount of money is to be determined so that there were clear and appropriate criteria openly disclosed to applicants, but criteria which medically and in terms of the damage done had a clear relationship, not some arbitrary scheme laid down by someone who—heaven knows who created it, but something which no lawyer or doctor would ever have come up with. The lack of relationship between the amount to be paid and the amount of damage done is a very great concern. That's one thing we would like to see. We would certainly like to see it extended to children in immigration detention. We
think that's a matter of simple justice and the Commonwealth should accept its responsibility. And, as has already been mentioned, we would like to see an extension of the period for applications and an extension of the length of the scheme in the circumstances where it's much slower to come into effect than originally had been hoped. The other matter, of course, is the charitable status of those choosing not to join the scheme—we think that's a no-brainer.

Senator SIEWERT: That seems to me to be one issue that needs to be dealt with before the review, with the current institutions, at least.

Dr Morrison: Yes.

Senator SIEWERT: Can I quickly go to the prioritisation process. I did hear you say that you'd mainly been involved in the common-law side of things, but have any of your colleagues seen an improvement in the process since the prioritisation process was put in place?

Dr Morrison: I haven't had any direct experience with those who've been involved in that area. To a very large extent, it's lawyer free, so we are not directly involved. In my discussions with ALA members, I certainly haven't heard of any significant experience with the Redress Scheme which would be of assistance to the committee, I'm afraid.

Senator SIEWERT: Okay. Thank you.

Chair: Are there any other questions from committee members? Senator Smith, do you have a question?

Senator MARIELLE SMITH: No questions from me, thank you.

Chair: Okay. Dr Allen and Dr Webster, do you have any questions?

Dr ALLEN: No, thank you.

Dr WEBSTER: No, thank you.

Chair: Dr Morrison, thank you very much for making your time available to us today. If the committee has any further questions they will be put to you in writing. You will be sent a copy of the transcript of your evidence and will have an opportunity to request any corrections to transcription errors, if required. Again, we thank you for your contribution today.

Dr Morrison: Thank you.
Evidence was taken via teleconference—

[11:57]

CHAIR: Thank you very much for making your time available to us today. Do you have any comments to make on the capacity in which you appear before the committee?

Mr O'Toole: I appear as a survivor of childhood sexual abuse in Newcastle as a student of Hamilton Marist Brothers and, also, as the co-founder and chairperson of the Clergy Abuse Network in the Newcastle, Hunter and Manning districts.

CHAIR: Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament, and, therefore, has the same standing as the proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and does attract parliamentary privilege. You are now invited to make a brief opening statement, and then we'll proceed to questions and discussion with other committee members. Would you like to make an opening statement, Mr O'Toole?

Mr O'Toole: Yes, sure. Just by way of explanation, the Clergy Abuse Network, CAN, offers support to adult survivors of childhood sexual abuse, in a religious context, throughout Newcastle, Hunter and Manning. It's not aligned to any religious institution and it's not gender specific. CAN has 76 members and about 40 secondary survivors—family members—and those people have been directly impacted by child sexual abuse. We also have 40 other what we call supplementary supporters—members of families or people once removed from families who are affected by this plague.

I've been asked about the outcome from the previous exercise similar to today's and I've not been able to satisfactorily answer those questions. I am a little concerned that this committee is covering old ground and that the composition of it has lost continuity. I notice that there are only three members of the previous committee still serving. I have little knowledge of the report provided by the previous committee 12 months ago. I'm aware of the 29 recommendations that were made and that many survivors are not aware of the recommendations. We don't know the outcome or whether parliament even considered them.

In Newcastle the initial presentations really focused on three principal issues. The first issue was the totally inappropriate matrix for assessing claims. It is absurd to determine an entitlement to redress based on a physical description of the abuse. Survivors are impacted by similar abuses to varying degrees. I know that a recommendation was made to the effect that this was the case, and we asked the committee to abolish the current matrix and, in consultation, develop a fair and reasonable replacement.

The second issue is the level of financial redress. Parliament ignored the recommendation of the royal commission and reduced the maximum payment from $200,000 to $150,000. I note that that was supported by recommendation No. 14, I think, from the previous report. We're asking that the committee reinforce that recommendation and revisit the settlements previously awarded, of course.

The publication of statistics—I'm not sure what recommendation that was—has certainly taken place. We see that from 3 January the average settlement of the claims settled was $81,184, but from over 6,000 applications there are only 1,112 settled.

I believe the third issue is the intrusive nature of the National Redress Scheme application form and the retraumatising impact it has had on survivors. I'm unaware that that problem was addressed.

Finally, I sent out an email to all our people and asked them for input into this submission. I've got a note here on recommendation 1—'do no further harm', I think recommendation 1 was. Many expressed concerns about the delay, and I'd like to quote from a couple of people who really adequately cover all the comments which I received. The first one is from a lady: 'I have concern about the time that the Redress Scheme is taking to be up and running effectively. Whilst the scheme is being examined and made functional, the victims are waiting again. Besides the obvious issue of a victim waiting for justice—and the royal commission made much of the length of time it takes for victims to disclose—there is another consideration: victims need to keep details of their abuse in their conscious minds so that they can be measured for damage. It is cruel, contrary to the spirit of the royal commission and stymies recovery, and we believe it is contrary to recommendation 1.'

Another one is from a gentlemen who said: 'The introduction of the scheme sounded very good, but the length of time it is taking is not acceptable. I realise that some of the institutions have been late to sign up and some still haven't, but, for those who are waiting and where the institutions are involved, the time taken to process applications appears inordinately long.' I've got one report of an application being lodged some months ago where
they're the notes I've taken from the people I am in contact with. As I said, Sharon Claydon provided me with a copy of the document when it was submitted to the parliament on 2 April last year. I'm not quite sure of the outcome of the recommendations, other than the fact that there have been statistics published. As for the other recommendations, I'm not sure where they're at. That's it from me.

CHAIR: Thank you very much. We appreciate that, Mr O'Toole. Ms Claydon, would you like to begin with some questions?

Ms CLAYDON: Thank you, and thank you, Mr O'Toole, for presenting again to this committee. I certainly have noted your concern that the committee process would appear, for many survivors, to be going over familiar ground that the last parliament tried to deal with. I might start with your questions around where things are at, with regard to the recommendations that this committee made, in its previous life, in the last parliament. You're right, there was a report tabled in the parliament in April of last year. That's the copy of the recommendations I forwarded to you at the time. It made 29 recommendations.

The government, quite a number of months later—I think it was in February of this year—brought down a response to those 29 recommendations. The government, essentially, has agreed with 11 of the recommendations. They supported, in principle, three recommendations and they have noted 15 of the remaining recommendations. It's not a rejection of any of the recommendations but, certainly, there are a number of those 15 that have been noted that will require a very substantial amount of work. I cannot answer to you today whether that work has started or not.

That's a very brief summary, without going into each of the 29, but I do take your point. All the people who gave evidence, at the very minimum, to this committee last parliament really should receive an update about not just the 29 recommendations we made last time but, now, the government response to those recommendations. So I will take that up with the secretariat—

Mr O'Toole: Have they been published?

Ms CLAYDON: Yes, I believe they would be on the website, but I might check with the secretariat that I'm not misleading you on that front. The chair might be able to give us some advice in a little while.

Mr O'Toole: I might just inform the Senate committee that CAN is really a local organisation, and we have certainly enough work to do just focusing on supporting the local people. I'm not terribly on top of all—

Ms CLAYDON: That's fair enough.

Mr O'Toole: I think I might have explained that to you before. But I do take an interest and have done a little bit of reading, over the last few days, to bring myself up to speed. It would be good if we could get what the government's responses are to the recommendations from the original report.

Ms CLAYDON: Yes. The secretariat have confirmed that it is publicly available, and we will be sending you a link to those government responses so that you can circulate those to your members as well. Certainly, if anyone is having difficulties accessing them, just contact me or the secretariat and we'll make sure that you get that.

That's just a little update, where things are at now. One of the differences between the last committee and this one is that we are getting a lot closer to the 30 June deadline for institutions to join the scheme, but also there is a legislative requirement now for a review of the National Redress Scheme, and that review has to start by the end of June this year. As for those issues that you have raised with us, your concerns remain about the inappropriate nature of the matrix; the capping of the Redress Scheme, lowering it to $150,000; and the intrusive nature of the application form—but, increasingly, the evidence we are hearing is that it's not just the form anymore; there are actually elements of the process more generally that are re-traumatising.

Mr O'Toole: Yes, I have heard that as well, from other people—that they're seeking assistance from psychologists and so on to complete forms and stuff.

Ms CLAYDON: Yes. So my question now, in view of this new element, the review of the operation of the scheme, which is a legislative requirement—it has to be done; that was part of the arrangement two years ago—are those still the most urgent issues that you think the legislative review should deal with immediately? Are they your priorities—the matrix and so on?

Mr O'Toole: They're the ones that are commonly brought to my attention, yes. A lot of the other recommendations—the people who were abused, the victims-survivors, don't look at the finer detail of these things; they look at the things that affect them the most. If I canvass them, I know the things they're going to tell...
ally, but it seems to me that there's more focus now on - outside of the committee process with the previous select: translating you don't have an avenue. Please utilise that. I'm going to leave further questions for others.

They're issues that we have in fact traversed before, but there's been a lot of focus on the fact that people are commenting that the Redress Scheme is too - guaranteed contact. In that respect, it's good.

I know that, if there were any issues that I wanted to raise, I'd only have to give her office a call, and I'd be confident that local representatives are always available and always very supportive. So I - that contact been like with key stakeholders like you?

May be a number of supporting groups, as you know. I think bringing them together with multiple representatives from each group would be a bit unwieldy. Perhaps, collectively, one person or a reserve person from each of these organisations to contribute to the process would be helpful. Some, of course, are quite different. SAMS, for one, is a very strong organisation, but gender specific. They have a different sort of focus from us. So their sort of input would be, I would think, significantly different to ours. There are also academics who have looked at this, who I am sure you will be hearing from. We're just ordinary people on the ground. A lot of the survivors have had their education taken from them, really, so we need that sort of guidance in formulating stuff. I find, in Newcastle particularly, that that assistance is invaluable for me, and I think it would be for inclusion. Those sorts of people are necessary.

Ms CLAYDON: Thank you.

Mr O'Toole: There are a number of supporting groups, as you know. I think bringing them together with multiple representatives from each group would be a bit unwieldy. Perhaps, collectively, one person or a reserve person from each of these organisations to contribute to the process would be helpful. Some, of course, are quite different. SAMS, for one, is a very strong organisation, but gender specific. They have a different sort of focus from us. So their sort of input would be, I would think, significantly different to ours. There are also academics who have looked at this, who I am sure you will be hearing from. We're just ordinary people on the ground. A lot of the survivors have had their education taken from them, really, so we need that sort of guidance in formulating stuff. I find, in Newcastle particularly, that that assistance is invaluable for me, and I think it would be for inclusion. Those sorts of people are necessary.

Ms CLAYDON: Thank you.

Mr O'Toole: Have I answered your question or not?

Ms CLAYDON: You certainly have, but you're far from being any ordinary person, I would like to say. Indeed, I think voices like yours are probably the most important voices for us to be capturing. Yes, it's terrific that we get the legal representative point of view, and you're right about academics: we're going to hear from Kathleen McPhillips and Tamara Blakemore this afternoon, and they are doing great work. But if the voices and experiences of the survivors aren't given primacy then that would become very problematic for us. So we're trying always to find ways that we can best improve and make sure we've got platforms for people like you to be able to talk directly to decision-makers. The legislative review process would be the next opportunity for us to put our minds to what a recommendation might look like for survivors in that regard. If you have any additional thoughts offline or that you want to put through to us, by all means do that, or, if others in your group think of something later, don't feel like you don't have an avenue. Please utilise that. I'm going to leave further questions for others now, and I might come back.

Senator SIEWERT: I have a couple of questions, just following up from where Ms Claydon has just been asking a whole lot of really useful questions. Mr O'Toole, I want to go to the issue of how you see the interaction with stakeholders, participants and future participants has been. What's the process been like in terms of enabling your feedback to the government and the departments, outside of the committee process with the previous select committee and this committee? What has that contact been like with key stakeholders like you?

Mr O'Toole: It's Rachel, isn't it? I actually carried your bags to the cab last time.

Senator SIEWERT: Thank you. I remember.

Mr O'Toole: Personally, I haven't had a great deal of contact with the parliamentary representatives or members on the previous committee. But, as I said, CAN is on the ground dealing with the local issues, and we really focus on that. We're all volunteers, so, as I said, we use the wider approaches to other organisations, because they're usually much bigger than us and they have the ability to encompass that task. But I can say quite confidently that local representatives—Sharon and others—are always available and always very supportive. So I know that, if there were any issues that I wanted to raise, I'd only have to give her office a call, and I'd be guaranteed contact. In that respect, it's good.

Senator SIEWERT: Thank you. I don't know if you've heard some of the evidence we've had this morning or previously, but there's been a lot of focus on the fact that people are commenting that the Redress Scheme is too slow. They're issues that we have in fact traversed before, but it seems to me that there's more focus now on people not going down the Redress Scheme path but going with common law and civil actions.

Mr O'Toole: That is something that I do believe has occurred. Perhaps it's twofold: one is the time that it takes to get action and the other is the amount of redress, I guess. Sometimes people are given unrealistic expectations as to what they might get as well, but I think there has been a shift towards people going down alternative paths.

Senator SIEWERT: I'm not trying to put words in your mouth, and tell me if that's what you think I'm doing. Do you think, therefore, that the signal sent by the Redress Scheme isn't meeting the needs of people? It was
supposed to provide an alternative, but it's taking the same length of time and causing the other issues that you were just talking about earlier—the retraumatisation process. This was meant to be an alternative to the civil law approach because of all the associated problems—

Mr O'Toole: I'm sure it's necessary to have the Redress Scheme because not everyone will go the other way. I think it's very important. I would like to see it succeed.

Senator SIEWERT: Yes.

Mr O'Toole: There will be delays whether you use the National Redress Scheme or go direct; there's always a delay.

Senator SIEWERT: Yes.

Mr O'Toole: I don't know that one takes longer than the other. I would say they're probably similar, really.

Senator SIEWERT: That seems to be—

Mr O'Toole: Obviously, the Redress Scheme has had a problem with people not opting in and that's added to the problem. And, on the other side of things, organisations are slow to come to the table sometimes. So going direct does have some delays.

Senator SIEWERT: Yes. We've discussed a number of the reasons for why people aren't opting in. What would you say are the key reasons why people aren't opting in to Redress?

Mr O'Toole: Victims?

Senator SIEWERT: Yes—survivors. Why aren't they opting in to the scheme?

Mr O'Toole: It's a lot to do with personal approach, I think, or personal contact with people. They have someone they can speak to and someone who can support them—that sort of thing—whereas, with the Redress Scheme, it's, 'Well, file a form and wait for some unknown person to contact you.' In the other way, you do have face-to-face regular communication.

Senator SIEWERT: If you're going down the civil line, do you mean?

Mr O'Toole: Yes.

Senator SIEWERT: Are people in your region not using some of the supports that are available? For example, knowmore or—

Mr O'Toole: There have been comments made about the efficiency of knowmore as well from survivors, and whether they receive calls back. There seem to be some gaps there as well.

Senator SIEWERT: Do you think that there would be a lack of resources for knowmore?

Mr O'Toole: Possibly. I don't really know how big an organisation knowmore is. From my understanding, they just refer people to legal sources, pretty much. Don't they?

Senator SIEWERT: They should provide some support as well, themselves.

Mr O'Toole: I can't speak with any sort of authority or knowledge of that because I haven't had much to do with them, other than just a few phone calls. My phone calls to them have been okay, but those were not as a client.

Senator SIEWERT: I'll go back to the issues around personal contact. Do I take from your comment that people feel unsupported when they're applying to the Redress Scheme?

Mr O'Toole: Yes, I think so.

Senator SIEWERT: Are you aware of people being able to access the counselling and/or how effective it is?

Mr O'Toole: I am aware that people are in receipt of counselling. I'm not quite sure the sources of the counselling. I don't delve into which way they're going. My concern is that they are getting some support—counselling or whatever. All I'm concerned about is that they are getting the support that they need.

Senator SIEWERT: It's immaterial really where it comes from. They just need support that suits their needs. Is that the point?

Mr O'Toole: Yes. If they're not getting any then I'll try and source that for them, or CAN will, or one of our members' management team will.

Senator SIEWERT: How many people have you had to find support for? How difficult has it been?

Mr O'Toole: I don't—

Senator SIEWERT: I will rephrase that: how wide is the need for that level of support?
Mr O'Toole: There is a need for support from amongst their peers—there's no doubt about that. CAN has a monthly gathering in Newcastle. We don't necessarily focus on the nasty stuff, but we have some guest speakers and so on over a cup of tea and a sandwich. We get about 40 to 50 people come each month—not always the same people. They float in and out. But that sort of support—people are surprised that we've been able to continue to do that because we're volunteers, self-funded and that sort of thing. That is very precious to a lot of the people and it's because they're with like people. They have a bond there that they don't necessarily have to talk about that. It's just a nice, comfortable place for them to be and they can speak freely. We have guest speakers of course and that always generates a great deal of interest. So, yes, the support is there and people talk amongst themselves about this stuff—if they're getting help or they're not getting help or what they need. And usually I get to find out if they need something. They'll come and tell me or tell one of the management team and we'll source the assistance that they need either through victims of crime or through one of the healing and support units with the Anglican or the Catholic people. We say: 'We've got somebody who needs some help. Can you do something for them?' and generally it's forthcoming. So that's the sort of stuff we do. We take them to the police. We take them wherever they want to go really.

Senator SIEWERT: Do you think that it would be useful if organisations such as yours got some support—financial or access to resources—for the work that you're doing because you meet the needs where people—

Mr O'Toole: We live fairly frugally. We do have funding from the Marist Brothers after an approach was made to them. They fund the venue hire. We have a benefactor—a doctor—who provides some morning tea and we have a donation box at the door. The rest of it is volunteers. For example, I don't take anything for all my work.

We've raised money by putting our hand out and asking for help. A few years ago, shortly after the Boston movie was released, we ran a fundraiser showing that movie. We raised a few thousand dollars. We don't need a lot of money to survive, but it would be nice if we didn't have to worry about that. People throw a gold coin in the box on the meeting day and that's what funds the balance of our morning teas and other incidental expenses. We don't have any money.

Senator SIEWERT: So some money would be helpful?

Mr O'Toole: Absolutely. We could do a lot with it, because we do try to run some self-improvement programs as well. We have had writing courses and those sorts of things, which are always very popular. Not a lot of the people are financially comfortable, so we try to do those at minimum cost. We ask people to donate their time and expertise and that sort of stuff.

Senator SIEWERT: Thank you.

CHAIR: Mr O'Toole, thank you very much for your evidence. I have a few brief questions, if that's okay. What would be the reaction of the survivors that you represent and work closely with if a decision were taken to extend the deadline for institutions to sign up to the scheme?

Mr O'Toole: I've had a brief look at the institutions that haven't signed up, and I don't think there are any significant institutions amongst them, are there?

CHAIR: Significant in the—

Mr O'Toole: In terms of large institutions. Are they mainly small institutions? I'm not sure. I'm just having a look here at those intending to join. The Catholics are intending to join in the second quarter of 2020, which is sort of the deadline, isn't it? Is that right?

CHAIR: I'm curious to ascertain what the reaction of your members would be. I'm looking more for a top-of-mind reaction rather than thinking too much about it.

Mr O'Toole: I think people are a bit frustrated. I think there would be some disappointment for sure.

CHAIR: Mr O'Toole, in some of your opening remarks you talked about the application process and how it does retraumatise survivors, and that's common feedback to the committee. Do you have any ideas about how the application process could be improved so that it reduced the trauma that some survivors feel?

Mr O'Toole: No. I don't know how it could be improved, to be honest. There's the delay—I don't know, Chair.

CHAIR: That's okay. The current challenge of the coronavirus is making many people's lives difficult and introducing a whole level of uncertainty, and that's for everyone in many, many different ways. Are you able to share with us what specific anxieties or uncertainties it might be causing survivors?

Mr O'Toole: In our group of survivors, as I said, we've had regular contact at least monthly—and often, with some of the more troubled people, much more regularly than that by phone or email. I've asked the committee
management team to look at some form of voice-call-type thing, a community site where those that are able to can hop on—I'm not quite sure of the names of them. Zoom is one, I think, where you can get on and talk to people face to face. I don't know how it would work with a lot of people, but certainly we need to keep in contact with these people. Isolation is a grey issue for many of them. They're not all forthcoming and getting in touch when they're in trouble and having difficulty. We need to reach out to them. How we go about doing that I don't know, but if the coronavirus drags on for a time I can see some people being in dire straits from a mental health perspective. We need to do something about that.

CHAIR: The first requirement is to be very alert and conscious that people will be acting in very different ways.

Mr O'Toole: Absolutely.

CHAIR: Everyone needs to have support made available to them. I thought I would explore that with you.

Mr O'Toole: Sharon will probably explain to you that we had a memorial at Hamilton Marist Brothers last year. We've had suicides over a period of time in this region. I'm always conscious of people's mental health in times of extreme stress. We've had suicides as recently as last year, prior to court cases and around court cases and things like that, where it has all become too much for them. They've slipped through the cracks. We've got to do something about that.

CHAIR: Thank you, Mr O'Toole. We are very appreciative of hearing from you.

Mr O'Toole: I hope I've been of some help. I sort of ramble a bit but I hope I've been helpful.

CHAIR: Your contribution has been both necessary and very helpful, because it helps us understand what some of those common issues are that are being raised with us by survivors. As Ms Claydon mentioned in her remarks, often we'll hear from a variety of other people who have interest in the Redress Scheme or the redress issue more broadly. Of course, what's very important and paramount for us is what the experience of survivors is. Your contribution to us today has been very important. If at any point there are additional comments that you or others would like to make to us, you're very welcome to make them available to the committee. Of course, make them available to Ms Claydon as well. We thank you very much, Mr O'Toole, for your attendance today. If we do have any questions, we will certainly be in touch with you. You'll be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to any transcription errors if they arise. Thank you for the important and great work that you do.

Mr O'Toole: Thank you. Thank you to all of the committee members.

Proceedings suspended from 12:40 to 13:15
BAILEY, Mrs Toni, Senior Redress Counsellor, Blue Knot Foundation

Evidence was taken via teleconference—

CHAIR: I now invite Blue Knot Foundation to give evidence, and we welcome Mrs Toni Bailey. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. You are now invited to make a brief opening statement, and then we'll proceed to questions and discussion.

Mrs Bailey: Thanks for the opportunity. I thought I would start by giving a quick introduction to how Blue Knot operates with the Redress Scheme. We operate from a trauma informed basis that guides and informs our work with our redress clients. Basically what we're finding is that clients are telling us that we work differently. Because we're trauma informed, our aim is to reduce any retraumatisation of the clients or the applicants and to promote healing. We do this through offering people a consistency in our service, which means that we say what we're going to do and we do what we say we're going to do. We provide them with a flexibility of service. We do all of our work with our clients by phone, Zoom or Skype. That can be during that day. We've also been doing some of this on the weekend and sometimes in the evening to meet the needs of the people we're working with. We're very clear about what we're offering and how we do the work. We listen with intent to the people we're working with. We have no agenda with the clients who come to us. Sometimes we refer people to a face-to-face service, if that's more suitable for them, and sometimes we work with them, if that's what they request.

We're transparent about the work we do at Blue Knot and the fact that we do make it trauma informed. That gives us a different conversation or a different narrative when we're working with people. We find that when we're working with people to do their actual applications it's not a linear process. We let the person talk. They talk about their childhood. They talk about what happened in the institution. They talk around it. They talk to it. They talk away from it. And we just write. We write down their words and then we put it together. We go back to them and say, 'Is this what happened, and is this the order?' That takes away the need for the person to have to do that themselves, which in itself is traumatising. So all that pressure goes. We do that for the person, and we do that by listening. We've been told that we're giving a true reflection of their experience and that there's a relief for the person. We're also supporting other services, to do that, through a mentoring program. I think that's all I've got to say, at this stage. Is that what you're looking for?

CHAIR: That's a very helpful start, and my colleagues will have questions. It will give us an opportunity to examine issues in a little bit more detail.

Ms CLAYDON: Thank you very much, Mrs Bailey, for taking the time to speak with us in this public inquiry today. I recall speaking with you during the last parliament on how the first inquiry into how the Redress Scheme was working on the ground. One of the areas of major concern for Blue Knot Foundation then was around the provision of counselling and psychological care services. If my memory serves me correctly, that concern was very much that it depended on what state or territory survivors were living in, as to whether or not they received a lump sum of money or what pathway their access to counselling and services was going to take.

To bring all of the committee members up to speed, could you talk to us about whether this continues to be an area of concern and how, from your national perspective, that issue of accessing counselling and psychological care services is playing out across the nation?

Mrs Bailey: We've found a couple of things that are happening. A lot of people who are receiving payment aren't taking it up, and we wonder if that's around the wording of what is being offered. We're also finding that—

Ms CLAYDON: Sorry, can I just clarify that it's people who have had a determination, an offer, made, and they've accepted it but they're not choosing to take up the counselling and psychological services element?

Mrs Bailey: At this moment, yes.

Ms CLAYDON: So they might want to do that at some other time, down the track?

Mrs Bailey: Exactly, yes, and we're not sure how that will play out. We're wondering if it's because of the wording—'counselling and psychological services'—so we've had a couple of discussions with other services around renaming or rebranding that to make it more accessible and how—

Ms CLAYDON: Have you had some thoughts about what that might look or sound like at this point?

Mrs Bailey: Not at this point. We're still at the point of saying, 'Hey, it's not really user friendly right now and how do we change those words so that people might take it up better?' It is something we're aware of. We've spoken to a couple of people who've received funding and we're trying to get a sense from them of what it is that's...
a barrier to picking it up. It could also be, with some of the clients that we have had, that they're so overwhelmed at the point of receiving the offer that they're taking a few months to come back to themselves. I know this is taking away from your question, but we're certainly finding that when people receive the offer and the acknowledgement it's creating a dip in wellness and we're having to work really hard to maintain their wellness at that point.

**Ms CLAYDON:** Sorry, did you say a dip in their wellness—a decline?

**Mrs Bailey:** Yes, very much a decline in their wellness.

**Senator SIEWERT:** Just to clarify, when does that happen?

**Mrs Bailey:** It's happening at the point when they're receiving acknowledgement and they're being made an offer. At that point, what we've noticed with several people now is that they've become more unwell. One client I've been working with in the last week actually became suicidal. It just became a real dip in their wellness at that moment. Whether or not that's having an impact on them picking up the psychological care, I'm not sure.

**Ms CLAYDON:** Thank you. I am a little stunned that no-one has actually put that to us before, that there has been a stark decline in people's health and wellbeing at that point where people are actually receiving acknowledgement and an offer. Correct me if I'm wrong, but that's the point at which the Redress Scheme access actually kicks in, isn't it, for the counselling and psychological services? It's not until that determination is made that you get that access; is that correct? That's been one of the issues that people have raised with us, that they've also been seeking some support to get through the process of actually making the application. They've said, 'Well, it's been a little bit backwards because you can't actually access those services until you're made an offer.' But you're saying to us that, even at that later stage of being given access when an offer is made, people may not be in a healthy enough position and may be feeling so overwhelmed that they're not actually taking up those services.

**Mrs Bailey:** That's been our experience, and I agree with the others: we'd love the counselling to be offered at the beginning of the process, and that it becomes more and more clear for us we meet regularly with DSS and with each of the states. So we're starting to get feedback. These trends are just starting to emerge for us, so it's becoming more evident—in the last few weeks—that this is what's happening.

**Ms CLAYDON:** Thank you for sharing that back to the Redress Scheme or to government? Is there a pathway where you share that kind of information with somebody?

**Mrs Bailey:** Yes. As it becomes more and more clear for us we meet regularly with DSS and with each of the states. So we're starting to get feedback. These trends are just starting to emerge for us, so it's becoming more evident—in the last few weeks—that this is what's happening.

**Ms CLAYDON:** The government has a legislative requirement to review the operation of the scheme now that we're almost two years down the track from commencing. So by the end of June this year there's a requirement for a legislative review of the National Redress Scheme. Given the incredible insight that you have at the national level, what would you want to see taken up as a matter of urgency for this issue around counselling and psychological services? What do you think needs a priority examination at this point?

**Mrs Bailey:** I would recommend that people are given their care at the beginning of the process, and that it journeys with them right until the very end so that by the time they're actually made an offer their wellbeing has been supported and they're ready for it. We're finding that a lot of people who we've been working with are just not ready. They're not ready for the implications of receiving a lump sum and what to do with it, and also for how to handle people who find out that they've received a lump sum and want to have some of that money from them. They're not ready, and so their skill sets just become so overwhelmed that they want to bow out.

**Ms CLAYDON:** Really, it's going back to the original recommendation of the royal commission, which says there should be lifelong access. You're saying it should be from the beginning of the journey right through to the end, and I think the royal commission in part acknowledged that the end isn't always in the immediate future; sometimes care that is lifelong and of an episodic nature is required. Without putting words in your mouth, would you like to see the Redress Scheme moved back to the original recommendation from the royal commission around support services?

**Mrs Bailey:** Yes, very much so.
Ms CLAYDON: How many survivors is the Blue Knot Foundation working with at present? You might have said that in your opening statement, but I failed to record it.

Mrs Bailey: We're working with 25 at the moment.

Ms CLAYDON: Are they from various states and territories?

Mrs Bailey: They are. We've got them from Queensland, Tasmania, New South Wales, Victoria—all across.

Ms CLAYDON: Are you seeing any additional challenges or obstacles, given that there is a slightly different regime in place for each of the states and territories now? If so, what might be a remedy to overcome the lack of uniformity there?

Mrs Bailey: It certainly means that we need to be very aware of the differences ourselves, as workers, but we are working through those differences. If it were uniform across Australia, that would be great, certainly when it comes to the different services that are being offered from the psychological services area. But we are working with the different needs within each state.

Ms CLAYDON: In your view, is there an inequity that exists, given there are different avenues and perhaps a different level of service delivery in each of the states and territories? Does this create a sense of inequity amongst survivors?

Mrs Bailey: I'm not sure. The survivors haven't talked about it with us. We're aware of it, as workers, but I'm not sure that the survivors, at this stage, have mentioned it to us. It hasn't been mentioned.

Ms CLAYDON: It's just an issue that you, as workers, working across state and territory boundaries, are having to grapple with?

Mrs Bailey: Yes.

Ms CLAYDON: I am conscious of leaving time for my colleagues, so I will stop asking questions right now, though I have many others. Thank you again for your evidence today. I know your work. A lot of survivors speak very highly of the Blue Knot Foundation and of their experience of your work throughout the royal commission period as well. I will hand back to the chair for further questions. Thank you very much, Mrs Bailey.

Mrs Bailey: Thank you.

Senator SIEWERT: Can I follow up the issues that you raised previously. We've just had quite a thorough discussion about counselling and access to counselling and psychological services, but you also raised a number of issues in your previous evidence to the former committee. I wonder whether those issues are still issues that you think need addressing, or are you happy that there's been some progress made on them?

Mrs Bailey: This is actually my first time with the committee. So would you mind just—

Senator SIEWERT: Okay. The issue about the exclusion of survivors who are serving a custodial sentence really hasn't been addressed that much. There has been some progress on the process with the applications, so I'd be keen to find out how you think survivors see the application form now—certainly the ones that you are supporting. Do you think the issues around time for offers to be considered and the issue around lack of support—which we sort of dealt with just then—in doing their applications are still issues? In particular, what about the application process? Are you seeing improvements for people there?

Mrs Bailey: The application form is still quite clunky and very difficult for people who have literacy issues. We are taking them through that very gently and very carefully so that they are able to have a sense of agency around that. The time for offer is really very difficult. Once a person puts in their application and they've got that waiting period; that becomes a time of trauma, and we work very hard with the person to help them not go back to the feelings of not being believed, of being ignored, of being in pain—all the feelings they had in the institution. So that's still a really big period of distress, and we work with them to try to reframe that to a time of, 'Hey, what are you going to do once this is over?' but it's still a massive piece of work.

Senator SIEWERT: How long have your clients been waiting for offers?

Mrs Bailey: The ones that we've picked up and have just been supporting once we've put the application are waiting up to 15 months.

Senator SIEWERT: And that then adds further to the trauma, from what you were just saying.

Mrs Bailey: Absolutely, yes.

Senator SIEWERT: The points that were discussed previously with Blue Knot and also this morning were around the six months that people get to consider an offer. In your experience, is that enough time? How do people handle that? If they're having difficulties with the waiting period and being retraumatised—you've already
said that people become more unwell before they get an offer. How does that then reflect on the period of time they've got to accept that offer?

**Mrs Bailey:** Our experience is that they don't take the six months. Even 10, 15 or 20 days becomes horrendous for them, so they're accepting the offers quickly. They're not seeking legal advice. They just want it done and dusted. The area of concern that we have around that is that, if during that the RFIs other incidences have been recorded, they don't really know that that's happened. They don't know that perhaps there are more things being taken up inside this offer than what they originally put in. There's kind of a lack of knowing there.

**Senator SIEWERT:** Could you explain that a bit further? I'm not quite following you, sorry.

**Mrs Bailey:** My understanding is that, once the application goes in and the RFI goes out to institutions, if the institution then said, 'Oh, and this happened, this happened, this person was involved and perhaps also another part of the institution was involved that the applicant hasn't identified,' that becomes part of the redress acknowledgement or part of the offer. The concern that we have is that the applicant doesn't necessarily get informed of that, so they can't make a true decision around whether to accept or not accept or even whether to put it on hold and think about civil.

**Senator SIEWERT:** Yes, because they've got new information. Now I'm following, sorry. How much good is that? I don't know that we've had that come up before.

**Mrs Bailey:** It's come up once with us. I'm raising it because it has come up. It's a concern that we have if it keeps coming up.

**Senator SIEWERT:** I presume that also then adds to somebody's stress and trauma. Because there's more in there that they didn't know about—more than they had put in previously—it's brought up further issues for people.

**Mrs Bailey:** Yes. There's another sense of lack of agency, lack of power and lack of control. So it brings back all those feelings again.

**Senator SIEWERT:** One of the issues that has come up when looking at the stats with the department is the number of people who have claims that span multiple institutions. There are a lot.

**Mrs Bailey:** Yes.

**Senator SIEWERT:** Can you explain whether you've had any experience with survivors that are in that position where there are multiple institutions? Some may be responding, some may not. How is that being dealt with? What impact is it having on survivors when there are differing responses and applications may be delayed because of multiple institutions?

**Mrs Bailey:** Most of the people that we're working with are in that boat. It's confusing them. They're feeling like, 'You're not going to believe me about anything.' Because you're so vulnerable and tender writing this in the first place, it's retraumatising in having to say it—perhaps for the first time. So what's happening is that they're saying: 'I don't want to talk about that. Just forget about that. We won't talk about that site. We'll just talk about the sites that are not starting to talk about the whole story.' They're just wanting to forget about certain parts of an institution.

**Senator SIEWERT:** Does that complicate finalising the process? But, more importantly, does it add to someone's trauma because they're not able to deal with parts of their abuse?

**Mrs Bailey:** Yes to both—it's complicating it and it's adding to their trauma, because they're not getting completion. They're feeling like they're holding on.

**Senator SIEWERT:** That's what I thought might be the consequence. I've got one more question which may need to be taken on notice. In the review process that will begin after June as part of the process under the legislation, how would you like to see some of the issues that you've raised dealt with during the review in terms of what some of the solutions in the legislation itself could be that could address some of these issues? I realise that's quite a big question. You might want to take it on notice.

**Mrs Bailey:** Yes, taking it on notice would be great. Thank you.

**Senator SIEWERT:** It would be really appreciated if you could, because some of these issues need to be dealt with in the legislation.

**Mrs Bailey:** Yes, taking that and transparency on notice would be very useful.

**Dr WEBSTER:** Thank you, Mrs Bailey, for coming in and giving us greater insight into this obviously very complex Redress Scheme. I'd like to know what Blue Knot Foundation's experience is in working with clients who are still waiting for institutions to join the Redress Scheme.
Mrs Bailey: What we're doing at the moment is keeping in contact with clients. They're distressed because they feel like there's nowhere to go. We're just letting them know that there's still a chance that those institutions may join the scheme and that the government is working really hard to bring institutions on board. But it's a horrible place for clients.

Dr Webster: Do you talk with them at all about civil litigation and going down that path, or is that something you stay away from?

Mrs Bailey: We refer them to knowmore.

Dr Webster: Have you found that those clients who are in this situation have taken that up—that they've gone to knowmore?

Mrs Bailey: Most of them have spoken to knowmore, yes.

Chair: Thank you for your evidence. I noticed on the Blue Knot Foundation's website that you've put up a number of fact sheets to assist survivors and other practitioners about how the current COVID-19 challenges might affect them. Can you share with the committee what types of calls you've had, if you have had calls, and what some of the survivor-specific reactions or difficulties have been in the changed environment in the context of COVID-19 challenges?

Mrs Bailey: We've had a couple of interesting responses. There has been fear that the Redress Scheme will stop, so we've just been informing them that it's continuing. There has been fear of further isolation as support workers no longer respond, so people are getting more and more isolated when they've relied on care workers for contact. I'm just thinking of one lady in particular whose only physical contact with people was going to her GP or going to her psychologist, and neither of them are having face-to-face contact with her anymore. There's a lot of isolation because a lot of our clients don't have family or friends, so they automatically have that isolation anyway. And a couple of people have said, 'Well, now you'll know what it's like to be me because you're not allowed to go out and you're staying at home.' So it's been a mixed response.

Chair: Where does the fear that the scheme will be shut down or closed come from?

Mrs Bailey: I just think that comes from change—that is, if things change and if services are being cut, this will be cut as well. It's that natural fear that they're going to lose out. We're just giving them the message that this is continuing and we're continuing. It's business as usual. We're getting that message out extremely strongly every time we talk to them.

Chair: As part of getting that message out, are you able to also communicate to them some of the latest initiatives that the government is deploying that they might be able to access or utilise—to draw on one example from the weekend, the health announcements?

Mrs Bailey: Yes, we are. We're certainly doing our best to keep them informed of everything. Most of them are really well informed. We're just supporting that.

Chair: In evidence we've had from other survivor groups and survivors themselves, the suitability of the application form has been raised with us. Do you have any comments or observations about how that form can be improved to reduce retraumatisation of people by the experience?

Mrs Bailey: Because we're actually doing a lot of the writing for the people we're working with we've been doing it ourselves. We actually fill in the forms for the applicants, so they're not really having a lot of contact with the forms. I can't really comment on that at this stage.

Chair: Do you also act as the nominee for applicants?

Mrs Bailey: Yes, we do.

Chair: And how has that nominee process worked for you?

Mrs Bailey: It's been going okay. We've found that the case managers have been very responsive to us. Sometimes it takes quite a long while to get through, but eventually, when we're there, we have good relationships.

Chair: And when it takes a while to get through to the case manager what excuse or excuses are you given?

Mrs Bailey: That they're offline is the most common one we get, but I don't know what that means.

Chair: You're contacted by email, are you, or are you ringing them?

Mrs Bailey: We tend to ring them.

Chair: And 'they're offline'—what does that mean?

Mrs Bailey: I cannot tell you that.
CHAIR: Right. Thank you very much. Colleagues, does anyone else have any other questions?

Ms CLAYDON: Yes, Chair. I want to ask some follow-up questions of Mrs Bailey around her experience of cases being priority cases. So once you've identified cases as priority cases, what has been your experience in the handling of those through the National Redress Scheme?

Mrs Bailey: The case managers have been great. They've certainly said that they've gone forward as priority; however, I've haven't experienced any outcomes that have been any quicker. I've got three people who are priority at the moment, and they've been a priority for 12 months.

Ms CLAYDON: Right, so from your end and from the survivor's point of view there's no noticeable advantage of having been identified as priority—is that correct?

Mrs Bailey: Not that we've experienced at this stage, no.

Ms CLAYDON: So no additional calls in from the case manager, no—I mean is it just in the time frame that it's not shifting? Are you getting any additional points of contact because it's priority and not moving?

Mrs Bailey: No.

Ms CLAYDON: Okay. You're initiating the contact, you're the proactive party?

Mrs Bailey: Yes.

Ms CLAYDON: And you would phone through to who? The case manager?

Mrs Bailey: Yes, the case manager.

Ms CLAYDON: Okay, thanks very much for that. Thanks, Chair.

CHAIR: Thank you very much, Mrs Bailey, for your evidence. We greatly appreciate that. If the committee has any further questions, they will be put in writing to you. You will be sent a copy of the transcript of your evidence, and you will have an opportunity to request any corrections to any transcription errors that may occur. So we thank you very much for your participation today.

Mrs Bailey: Okay, thank you.
HOLLYWOOD, Ms Romola, Director, Policy and Advocacy, People with Disability Australia

KILKEARY, Mr Stephen, Director, Individual and Group Advocacy (New South Wales), People with Disability Australia

Evidence was taken via teleconference—

[13:58]

CHAIR: Ms Hollywood, we might begin with you and, if we're able to connect to Mr Kilkeary, we can bring him in.

Ms Hollywood: Yes, that's fine. I've got an opening statement that's a little on the long side, unfortunately. There's just quite a bit of information we want to get across, so I'm happy to go ahead.

CHAIR: We can make a start. Welcome, Ms Hollywood. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed to discussion.

Ms Hollywood: I thank the committee for the opportunity to provide evidence on the implementation of the National Redress Scheme and in particular the opportunity to provide information on our experiences on the establishment and operation of the Commonwealth Redress Scheme.

We would like to begin by acknowledging the traditional owners of the lands on which we are each undertaking our work today. For me, Romola Hollywood, it's the Dharug and Gundungurra people in the Blue Mountains and for my colleague the Director of Individual and Group Advocacy in New South Wales, Stephen Kilkeary, it's the Gadigal people of the Eora nation. We pay our respects to elders past, present and emerging and to any Aboriginal and Torres Strait Islander people who are with us on the line or listening to the broadcast today. We also recognise the strength and resilience of Aboriginal and Torres Strait Islander people in the face of colonisation and disposition from their land. We acknowledge survivors of the stolen generation, many of whom were survivors of violence, abuse, exploitation and neglect, including child sexual abuse in institutions.

As the committee will be aware, People with Disability Australia is the leading disability rights advocacy and representative organisation of all people with disability. We're the only national cross-disability organisation and we represent the interests of people with all kinds of disability. We're also a not-for-profit and non-government organisation. Our primary membership is made up of people with disability and organisations primarily constituted by people with disability. We have a large associate membership of other individuals and organisations committed to the disability rights movement.

For the committee's reference I'll give a little bit of background around PWDA's scope of works because I think that that goes to our funded work through the National Redress Scheme. PWDA is funded both as a national peak disability representative organisation and as a New South Wales peak organisation. We also have extensive experience in providing advocacy and outreach to people with disability, including those people living in closed or hard-to-reach settings. We deliver advocacy support through the National Disability Advocacy Program across New South Wales and parts of Queensland, and in New South Wales individual and group advocacy to people living in assisted boarding houses. We're also undertaking several projects at present for the Information, Linkages and Capacity Building program with NDIA, including outreach to support highly marginalised people with disability, such as those in prison, to access the NDIS.

Today we are here as an organisation that is funded by the Department of Social Services as one of the redress support services. For the committee's reference, our role is to provide timely and seamless access to trauma informed and culturally-appropriate community-based support services to enable people to engage with the National Redress Scheme. We're doing this through a range of initiatives. We're providing information and assisted referral through a telephone helpline. We also have individual advocates who are assisting people directly with the application process in New South Wales and Queensland. Then in Sydney and surrounding areas, through intensive advocacy support, we're assisting people with additional barriers to access the scheme. We also recently received some additional funding from the end of last year to June 2022 to do some more targeted and strategic engagement and outreach work.

As a disability rights organisation, PWDA believes that the National Redress Scheme is vital for people who are survivors of child sexual abuse to gain access to justice in the face of the crimes that were perpetrated against them by institutions that were entrusted to care and support them when they were children.
We understand that the committee is keen to hear our perspective on the implementation of the National Redress Scheme, and in this opening statement we would like to make the following points. The first one is that we welcome the government's commitment to improve the implementation and service delivery of the scheme, particularly its interaction with survivors. This is really needed. We also recognise that DSS officers have been working hard to review and improve the effectiveness of the scheme. This work has involved ongoing productive and positive collaboration with Redress support organisations such as our own. We support continuous improvement of the scheme to realise the goal of the scheme, which is to deliver redress and financial compensation by institutions that perpetrated and largely ignored the sexual abuse that occurred against children. We believe that we have much more to do to make the scheme accessible to survivors, many of whom live with disability and trauma as a result of the abuse they experienced as children.

We're just going to summarise our experiences for the committee. PWDA has been working proactively to improve awareness of and access to the National Redress Scheme by people with disabilities who are facing additional barriers to the scheme. We have been particularly focused on people who are still, or who have recently been, institutionalised in large residential settings, group homes, boarding houses and mental health units. These are people with disability who are survivors and who are living in what we might call hard-to-reach, or closed or institutional settings. Our redress team has been engaging with service providers, including providers of group homes; disability advocacy organisations; government agencies; health, justice, housing and homelessness services; and other sectors to promote awareness of the scheme and PWDA's Redress support options. This work requires relationship building across a range of stakeholders, which takes time and resources. What we're finding in our work is that it does indeed take time to establish relationships with these agencies and institutions, to earn the trust of workers and clients, and to engage safely with potential applicants to the scheme.

We're also finding that many helping professionals across the disability, health, housing and justice sectors are unaware of the scheme or access to the National Redress Scheme by people with disabilities who are facing additional barriers to the scheme. And even when working with people with disability who are aware of the scheme and are potentially eligible for redress, we're also finding that they often face multiple social or systemic barriers which prevent them from making an application safely. For example, survivors are often living in marginalised, or unsafe or insecure housing with insufficient access to social security and income. They may be currently experiencing violence and be unable to access mental health support, or face various other barriers which prevent them from engaging with the scheme. We're also finding that mainstream support service systems and policies, including health—and this has come up in the recent royal commission as well—continue to be inaccessible and initially harmful for people with disability, particularly those people with complex trauma and psychosocial disability.

Past experiences—and I think this is important for the committee to be aware of—of violence, forced treatments and other harms in these settings and contexts can and do prevent people from engaging with services funded to assist with the Redress applications. This is borne out by data from DSS: people with disability make up approximately 60 per cent of the applicants to Redress so far. However, in some jurisdictions only 10 per cent of those people with disability identify that a Redress support service has assisted them with their application.

PWDA believes that more understanding of the complexity of some of the circumstances of survivors needs to be built into the design of the engagement, outreach and advocacy support, and more work is needed to ensure that mainstream services are engaging constructively and effectively with people with disability. We also believe that better access to trauma informed counselling is needed, as we are finding that, in lieu of useful therapeutic supports, people with disability can be experiencing great distress in isolation and potentially seeking emotional support from advocates, helplines or other helping professionals that have limited time, skill and capacity. The level of advocacy support that is needed means that we are finding that, in order to assist people with disability to apply for the scheme and engage with DSS or their case manager on their behalf, PWDA has needed to become an assistance nominee on behalf of clients. As a disability rights organisation, we are committed to self-determination and would recommend that the committee consider an authorisation to act or consent form to share information; that would be more suitable.

In closing, we also note that, like many organisations, we are having to adjust our plans and project work in response to the COVID-19 pandemic. This clearly restricts our capacity to undertake face-to-face engagement, which we know is just so important with agencies and with survivors. This is a challenge we all share, and it's important for us to look at the opportunities for innovative solutions. I'd like to thank the committee for listening to our opening statement. We are very happy to answer questions from the committee. Thank you.

CHAIR: Thank you very much. Ms Claydon, would you like to start?
Ms CLAYDON: Thanks, Ms Hollywood, for that terrific opening statement. I have a couple of follow-up questions. On the last point you were making around the fact that PWDA is often an assisted nominee, you are wanting to make a recommendation that it might be more appropriate, if I understood you correctly, for this to be an authorisation to act. Could you give us a bit more specificity on what you are getting at there?

Ms Hollywood: Yes, I will throw to my colleague Stephen Kilkeary. I believe he's not on the line. Is that right?

Ms CLAYDON: Regretfully, we have still not been able to contact him. The secretariat are trying, but I don't think we've been successful. We're still chasing him up, but we've had no luck doing so at this point.

Ms Hollywood: Perhaps they could try the other number.

Ms CLAYDON: Yes, the secretariat can hear that message. Bear with us as we try to deal with the lack of face-to-face engagement. We will hold off on that question, and you can take it on notice and provide information afterwards if we are not successful in getting Mr Kilkeary on the line.

Ms Hollywood: Yes, that would be better.

Ms CLAYDON: Could you take us through how many people you are currently supporting with the National Redress Scheme, whether it's information referrals or hands-on support in trying to take people through an application process? Do you collect data on that and are you able to share any insights with us as to the workload you have on your plate?

Ms Hollywood: We do collect data on that. Unfortunately, Stephen Kilkeary is our direct practice manager—

Ms CLAYDON: Apologies again. Perhaps you can come back to us on what your caseload looks like at present and the complexity or otherwise of it. One of the points you alluded to in your opening statement was that you were able to secure some additional funding, which takes you up to 30 June, to deliver more targeted support for people with disability. Are you in a position to talk to us about what that targeted support might look like—30 June is only three months away, so it's not very far off—what that additional money is allowing you to do at present and whether you foresee some ongoing needs in that regard? And what recommendations would you like to put to the committee so that you are more confident that people with disability who are currently experiencing multiple barriers for access aren't going to be left behind?

Ms Hollywood: The first thing I want to say is that there are ongoing and regular meetings with DSS and the sector. PWDA have been a recipient of what's been called, 'strengthening access funding'—I hope I have the title correct—which is to ramp up the proactive outreach for people with disability who are facing additional barriers to gaining support. In particular, we are reaching out to people who are living in congregate accommodation settings, such as group homes, and trying to ensure that people who would be eligible are aware of the scheme.

One of the challenges and why this funding is important is it does take quite a bit of time and resources to build up the trust to gain access to what are, effectively, closed settings. We've seen this through the royal commission as well, that there can be two sides to the coin. There can be a situation of service providers, potentially, being gatekeepers and maybe saying, 'Yes, I've told people about the scheme and I've given them the brochure.' But whether people have had somebody provide the supports and individual advocacy that's needed directly to the person who may have experienced the sexual abuse and then be able to put together an application—that can take some considerable time.

There's almost a two-step process, and I'm probably oversimplifying it in many respects. It's about building trust to gain access to the closed setting and then being able to work with the person, who may not be aware of the scheme and may not be thinking in that way because there's so much else going on in their life. It's really important to recognise that where there are additional barriers that will take additional resources for people to gain access to justice through the Redress Scheme.

Ms CLAYDON: My recollection of the last time we spoke with PWDA, during the last parliament, was that one of the issues of concern around the counselling and psychological services was a view that it was too prescriptive and inadequate in its reach in terms of the provisions being made for counselling. I'm just wondering whether your experience of the scheme to date has given you any room for hope there, or whether there is still cause for concern around the availability of counsellors and psychological services who are suitably qualified in working with trauma but who also have that expertise in working with people with intellectual disability or specific cultural needs. Are you able to talk to us at all about whether there has been sufficient access and flexibility to services so that survivors can choose their own preferred counselling provider, for example?

Ms Hollywood: I wish we could give a more hopeful answer, but the issues with access to counselling, particularly trauma-informed counselling, continue to be a concern—and my colleague Stephen Kilkeary would
Ms CLAYDON: Thank you very much. I know some colleagues have got some time constraints, so I might just wind up there for others to ask some questions.

Senator SIEWERT: Ms Hollywood, I wanted to follow up first off the point that you made about the number of people with disability that have applied. I didn't understand what you said. Could you just repeat that, please. I'm looking at the number of people with disability who have applied. I got confused with the 50 per cent of applications and what you said there.

Ms Hollywood: Sure. The advice that we've had—and this is through one of our managers of the project—is that the Department of Social Services has said that the estimates are that approximately 50 per cent of applicants for redress would be people with disability.

Senator SIEWERT: Did you say that's what they're expecting?

Ms Hollywood: That's what they're expecting, and then in some jurisdictions only 10 per cent of people with disability are identifying that they've had access to a support service. I guess what that data is saying is that there are still many people with disability that we need to be, as a community, reaching.

Senator SIEWERT: Yes. Hence the need to focus on specialised supports for people to be able to make applications.

Ms Hollywood: That's right.

Senator SIEWERT: They're underrepresented in the cohort.

Ms Hollywood: Yes.

Senator SIEWERT: Thank you. I just wanted to clarify that. Are you able to comment at all on the number of First Nations peoples with disability who you're aware of who have access to the scheme? Or are you aware of any information there?

Ms Hollywood: I don't have those figures in front of me and I still don't know whether Stephen—

Mr Kilkeary: Good afternoon. I've just been able to join this meeting, thank you.

CHAIR: Just to assist us, Ms Hollywood: Mr Kilkeary, welcome to the public hearing today—sorry to interrupt, Senator Siewert.

Senator SIEWERT: That's okay; Chair, given that there are a number of questions that Ms Claydon asked which I was also interested in, it may be useful to go back to some of those questions to get them answered if that's possible.

CHAIR: Let me just enquire—Mr Kilkeary, do you have an opening statement that you would like to make in addition to the opening statement that Ms Hollywood made?

Mr Kilkeary: No. Ms Hollywood and I collaborated on that statement, so that covered all the issues that we wanted to discuss today.

CHAIR: Great. Thank you very much. So, Senator Siewert, are you proposing that we go back to Ms Claydon and she can ask her questions directly to Mr Kilkeary?

Senator SIEWERT: Yes, those issues that related to case load and, I think, authorisation to act. I think that would be useful.

CHAIR: Over to you, Ms Claydon.

Ms CLAYDON: Thank you, Mr Kilkeary. I'm glad you were able to finally join us. That's great. I won't do much of a lead-in. Hopefully, you got to hear some of the discussion earlier. Could you just take us through what the current case load is for People with Disability Australia at the moment—how many people you're assisting in terms of the getting information out, referrals or actually taking people through the application process. Are you able to speak to us about that workload for you?

Mr Kilkeary: Yes, I can. We've currently got listed on our database 25 current matters, where redress is listed as the primary matter—and that covers, obviously, our New South Wales and Queensland sites. I should say that, because of the way our database works, there could be occasions where redress might be listed as the secondary matter. I can also say that it doesn't include requests for information that we get through our Wayfinder Hub information service.

Ms CLAYDON: It does not include information through your Wayfinder service?
Mr Kilkeary: No.

Ms CLAYDON: Okay.

Mr Kilkeary: We get additional queries about redress through our Wayfinder Hub.

Ms CLAYDON: Sure. With those 25 current matters that you're assisting where the National Redress Scheme is the primary issue, are you as an organisation taking people through the application process from beginning to end, for example? What's PWDA's level of involvement?

Mr Kilkeary: The level of involvement varies. Going to your question, yes, we do follow people through the whole process, from inquiring about redress through to supporting people to make their application. But we do get other situations where people may have progressed somewhat through the application already, and we do also get people who may be going through alternative routes to seek compensation for harm caused to them—for example, through civil litigation.

Ms CLAYDON: Thank you. One of the issues that Ms Hollywood raised with us was about the PWDA often being designated an assistance nominee—or there was a level of discomfort about having to sign up as an assistance nominee—and perhaps putting to the committee a preference for something like an 'authorisation to act on behalf'. Could you talk to us about your concerns with the existing arrangements and what you would prefer to see in place.

Mr Kilkeary: I think the assistance nominee arrangement puts PWD as a disability rights organisation in a difficult place, insofar as it lends itself to the concept of substitute decision-making—basically, that we're acting on behalf of someone. That's not good from an organisational point of view. And then, as a client centred practice, clearly at the front of that is the concept of self-determination, and, to some extent, being an assistance nominee takes away from that. So we'd prefer something like Ms Hollywood pointed to, where we had authorisation to act, but at all times we were effectively driven by the client's will or preferences in terms of how they wanted to progress with their redress matter.

Ms CLAYDON: Right. Is that something that you've been able to talk about with DSS? It sounds like you've had some quite good communications with the department throughout the process; Ms Hollywood said that there had been opportunities to work in collaboration. Has your proposal been able to get any traction—that we might consider an authorisation to act, as opposed to requiring you as an organisation to be listed as an assistance nominee?

Mr Kilkeary: On that point, I would agree with Ms Hollywood that we certainly have an excellent working relationship with DSS around redress and we're really grateful for that. They're very responsive to our requests and concerns. We will need to progress that matter of authorisation, but I don't see any problem with doing that.

Ms CLAYDON: Alright, that's good. We might follow it up with the department ourselves, about whether that's something they can put some thought towards. It's good to get your experience there. There was another one I had too that we were holding over for you, Mr Kilkeary, and I'm not sure if it's been—I might leave it there, pass to my colleagues and I'll continue to think on that one. Back to you, Chair.

CHAIR: Thank you very much. Senator Siewert, are we back to you now?

Senator SIEWERT: Yes. I've got a couple more. I'll try and be quick. Mr Kilkeary, I will go to the issue around civil litigation. What is your understanding of the degree to which people with disability want to pursue civil litigation rather than the Redress Scheme?

Mr Kilkeary: I think there's some interest from some people in terms of that being the path they want to go down, and that usually has to do with the fact that they see that as perhaps offering greater compensation in dollar terms. When I say that, it is from a justice point of view. It's not as if it's about the money; it's more about the concept of justice and that, if it's a higher dollar amount, it serves an increased purpose. It could also be that there's been more awareness of things like civil litigation for some survivors rather than the Redress Scheme, so that might've come up first and they may not know about the Redress Scheme. So that's another level of complexity. I think there are some issues in terms of understanding the pros and cons of each that probably need to be better fleshed out so that survivors are able to make informed choices about which way to go.

Senator SIEWERT: Do you think that there's not enough information, or people haven't got access to enough information, to enable that informed choice?

Mr Kilkeary: I think some survivors have got access, and the support for access, to reasonable amounts of information. But, as Romola probably would've mentioned in her opening statement, one of our critical issues is around people in hard-to-reach settings, and also people who've been extremely disadvantaged by the violence that's been perpetrated against them, because it is a very common feature of our work that the survivors with
whom we work have a whole truckload of issues—a whole lot of things that've impacted against and across their life span. So all of those sorts of complexities are there in terms of the messages getting to those particular groups of people.

Senator SIEWERT: How much do you think the current royal commission, given that's ongoing, is impacting people's focus on that, in terms of giving evidence and participating in that process but also people wanting to wait to see the end of that process?

Mr Kilkeary: I think we're seeing a little bit of that, and that's something that our individual advocates have to be primed for, because the conversations that they'll have, particularly with redress survivors, will be around 'Should I wait?' I don't think at the moment the disability royal commission is having a major impact, though, because at this stage, for example, there's no redress scheme attached to that particular inquiry. So I think at this stage the impact's minor. If a redress scheme materialises for the disability royal commission—and it would be the hope of the PWDA that it does—then I think that might change the ball game somewhat.

Senator SIEWERT: I suppose I was thinking more along the lines of that's what people were hoping for— they're sort of waiting to see where that goes, potentially.

Mr Kilkeary: We're seeing a little bit but not much of that.

Senator SIEWERT: What is your understanding of the institutions that haven't signed up and how that is affecting people with disability?

Are the institutions that had more to do with people with disability signing up at the same rate? How many aren't?

Mr Kilkeary: Romola may be able to speak better to your question in terms of which types of institutions are signing up, because that's not really a feature of my direct practice work. However, I can speak to the issue of how that impacts survivors. Generally speaking, it has a catastrophic impact on survivors when institutions do not sign up. Basically, it seems like an extraordinary repudiation of justice and also the harm that's been inflicted upon those survivors by those particular institutions.

Senator SIEWERT: Thank you. Ms Hollywood?

Ms Hollywood: I would concur. I don't have specifics. I think it's concerning that there still are institutions that are not signing up, and we know that there's been quite a bit of outreach recently to try to ensure that institutions are signing up, but I would concur with my colleague that it's extraordinarily damaging to see that institutions, after all this time, are not signing up.

Senator SIEWERT: Thank you.

Mr DICK: I have a question about the application process. We've had some evidence today about the difficulty of the forms and how they're being processed. Could I get a quick snapshot from either of you about your experience and how PWDA has been assisting people with disabilities to go online or do the paperwork?

Mr Kilkeary: I can speak to the practicalities of that. That's certainly something where the need for individual advocacy comes to the fore with being able to assist survivors with completing the application process in a much easier way. To be fair, it's not just a matter of whether the form itself or the submission process is difficult or challenging; it's more a whole lot of issues that emerge—triggering, for example—focusing on particular issues to do with survivors' abuse history.

Mr DICK: Yes. Are there any improvements you think we could recommend or perhaps forward to the government about improving or streamlining the process?

Mr Kilkeary: I could take that on notice, because I could check that with some of my advocates who are working directly in that space and get their feedback.

Mr DICK: Thanks.

CHAIR: Ms Hollywood or Mr Kilkeary, this is a question I've asked of other witnesses during the course of today's public hearing. How are the challenges of the COVID-19 experience impacting on survivors or retriggering some of their trauma?

Mr Kilkeary: Romola might have a view about that as well, but certainly from a practical sense PWDA has relocated quite quickly. We commenced offsite operations fully as of Monday of last week. Clearly, though, we are now facing issues with regard not only to engaging survivors but also to our engagement strategy with community organisations. We're working through a process of reframing around that. We see that as something we'll be able to realise, and so the redress support will be able to continue. On the subject of what COVID-19 is doing as a phenomenon, clearly it's raising people's stress levels, and we're talking about a group of people—survivors—who in many instances have stress levels that are high at the best of times. That's, in effect, taking
people over the top. There's a lot of anxiety, fear and frustration out there, so clearly some clear, consistent messages around things like supports would be really useful.

We're also noticing, amidst the COVID-19 crisis, that some of the key government agencies at the federal and state levels aren't necessarily stepping up. There was a matter, just before I came on for this meeting, where someone is having significant issues with housing. They're not a Redress client, but they're nonetheless a person who lives with complex trauma, and housing is basically giving them grief at a time when housing should be supporting them. We're going to face some quite significant challenges over the next weeks and months with regard to survivors and other clients, who are going to be impacted by the stress of the COVID-19 pandemic.

CHAIR: Ms Hollywood, do you have anything to add?

Ms Hollywood: Yes, thank you. I would concur with my colleague, and I would add, from a bigger-picture policy level, that we have been working very hard with our sector partners to ensure that the needs of people with disability more broadly are catered to within the COVID-19 responses. What I would say is that it's been quite challenging and there's still a lot of uncertainty for people with disability, particularly those that need continuity of supports—if they're part of the NDIS, for example. Even though that's not directly related, if we're looking at the priority of trying to enable and maximise the number of people that are engaging with the National Redress Scheme, I think we have to consider that COVID-19 will impact and slow down that process, because some people will be seeking to focus on their continuity of supports. As Stephen said, it's a very anxious time for everybody. But, if you're also reliant on supports to be able to live your daily life, it's heightened. From that point of view I do think that the committee and the government need to think about the broader impacts of COVID-19, particularly if this goes on for some time.

CHAIR: Agreed. Colleagues, are there any other queries?

Ms CLAYDON: Now that Mr Kilkeary is with us, can I come back to one question I left off, as it really does tie in with those recent comments about life in this new COVID-19 world that we're all living in. It's about the adequacy of access to services and counsellors who are suitably qualified to work with trauma and have some expertise of working with people with disability. I'm thinking of people with intellectual disability in particular here, but others as well, and specific cultural needs. This is an issue your organisation raised with us during the last term of parliament. I'm wanting to get a feel for whether those inequities around access still exist. I imagine they would be under extreme pressure now with the increased levels of stress and anxiety people will be experiencing with COVID-19.

Mr Kilkeary: Yes. The thing about the quality of the responses, in terms of counselling and other supports, is an ongoing concern of ours, particularly, as you mentioned, when it comes to survivors who have intellectual disability, as one particular cohort, and the lack of suitably qualified and competent counsellors to engage with those survivors and provide them with the service that they need. There's that intersectionality around other issues as well—around Aboriginality, culture, ethnicity and sexuality. So that's a bit of an ongoing concern.

One of the things which would be really useful, which we don't yet have in this country, would be some properly defined, empirically based evidence standards around a form of best practice. I think that would be very useful. I know that there were conversations during the course of the last royal commission—the CSA one—about establishing such standards and whether or not we needed specially trained, qualified and recognised counsellors. I think, ultimately, the royal commission was satisfied that the existing arrangements—for example, with the APS et cetera—were sufficient. My view is that they're not sufficient.

We need to try harder and establish proper standards so that we can actually have those professionals work with all survivors and therein have an even higher level of training for people so that we're able to work with people, let's say, with intellectual disability to deal with communication. It's not just communication—St Ann's, for example, pointed to some of the critical concerns there and why there ultimately needed to be legislative change in South Australia—but it's a whole lot of things there that need to come to bear. That would be really useful in dealing with some of those issues.

COVID-19, of course, has added a whole nother level of complexity. The key thing there is around face-to-face interactions. I'm a big fan of technology, but, having worked with the council myself over the years, nothing can beat face-to-face interactions with people. That is going to be a challenge that we'll need to address over time in terms of how we reach out and connect with people—survivors in hard-to-reach settings—and how we provide them with a safe, therapeutic space, particularly over, let's say, the next six months or so when these things are going to be very difficult to realise.
**Ms CLAYDON:** Are you aware of any other jurisdictions internationally, perhaps, that have done a good job in terms of preparing best practice standards and guidelines for psychological services? Is there someone that you would want the Australian government to look towards for assistance?

**Mr Kilkeary:** I attended ACOTS—the Australasian Conference on Traumatic Stress—in late 2019. We've got some good local people, if it would be useful, like, for example, Richard Bryant. I think he's a very useful person to talk with. In fact, it was Richard Bryant who made a comment at that conference which stuck in my head. That was that one of the great lost opportunities of the CSA royal commission was that it really didn't look into evidence based interventions—in other words, the efficacy of interventions that are used. So there's still a huge gap.

There are certainly international experts in the United States, the United Kingdom and elsewhere who work particularly around dealing with complex trauma. That's the critical issue that we see in our work for survivors, because that doesn't really fit well in the current mental health system. We need to be looking for new places and new ways of working. But there's certainly lots and lots of evidence. There is Marilyn Thorcher, for example, in the United States and her work. There are people in Israel. There's lots of stuff going on that we could draw on in terms of best practice standards for working with redress survivors.

**CHAIR:** Sharon Claydon has just dropped off the line but is getting called back in. If I remember correctly, that was the last question that Sharon had to ask. Ms Claydon passes on her apologies, as she has dropped off the line. She will be rejoining us, but I think that is all of our questions for People with Disability Australia. I again extend our appreciation to you both for making yourselves available. We will provide you with any further questions that we have, if we have any, in writing. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to transcription errors should they arise. Thank you very, very much to you both. We appreciate your evidence today.
DOHERTY, Mrs Pauline Denise, Private capacity

Evidence was taken via teleconference—

[14:51]

CHAIR: Our next witness is Mrs Pauline Doherty. Welcome. We are very grateful for your time and effort in joining us today in this public hearing. Do you want to say anything about the capacity in which you appear today?

Mrs Doherty: Yes. I appear as a survivor, register No. R003493.

CHAIR: Thank you very much. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. There is nothing in that statement that you need to be concerned about; it's just about protecting you.

We will invite you to make a brief opening statement. On the teleconference with us today is the deputy chair of the committee, Ms Sharon Claydon; Senator Rachel Siewert; Mr Milton Dick; and I am the chair of the committee. Ms Doherty, please feel very comfortable—even though it is a little bit unusual to be doing this over a teleconference facility—and take as much time as you think is necessary. Again, we're very grateful for the time that you've taken to share your experiences with us. The participation of survivors is a very critical part of the work that we're doing, so please feel free to take your time. We'll ask you some questions after you've made a brief opening statement.

Mrs Doherty: Thank you. You're Senator Dean Smith, are you?

CHAIR: I am. I am the chair of the committee, and I'm from Western Australia.

Mrs Doherty: Thank you very much. As I just told you, my register number is R003493, and I am No. 688 in the Message to Australia memorial book. I appeared on the second day of private hearings, on 29 August, 2013, and I realise that redress has been capped at $150,000.

I had been advised to move out of my home by staff of the royal commission and one of their lawyers one month before my hearing date as no person could guarantee my safety after hundreds of threats and abuse, and five attempts on my life in Mudgee, New South Wales. I finally found a safe house, which I rented myself with only rent assistance. I have been in a safe house bedsitter for nearly six years, and previous to 2014 I was accommodated at Flinders Street motel and privately boarded by two older friends in their homes in the Illawarra. The bedsit is one room approximately 14 by 14 with a small shower room. There was an escalation of violence before my attendance at the royal commission. No police officer would assist me, nor would priests or one nun.

Point No. 2: I first came forward after I heard evidence in the Cunneen inquiry, where I believe I heard false evidence given by the past police minister, my then local member for Dubbo, Troy Grant. When I heard that Judge Cunneen accepted that there were no Catholic mafia police, I knew I had to speak up under section 316 of the law. As Detective Inspector Fox was made to look like he was lying, my evidence validates everything Mr Fox has ever given anywhere in evidence and is well noted and recorded in his present publication Walking Towards Thunder.

Point No. 3 is 103 years of generation abuse by the Catholic institution. I would like to address persecution, sexual, emotional and personal suffering since my birth and two generations prior. I am a survivor of intergenerational religious systemic community and patriarchal men's powerful groups—that is, the Catholic mafia: the old Society of the Holy Name, Jesuits and Opus Dei operatives in New South Wales. This is so all can use their resources publicly and privately for their own personal gain.

Point No. 4: currently, my experience is emotional trauma, not being able to access proper medical attention for many complicated conditions—and they are all available in government department files. I am deprived of any social interaction with no family or friends anywhere close to me. The only assistance I have is on phone hook-ups to, firstly, intensive advocacy, case management and nominee support from the In Good Faith foundation, who applied for my redress payment last August-September as a priority—it is still not forthcoming; and, secondly, regular sessions with key liaison by In Good Faith Foundation and my amazing psychologist, Sylvia Huntington, through victims of crime. There are a few things that I would like to say in camera some other time about Sylvia Huntington. They have helped with regular sessions to protect me from increased trauma and to organise and protect me from the described childhood experiences and abuse, all addressed on my redress form.
Point No. 5: many times I can't get medications or travel to the Prince of Wales Hospital to see Professor Endre. The reason is that the patriarchal institute prefects, I believe, have arranged interference of two new top-range motor vehicles with both turned to lemons purposely to restrict my movements, disconnected for the past decade—and I'd like to say something about that in camera later as well.

Point No. 6: infiltrations of prefect members in my private life. My former friend had at least six cars destroyed, and he was a car repairer. The seats were slashed, paintwork was destroyed and there were damaged engines. He had a breakdown and lost everything. It had a profound effect on me as I then had nobody to stand up for me. Both he and I were further impoverished as we were close friends.

Point No. 7's quite short: deliberate actions of prefects, Catholic institutional control patriarchs, caused estrangement to occur between precious members of my family—and I would like to give that evidence in camera.

Point No. 8: a victim suffering from outright fraud and corruption—all set in place by papal knight JE Loneragan, Order of St Gregory 1937, by Pope Pius XII, for his work in setting up the Society of the Holy Name in Australia. Evidence that I've sent indicates that's the Catholic mafia, in research. He was my grandfather and died when I was a school-aged girl. His work is outlined: in the pages in your possession; the Society of the Holy Name manual; in many trove.org publications; in my record book of St Mary's Catholic Church, 1852 to 1952, by Father Maher; and through family discussions and knowledge. It is alarming evidence, with all photos, gifts and historical records in my safekeeping, and I could show those in an in camera session as well.

Point No. 9: financial deprivation and fear as a victim of planned water and land assets theft and of my home and surrounding area. Mid-Western Regional Council and surveyors, lawyers—Loneragan and others—in Mudgee, who I trusted, were committing fraud, greed and corruption with huge amounts of money being diverted by the patriarchs of the Catholic Institute to benefit them in private and community life. All of this was overseen by water ministers of New South Wales from, I believe, around 1986. My grandfather, papal knight, had set in place—with his beloved Mudgee shire council, where he was mayor, twice—corrupt surveyors. The main peg, not far from my property, was moved one foot. There were up to 10 firms involved and they are still on the run.

My grandfather was a founding member of the old Country Party, and his nephew and great-nephew—John Loneragan Sr and John Loneragan Jr, solicitors—are responsible for fraudulent documents and deeds, in my possession, since settlement in Mudgee. I believe all my grandfather's assets are in the hands of John Loneragan Jr. The property name is Heaton Lodge. Satellite imaging proves all the subdivisions do not fit together around my riparian system, from the Land Titles Office and LPI office validation, and it's now all been privatised. All paper maps are incorrect: 13 deeds and documents, which I will show in camera.

A real estate consultant validates satellite maps that show the true boundaries, and all the land around me is attached to my lot, my home, and the GIPA report validates where my water licence was issued and the licence stolen in 1990 by solicitor Loneragan. He did no searches to ascertain my ownership. I acquired land from the vendor, [inaudible], who was going to lease the private system back from me. I have sworn documents and letters in my possession where he was going to lease these back from me, but then he died very suddenly. There are some in camera things I'd like to say of that time. Vital documents and deeds have been removed from the LPI, in true searches, but all are in my possession, including the farm water act deed of 1946.

Point No. 10: for the whole of New South Wales government and Mid-Western Regional Council and private Catholic patriarchs to have perpetrated all this abuse and injustice upon me, a simple, humble and loving human being, is a human rights abuse. I purchased everything I own with hard work, doing two and three jobs, and I will not be dispossessed by the Catholic mafia and operatives in the New South Wales government. My family superannuation was millions of dollars lost, financial abuse, to inflict trauma and dispose of me as a person as well. I fear for my life every day, and I need help.

CHAIR: Thank you very much for your evidence, which we have listened to.

Mrs Doherty: All of the evidence that I'm giving you today, with the 22 pages that I've sent you—99 per cent of it has been given under oath at two royal commissions.

CHAIR: I suspected that was probably the case. Because we are hearing from other witnesses this afternoon, I want to make sure that my colleagues have an opportunity to ask you some questions of your experience of the Redress Scheme. If you're agreeable, can I invite my colleagues to ask you some questions?

Mrs Doherty: Yes, that's fine, thank you.

CHAIR: Ms Claydon, would you like to begin?
Ms CLAYDON: Thank you, Mrs Doherty. Your evidence was very moving. I'm going to try to restrict my questions to your experience of the way in which the Redress Scheme is working today. You mentioned that you were a priority case. I'm assuming by that you mean that when you completed your application to the National Redress Scheme you ticked the box that requested priority. Is that the case? Did I hear you correctly in saying that you had lodged in August last year?

Mrs Doherty: Yes, the last few days of August or early September, and it was sent by Rachel of In Good Faith Foundation. She had filled out the form for me and then I was later rung by a gentleman called Peter from the redress. He's my person, my advocate there—

Ms CLAYDON: Case manager.

Mrs Doherty: The contact. He told me that it was a priority matter.

Ms CLAYDON: You got that phone call soon after you lodged back in August-September last year?

Mrs Doherty: I did. I've spoken to him I think twice in the meantime.

Ms CLAYDON: Did you have to initiate those conversations or did Peter—who I am assuming is the case manager who has been assigned to you—just ring you of his own accord? Did you have to reach out and ask for that contact to happen?

Mrs Doherty: He rang me the first time, with another lady, I believe, of his own accord, to acknowledge that he had received everything and to express, I think, some sorrow about things. He told me that it would move through the processes. I think the last time that I contacted him I initiated that call. He told me then that I didn't have to give any further evidence to anyone or send any more information other than what In Good Faith had given. That was all accepted evidence, and he said that it had moved along to the final stage where in the near future I would be hearing something. That was about six or eight weeks ago, I think.

Ms CLAYDON: As far as you're aware, the institution—or institutions perhaps—in which your abuse took place are participating in the scheme?

Mrs Doherty: Yes.

Ms CLAYDON: You're not waiting on them to join the scheme, are you, at this point?

Mrs Doherty: No, I'm not. I believe that the New South Wales government signed up very early.

Ms CLAYDON: Yes. Just to be clear: despite being a priority case—no, let me rephrase this. How would you like the communication to work between the National Redress Scheme and yourself? What would be an ideal number of contacts and the manner in which those contacts are made to keep you informed of what's happening with your application? What would you like to see with that contact in an ideal world?

Mrs Doherty: In an ideal world, because I'm very lonely and isolated here I always like a phone call and somebody to talk to. I believe that Peter is really nice. I can't recall the name of the other lady who first rang; she was with him when they first called. Even if I could hear once a month, that would be good.

Ms CLAYDON: Okay, yes. So six to eight weeks ago you had a call that said you'd be hearing in the near future but you've not heard anything since that call?

Mrs Doherty: Yes, that's right.

Ms CLAYDON: Thank you so much for that, Mrs Doherty, it's very helpful for us in trying to get an understanding of how these matters are being dealt with daily and the impact they're having for you as a survivor. Of course we will look at the evidence that you're providing to us in much more detail, but it's just not appropriate to go there today.

Senator SIEWERT: Mrs Doherty, you said that you heard back six to eight weeks ago. Did you get an understanding then of where your application was actually up to?

Mrs Doherty: The man indicated that it was in the final stages—I think those were the words he used.

Senator SIEWERT: Okay. And no more than that?

Mrs Doherty: No more than that, no.

Senator SIEWERT: Did you need to make any clarification, or did they have all the information they needed?

Mrs Doherty: Everything had gone through every process. I didn't have to be interviewed by anyone or give any evidence; it was just moving along. I said to him, 'I think it's getting up towards six or seven months.' He just said, 'Well, it's in the final throes.' That's all I can say.
Senator SIEWERT: Is there anything about the process in applying for redress that you think could be improved? Or are you happy with the way the process went for you?

Mrs Doherty: I wasn't happy when the government dismissed the figure of $200,000 that was recommended by the commissioners at the royal commission. I thought that was really pretty mean. I also think that there has been so much suffering and that we're all getting older and everything. I think that the delays we've experienced are extraordinary.

Senator SIEWERT: Thank you.

CHAIR: Mrs Doherty, thank you very much for your evidence today. You will be sent a transcript of your evidence, and there will be an opportunity for you to request corrections to transcription errors. If any members of the committee have any further questions of you, they'll be put to you in writing. Again we thank you very much for your participation today.
COTTON, Pastor Bob, Public Officer, Maitland Christian Church Inc.

[15:15]

CHAIR: Pastor Cotton, thank you very much for your participation today. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed to discussions.

Pastor Cotton: Thank you. I am pastor of Maitland Christian Church in Maitland, New South Wales. My wife and I are credentialed ministers with the Australian Christian Churches, formerly known as the Assemblies of God in Australia. We've pastored Maitland Christian Church for approximately 25 years. Since the royal commission, we've been actively involved in supporting survivors of child sex abuse by clergy. I've been on television: on 60 Minutes and The Project. I've been interviewed on radio. I've been the subject of numerous newspaper articles. Much of this was to do with the successful lobbying of the New South Wales parliament to increase the penalties for those who conceal child sex offences, in section 316A of the New South Wales Crimes Act. As a result of this work and its exposure, I've come to know many survivors, and I've been able to assist some in their journey seeking financial compensation both civilly and through the Redress Scheme. I've heard their stories not only of sexual abuse when they were little but also of further abuse by the institutions during their quest to be fairly compensated.

My criticisms of the Redress Scheme are as follows. Firstly, the cap of $150,000 is far too low, and everything is weighted far too heavily in favour of the church. To me, the Redress Scheme is almost a 'get out of jail free' card for the church. I've sent you a copy of my church's invoice to participate in the Redress Scheme; it's annexeure 1. We're only a small church and, because contributions are in proportion to the size of the church, our contribution is quite small. You'll see that we pay only $189 a year to belong, and, not unlike car insurance, there's an excess if there's a claim. There are three excesses for us: there's $7,500 for a pre-1995 claim, $5,000 for a post-1995 claim and $25,000 if the rapist had a history of offending. I'm assured by our people at the ACS, Australian Christian Services, that, once a claim is paid, our denomination is forever protected against further claim. We're off the hook forever. I find this disgusting considering the vast difference between the average payout of the Redress Scheme and the more reasonable figures being paid through civil litigation. It's my understanding that civil claims now regularly exceed $1 million, and I'm aware of a case that settled out of court for just over $2 million.

If the Redress Scheme payouts were increased in proportion to the contribution, I'd be happy to pay four or five times as much to lift the cap to over half a million. I would ask that the churches' contributions be increased in order that the redress payments to survivors be increased. I would also like to suggest that, if the church is not willing to accommodate our victims, we should lose our tax exemptions and be subjected to tax the same as every other business. Money raised could then be used to create a fund that would properly compensate victims. It's my opinion that such a fund should be administered by a body independent of the church, because we've proved conclusively that we can't be trusted.

My second criticism is the conflict of interest with church owned insurance companies. The Australian Christian Churches owns its own insurance company. I've provided a screenshot from the website, supporting this. You have that as annexeure 2. Almost all our member churches are insured through them, as well as many other groups outside our denomination. I'm told by those senior to me that our insurance company will not cover us for historical child sex abuse claims. Despite the insurance company being in operation for over 20 years and despite our churches paying premiums for that long, we're on our own if a claim is made. I'm told that, for this reason, it's essential that our churches individually sign up to the Redress Scheme—because many of our smaller churches don't have the equity to pay if a judgement is made in a civil case. Therefore, the Redress Scheme is the only option for our victims to be compensated. Many ministers would take this in good faith and pass on this information to survivors and steer them away from civil action, but I consider this grossly unfair. I'd like to suggest that if the Australian Christian Churches own their own insurance company then the Australian Christian Churches can change their stance to include claims for compensation for historical child sex offences. When any other insurance company have an increase in claims, they compensate the loss by increasing premiums. Again, we the church who betrayed the innocent should bear the burden of our crimes, and if that means paying higher premiums then so be it.

I'm sorry to say that we're dealing with very hard hearted people within the leadership of the church institution, and I would like to give you an example of that, if I may. I've attached a copy of an open letter to our national...
executive that I sent to 3½ thousand pastors in my denomination last year. That's annexure 3. The letter spoke of a boy called Brett Sengstock, who was raped repeatedly by Pastor Frank Houston, deceased, one of the most prominent ministers in our denomination's history. Brett's story was told in case study 18 of the royal commission—he was known by the pseudonym AHA. Brett took civil action against our denomination, who vigorously denied his claim and bullied him into signing a cease and desist order under threat of pursuing him for costs. This seems to be standard practice, according to other survivors of my denomination. I'm told these costs would have exceeded $200,000. What is repugnant beyond belief is that Brett was dying. He was suffering stage 4 cancer at the time. He was frightened of losing his house, so he ceased action. After my letter to the national executive was ignored, having sent it a number of times and confirming that it was received, I sent it as an open letter to all of our churches and pastors. I received about 12 replies, most asking me to remove them from the mailing list, one asking me if I could prove what I was claiming and only three people from 3½ thousand offering to help. This is a sad indictment of the church and evidence of the attitude that church leaders hold towards survivors being compensated.

One pastor who did reply to me forwarded me an email that they received from the national executive when they raised questions about my open letter. I've attached a copy; it's annexure 4. You'll see that our national president's office advised the pastor that the Redress Scheme exists for us to help victims. In my opinion, stitching up the victim with the Redress Scheme and protecting ourselves from civil litigation is more helpful to us than to the survivor. This leads me to another conflict of interest, that being church organisation's victims support service steering survivors towards the Redress Scheme, as suggested by the letter I just referred to. Many survivors of child sex abuse by the church often go back to the institution that abused them for help. There is a clear conflict of interest when the church-run departments and support groups refer victims to the Redress Scheme rather than advise them to investigate a civil claim with qualified legal professionals. It's obvious that we are more interested in protecting our own assets than in doing the right thing by those whose lives were stolen.

My final criticism is this: social workers and other unqualified people giving legal advice to survivors on the pros and cons of the Redress Scheme versus civil litigation.

Recently I directed a survivor to a law firm for an opinion on his abuse case and if it was worth pursuing civilly. The professional legal advice was that the case was very strong and that the Redress Scheme should only be considered as a last-ditch effort if the civil case failed for some reason. He was advised to put his redress claim on hold while the civil case was run because if the Redress Scheme made him an offer and he refused it then he could never make application through the scheme again, which is another glaring fault.

The survivor asked me to contact a particular social worker with the survivor support group that had helped him complete his redress application and advise them of his intent to pursue a civil claim. I asked the social worker to contact him and confirm this, as I could not act on his behalf, which they did. The survivor then told me that the social worker was 'very upset with him and extremely disappointed in his decision to pause the application' and had told him that civil action was the wrong way to go—that he wouldn't get any extra money by going civil, that it would take much longer to receive the payment and that he'd probably get $200,000 or $300,000 but lose most of that to the solicitor.

The survivor had great trust in this social worker and their organisation, so this conflict caused him a huge amount of anxiety. The particular survivor is in public housing and on a pension and was denied a proper occupation involves assisting with the completion of redress applications.

They're the matters I'd like to put forward to you today. I thank you very much for allowing me to do so.

CHAIR: Thank you very much, Pastor Cotton. We appreciate your evidence. I might invite Ms Claydon to begin with some questions.

Ms CLAYDON: Thank you, Chair, and thank you, Pastor Cotton, for your very strong evidence there. My profuse apologies: I missed nearly the whole first half because we had a distortion in the audio. Forgive me if I ask a question that you've already covered in your opening comments. I am interested in this conflict of interest that you have talked about. We're about to face a compulsory legislative review of the National Redress Scheme. It must take place by the end of June. That's the two-year mark for the Redress Scheme having been in operation, and it is a requirement that there is a review underway. What would you suggest for that review process—ways to mitigate those conflicts of interest that you have alerted us to? Should there be a recommendation about the fact that, if people accept an offer from the Redress Scheme and they sign to accept to do so, they have automatically waived their rights to any future payment? Would you like to see that be abolished, for example?
Pastor Cotton: Absolutely!

Ms CLAYDON: What other mechanisms would you like for immediate review?

Pastor Cotton: Sorry for butting in there. I'd say 'absolutely' to what you've suggested there. If there were opportunity to revisit a payment, I think that would be very, very important. As it stands, the attitude behind the scenes still —:

behaviour, and this is what — one of the greatest betrayals of the ordinary person. The average Christian cannot see Christ in that kind of —:

the average congregant knew, they would be disgusted. They would withhold money and attendance. I think it's —:

commission, just what reprehensible acts they were capable of doing in the name of God. So I tend to think —:

same way as I used to look up to the leadership of our denomination until I realised, in case study 18 of the royal —:

their leadership simply because of the way religious organisations work. We —:

congregant would never darken the door of —:

church? —:

Bu —:

been very powerful. I'm just reflecting on your evidence about the response to your email to other church leaders.

I think your evidence about what the leadership of some of the churches might think or may not want to think has —:

organised religion, I think it's important to draw a distinction between people of faith a —:

our country that have a religious flavour or context is that, in what people assume about the hierarchies of —:

come back with a final question.

Sometimes some of the offences that were looked at during the royal commission were committed, are still in the same positions today. Many of these people who were investigated in the royal commission were found to have concealed serious offences. Some of these people are still holding positions of great authority. I really don't think the culture has changed behind closed doors, to be totally frank. Therefore, I think we really need to keep the —:

lightweight and the pressure on the institutions to ensure that they are behaving ethically and morally and that justice —:

is going to be provided to the survivors.

Perhaps, with the interference we had, you missed comments that I made about my particular denomination, the Australian Christian Churches. We own our own insurance company. If we own our own insurance company, and that insurance company is not going to pay out for claims in relation to childhood sex abuse, I think that's one of the greatest conflicts of interest you could possibly have. It's certainly within our power to change our policies to say, 'Yes, we will cover it through insurance.' Of course, as I said, if we suffer loss, premiums can be increased. So be it. If we've committed these heinous acts against children, we should shoulder the burden of it. At the end of the day, really, it's only money. We're talking about people whose lives have been stolen by people who were trusted and respected, and we should never be able to escape the shame of that. As I said, if we need to increase insurance premiums to cover payouts, we should do that. As I say, I think that probably one of the greatest conflicts of interest that I've seen in our denomination is that we hold the purse strings of the insurance company, and we make decisions that we're not going to pay. Therefore, we—churches' volunteers and workers—are pushing people towards redress, because otherwise people just aren't going to be compensated.

Ms CLAYDON: Thank you. That's very powerful testimony. I might leave questioning to others, and I'll come back with a final question.

CHAIR: I might ask you a question, Pastor Cotton. One thing that gets overlooked in some of the debates in our country that have a religious flavour or context is that, in what people assume about the hierarchies of organised religion, I think it's important to draw a distinction between people of faith and institutions of faith. I think your evidence about what the leadership of some of the churches might think or may not want to think has been very powerful. I'm just reflecting on your evidence about the response to your email to other church leaders. But what do you think the congregations of your church would think, as opposed to the leadership of your church?

Pastor Cotton: I really wish they knew what was going on, to be honest, because I think the average congregant would never darken the door of a church again if they knew how we had just continued to layer abuse upon these poor children, who have become adults with stolen lives. Congregants tend to put faith and trust in their leadership simply because of the way religious organisations work. We look up to our leadership, in the same way as I used to look up to the leadership of our denomination until I realised, in case study 18 of the royal commission, just what reprehensible acts they were capable of doing in the name of God. So I tend to think that, if the average congregant knew, they would be disgusted. They would withhold money and attendance. I think it's one of the greatest betrayals of the ordinary person. The average Christian cannot see Christ in that kind of behaviour, and this is what we've got to remember as church people and as Christians. We're meant to reflect the

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character and nature of Jesus Christ, and Jesus was very clear that we need to protect the vulnerable and protect the children, and of course the church hierarchy have done exactly the opposite. They've protected the wolves and they've sacrificed the lambs. Grassroots Christian people would never accept this if they knew what we knew.

CHAIR: Am I correct—and this is an assumption I'm making based on what you've just shared with us—that there would be no apprising of your attitude amongst congregants at this point in other churches like yours?

Pastor Cotton: I've never seen it, and I'm not aware of it. My congregation is probably a little bit different to most, in that I've spoken frankly about these matters to them as a group of people and spoken to them about what we can do as Christian people at a grassroots level to try and bring change and healing. But I'm afraid I don't know of anything on a greater scale than that.

CHAIR: Your evidence on how an insurer would rationally act in response to increases in claims in regard to certain matters is, I think, very powerful. Are you arguing that one of the means by which the church ignores its liability—these are coarse insurance words—is not to have the matter reflected in the premium, because if there is a significant premium increase then that would have to be brought to the attention of a congregation who are paying their respective fees to the church? So is the fact that the premiums are not reflective of the risk another way in which the church avoids or camouflages its liability?

Pastor Cotton: Possibly so. I think, honestly, it just boils down to dollars and cents and the bottom line. It's not going to be financially viable for the church institution to start writing big cheques to victims. So if we just say, 'We're not going to cover historic child sex offences; there's a Redress Scheme for that, so jump on board and that'll solve everything,' that's a quick, easy and heartless way for the church to deal with it, whereas, when you look at every other insurance company—take the recent bushfires, for argument's sake—the insurance companies would have taken a phenomenal hit but, over the next few years, insurance premiums will be increased and things will be worked out, and things will be fine. I don't see why the same loss can't be spread over all the churches over time. It really makes me wonder sometimes. What are they not telling us? Are there so many victims out there that this is just not financially viable and we can't do anything? But I don't accept that as an answer. We claim to be generous people. We claim to reflect the character and nature of Jesus. As I wrote in that letter to everybody, why don't we take up an offering right across our denomination?

The church is a powerful instrument. If we were to do things properly, there is so much that we could do to right the wrongs of the past. This is where I know congregants would rise to the challenge. I know the people in my church have given very, very generously to people like Brett Sengstock, who suffered that terrible abuse, when everybody else turned their back and refused to. If it were put to the Christians of this nation, I'm sure that they would respond in an overwhelming way. I can't see how, again, a grassroots Christian would be upset if premiums doubled, tripled or quadrupled to deal with our shame. We've got to accept the fact that this is our shame. We've allowed this to happen. We've turned a blind eye. We've betrayed the innocent. This is not something where we can just say, 'This is not our problem.' This is our problem; we own it, and if we own it we should pay for it.

CHAIR: Thank you very much. Senator Siewert or Mr Dick, do you have any more questions?

Mr DICK: Yes, Chair. Thank you, Pastor Cotton, for being such a powerful advocate and a voice. Just quickly, I want to understand a little more about what you say is a denial in some of the leadership, even in your own church, and that the congregation are perhaps turning a blind eye—they're my words, not your words. Is it a fact that some Christians think: 'I wasn't around. It's not my problem.' It happened so long ago. I want to focus on the future? Is it a lack of information through mainstream media or a lack of awareness among the broader community, or is it that we, as parliamentarians, are not doing enough to speak out on what's happened in the past? Or is it just a case of: pull the shutters up and pretend it never happened?

Pastor Cotton: I think you're right—there is a percentage of churches out there that have not joined the Redress Scheme, because they've said: 'This is not our problem. This happened years ago. Why don't these survivors just get over it and move on with life? It was such a long time ago.' I know that is an attitude amongst some, and all I can say is that, in the light of what we're supposed to be as Christian people, that is such a shameful attitude. In fact we should treat it as an honour to be able to help those who have suffered, when it's in our power to do so. A lot of what I'm talking about today is shame, and it's not the shame of the survivors; it's the shame of us, the institutions that have been heartless towards the survivors. We shouldn't be fighting them; we should be running towards them with a chequebook and whatever else we can do to help. It's our responsibility.

So I think it's partly a lack of education of congregations, but, again, ministers don't want to talk about it, because their hierarchy doesn't want to talk about it. Ministers are frightened of breaking ranks the way I have and speaking out the way I do. They're concerned for the future—their retirement, their superannuation and their
ongoing employment. There are many reasons why ministers haven’t spoken up and haven’t instructed their congregations. But, at the end of the day, it’s always a selfish reason and a selfish motivation, and I don’t believe that the church or any institution at this point in time has got the right to be selfish, when we know what trauma has been inflicted upon the innocent.

CHAIR: Ms Claydon, do you have one more question?

Ms CLAYDON: Yes, I do, Chair. Thank you very much for coming back to me. Pastor Cotton, I want to ask you what you think the Commonwealth and state and territory governments could do now to place maximum pressure on all of the relevant institutions to join the Redress Scheme, given that we have now just three months before the final date of 30 June approaches and there are some 295 non-government institutions that have not joined the Redress Scheme. We know some of those have significant numbers of applications, and those applications, of course, cannot be progressed whilst that institution has failed or indeed refused to join the Redress Scheme. What kind of leadership would you like to see from the government now to apply maximum pressure for those institutions to join?

Pastor Cotton: I’m really glad you asked me that question. I’ve believed for a long time that, if we don’t get onboard with this and do the right thing, then the government should withdraw our tax-free status, stop giving grants to such organisations and tax us like every other business. I think if we did that we’d have an opportunity to really see some positive steps. Again, I would even suggest that churches lose their tax-free status and be taxed to specifically create a pool of money from which we can properly compensate survivors and properly care for them. The church—well, I’m speaking of churches and charities—has enjoyed too much for too long when we’ve been doing the wrong thing. Certainly, if people won’t join the Redress Scheme, I would cut them off immediately and make examples of them because we need to do the right thing here.

Ms CLAYDON: Thank you very much for your very honest approach and opinion. It’s very valuable. And thanks, Pastor Cotton, for taking the time to speak with us today. It is really greatly appreciated.

Pastor Cotton: You’re very welcome. Thank you, Chair, and thank you, everyone, for hearing me today.

CHAIR: We thank you for your attendance. If the committee has any further questions, they’ll be put in writing to you. You will be sent a copy of the transcript of your evidence, and you will have an opportunity to request corrections to any transcription errors that may arise. We thank you very much for your evidence.

Pastor Cotton: If I may, I did write out my statement. Would it be helpful if I sent that through to you?

CHAIR: You most definitely can.
Evidence was taken via teleconference—

[15:47]

CHAIR: I welcome Dr McPhillips. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed to discussion.

Dr McPhillips: I'm a sociologist of religion and trauma, and my expertise is in institutional child sexual abuse in religious organisations. I'm also a clinical psychotherapist treating people with childhood trauma, including sexual abuse in religious organisations. I've studied a number of public inquiries addressing institutional child sexual abuse—I'm just going to call that ICSA from here—focusing on the Catholic Church, where abuse was widespread with devastating impacts on thousands of children across multiple church organisations during the 20th century. I've got expertise in the Australian royal commission and have extensive publications in this field arising from multiple research projects. I have expertise in survival experience and testimony, and the individual and collective impacts of trauma from ICSA. Today I'm going to focus on addressing the impacts of ICSA in sites designated as epicentres, in particular the Hunter region in New South Wales, and the impacts of ICSA on families and communities.

There are a number of epicentres of Catholic Church ICSA in Australia, most notably in Ballarat, Maitland and Newcastle and, to a lesser extent, Wollongong and Melbourne. In Maitland and Newcastle, two public inquiries investigated the extent and impacts of Catholic Church ICSA. There was the New South Wales special commission of inquiry in 2012 to 2014 and the royal commission in case studies 42 and 43 in 2016. Both inquiries found evidence of criminal behaviour by clerical paedophile perpetrators and Catholic authorities.

There have been ongoing police investigations into clerical perpetrators, as victims continue to come forward and disclose abuse. Multiple perpetrators have been charged and convicted. Police investigations also found evidence of church authorities failing to report crimes. In 2017 this resulted in the charging and conviction of Archbishop Philip Wilson, who was subsequently found not guilty on appeal. Bringing to justice church authorities who fail to report crimes and perpetrators has been an ongoing concern and the subject of state legislation in an environment post the royal commission.

In the Hunter region, hundreds, probably thousands, of children were harmed in Catholic organisations. The impacts on the affected families and the local community have been very significant. This region has high levels of substance abuse, domestic violence, mental illness and unemployment. While there is no substantive research linking ICSA to these levels, axiomatically, it is most definitely a contributing factor.

It's accepted in research reportage that disclosure rates of ICSA continue to remain low. Approximately 15 to 20 per cent of the total affected population ever disclose their abuse. It's therefore vital for the National Redress Scheme to understand and respond to the particular dynamics of religious ICSA and that religious organisations are called on most vigorously to contribute fully to the National Redress Scheme.

Religion has been a major source of individual and group identity across the Hunter. For much of the 20th century, it was a focus of community life. In particular, the Anglican and Catholic churches built thriving systems comprising schools, parishes, sporting groups, business groups and orphanages.

Religious organisations represented the largest group of offending institutions at the royal commission, with over 1,691 individual religious organisations reported on, and 30 of the 57 case study hearings involving religious groups. Nearly 59 per cent of survivors in private sessions reported their abuse in religious institutions. Of those, 62 per cent reported abuse in Catholic institutions. Most of the referrals from the royal commission made to police were to religious institutions, and data from the final report shows that most children were abused in these institutions for longer than a year, in multiple incidents.

In the two royal commission case study hearings—43 and 44—held in Newcastle in August and September in 2016, it was abundantly clear that the institutional mechanisms for dealing with disclosures of abuse and perpetrators held to a similar pattern. Authorities moved the perpetrator from place to place, failed to inform the community of the existence of perpetrators, failed to report criminal activity to police, relied on church law rather
than state law and protected the reputation of perpetrators, and thus of the institution, at the cost of the protection of children. Many of those children were punished and isolated for disclosing their abuse.

Because lots of children were raised in religiously devout homes, it was not safe to discuss sexuality, nor was it safe to report on perpetrators. When it was reported, punishment was often doled out for stepping outside these boundaries. Clergy abusers were often held in high esteem by the community, and children were often not believed by the church authorities if they disclosed. When they were believed, perpetrators were moved on to other parishes and schools.

Communities and families must be seen as secondary victims, and impacts acknowledged and remediated. Many families have not been able to sustain a harmonious family life, often due to the denial of abuse having taken place by some family members, or family members feeling torn between loyalty to the church and their family. Many parents feel desperately guilty for exposing their children to such great harm and for the subsequent loss of their life opportunity.

Communities were also torn between loyalty to church and priests, and the wellbeing of community members. Catholic teachers often felt like they had to choose between their job and the truth. Whistleblowers experienced significant trauma in bringing perpetrator behaviour to public attention. They were themselves stigmatised and often lost their jobs. Prior to the royal commission there was significant stigma and mistrust attached to survivors, which had devastating impacts on their health and wellbeing. I know many survivors who have borne a significant burden of guilt and blame for speaking out, even as their lives derailed. Addressing family and community needs has been overlooked by the Redress Scheme in general, yet restoring community health is central to being able to move forward from this catastrophe.

The feelings of betrayal and shame are very significant for survivors and have left many with profound mistrust of institutions in general. Many victims overwhelmed by their trauma took their own lives. The local support group, the Clergy Abuse Network, has been keeping a register of suicides in this region related to church based ICSA. There were particularly bad epicentres of religious ICSA in the Hunter region, including the Morpeth College, the Anglican training seminary; numerous Anglican parishes, including the Newcastle Cathedral; Catholic orphanages; multiple Catholic parishes, such as Merewether; two Catholic schools run by the Marist Brothers—St Francis Xavier in Hamilton and the diocese and church St Pius X in Adamstown.

The Marist Brothers reported to the royal commission that 25 per cent of their clerics were abusers. In the Anglican Church lay administrators as well as clerics were involved in covering up abuse. You can see how important an effective national redress scheme is in providing forms of restorative justice and healing following the catastrophic impact of religious institutional child sexual abuse.

I just want to say something about the impacts of ICSA on survivors. Disclosure itself is a traumatic process and results in poor mental health. Given that boys were more likely to be victims than girls, this led to different practices of disclosing abuse over long periods of time—typically between 30 and 40 years for male adult survivors. The reasons for this are various. One reason is that enough time has elapsed for a sense of distance to have developed and the need to ensure that more children are not harmed. Criminal and civil court cases were the site of further trauma in having to confront their abuser or hear their pleas of not guilty, or having insufficient evidence to proceed.

Survivors from religious organisations experience a very particular form of trauma—spiritual trauma—with survivors reporting to the royal commission either that their faith had been absolutely shattered by their experience or that it had been important in getting them through the experience. Survivors gave evidence that the redress protocols used by churches were often not pastoral and instead traumatic and blaming. These processes were largely managed by the institution's professional standards in the model of an insurance scheme, with financial caps and limited access to counselling. This was particularly the case with the Towards Healing protocol and the Melbourne Response scheme used by the Catholic Church. Both were found to be highly problematic by the royal commission and a source of further traumatisation for victims, who were often not believed. The protocol was not followed correctly; it lacked transparency; victims were forced to sign deeds of release; and apologies were either not provided or formalised and impersonal. The deed of release in particular allowed the Catholic Church to continue its practice of secrecy around child sexual abuse and reinforce the shame that victims experience.

The redress scheme also contributed to ongoing stigma attached to victims, who were marginalised by the institutions and then by society at large. For example, a constant process of invalidation, including accusations of lying and seeking financial gain, was levelled at victims, ensuring that many of them would not disclose at all. And this is still the case today. So it's vital that the National Redress Scheme learn from this and not create a scheme that says it is trauma responsive when in fact it is not.
My recommendations for the National Redress Scheme committee are the following. The largest institutions, the Catholic Church, with the most affected cohorts have allowed experienced constituencies to sign up to the scheme independently. This means that many Catholic institutions are yet to sign up. Indeed, most of those who have not signed up are Catholic. What of institutions that no longer exist, particularly Catholic orphanages? How will victims ensure redress in these circumstances? We're yet to hear a definitive response from the government on this. The failure of the Catholic Church to join the Redress Scheme as one body, like the Anglican Church did, is extremely disappointing. I recommend that the federal and state governments ensure that all Catholic Church organisations sign up to the NRS as soon as possible and, if this is not forthcoming, a penalty be applied to those groups.

Second, I recommend that the need for training for frontline counselling and psychology staff in the Hunter region be in a trauma informed model, including an understanding of the particular impacts of church based child sexual abuse and including the impacts of spiritual trauma, and that there is a sensitivity to the impact of that on a survivor's spirituality and faith. Third, I have a concern that survivors disclosing their story via the application form can trigger a mental health crisis and therefore recommend that applicants have access to dedicated counselling support at this point and not only once the application is approved. Survivors' needs and their complexities should be primary.

Fourth, I recommend that families of survivors have access to counselling support when needed, as they are secondary victims, often with poor mental health. I recommend that secondary victims be included in the National Redress Scheme. Fifth, the current National Redress Scheme hierarchy of abuse in terms of harm classification and its related payment system is simplistic and discriminatory, and fails to take into account the particular circumstances in which abuse occurs and the subsequent impacts. I recommend the current system be replaced with a trauma informed taxonomy.

Sixth, there is a concern that the current financial payment structure will not be sufficient to respond to the impact of the abuse on a survivor's life and that access to counselling is limited by either cost and/or time, depending on which state you live in. I recommend that the $5,000 limit on counselling psychological services for individuals survivors be extended to lifetime care, as proposed by the royal commission, and adopted by all states rather than just some.

ICSAs have lifelong consequences for health and wellbeing, yet the National Redress Scheme has only a 10-year tenure, to 2028. The royal commission actually recommended no fixed closing date. What services will be provided to survivors who disclose after this date? This is entirely feasible, given that the length of disclosure in institutions, particularly religious organisations and particularly for male survivors, is well over 20 years. Someone disclosing their abuse that occurred in 2010 and taking 20 years to do so would therefore not be eligible, so I recommend that the proposed 10-year tenure of the National Redress Scheme be abandoned and replaced with no closing date.

Lastly, we raise these points to understand that the social context in which ICSAs have occurred is fundamental to the success of any redress scheme. Unless the scheme can be sensitive to the context in which abuse occurred and the subsequent impacts, of which religious organisations were a key feature, there is a risk of the same dynamic—being silenced, dismissed, stigmatised and shamed—occurring again. The National Redress Scheme should not cause re-traumatisation but restoration. Thank you.
practise on the front line in our local emergency department. I produced research for the royal commission on the impacts of institutional child sexual abuse. This work was informed by my doctoral studies on the occurrence and outcomes of child sexual abuse in a prospective longitudinal cohort study. I've worked across policy, practice and research and am a named member of the federal government family and child expert panel.

The reflections and insights I'll briefly present here today are further to those presented previously and they're grounded in practice insights from that frontline reality of work here in the Hunter region. I really want to highlight intergenerational and community impacts. As Kath has mentioned previously to me, the Hunter region is a known epicentre of historic institutional abuse, primarily occurring in the context of religious organisations. As noted in reports prepared for the royal commission, the structural and social forces surrounding these institutions enable them to facilitate and conceal abuse, and that for many victims has resulted in a deep sense of betrayal and distrust of organisations, authorities and institutional settings.

The reality of that today in the Hunter region is that, at a community level, areas of our region evidence many of these acknowledged long-term impacts of institutional abuse. These include higher-than-state-average rates of disengagement with education; unemployment and underemployment; poor engagement with preventative health care; higher rates of substance use; and higher-than-state-average rates of child protection, child removal and domestic violence. These community-wide experiences need to be considered carefully and not dismissed in terms of mere coincidence or as an artefact of another co-occurring or related factor of distance and disadvantage. Rather, we need to be acutely aware of the roots and causes of disconnection and disengagement. For effective redress and support of survivors, their families and communities we need to be cognisant of not recreating risk, regenerating trauma and reinforcing implicit and explicit experiences of institutional betrayal.

Previously, in the evidence presented to the hearing in November 2018, I focused on the realities of a trauma-informed redress and I emphasised that, being sensitive to context, we need to find a way to build, establish and maintain the safety and trust of survivors. We need to recognise that the organisational auspice of practice, irrespective of focus, can be a continuing source of trauma.

Today I want to briefly draw your attention particularly to the overlooked and unrecognised, that really powerful impact of invalidation and its role in intergenerational and community transfer of the impacts of institutional abuse and the relevance of that to a redress scheme. We know from reports presented to the royal commission that in institutions the dynamics of dependence, distance, disconnection, de-identification, denial and disempowerment individually and collectively exerted risk for manipulation and maltreatment. The lived experience of these dynamics of betrayal, secrecy, exploitation, coercion and control are at their core fundamentally about invalidation. By definition invalidation is the process of denying, rejecting or dismissing someone's feelings. Invalidation sends the message that a person's experience is inaccurate, insignificant or unacceptable. We know the lived experience of the dynamic that underscores the experiences of institutional abuse is that victims' experiences are invalidated, their voices often unheard or invalidated, their rights overlooked or unrepresented. Invalidation can be experienced and enacted by individuals, families and communities but also, really importantly, by systems and structures who hold authority and power over time and across generations with compounding impact. Invalidation has been argued by Salter to be 'embedded within interpersonal and institutional arrangements and interactions' and it can result in a consequent withholding or disengagement from much needed resources, services and support.

I want to provide a brief local insight into what that looks like. As a brief kind of case study I note some insights from the federally funded Name, Narrate, Navigate program of young people who are perpetrating domestic violence. This work happens in the shadow of an environment where community impacts of historic child sexual abuse loom large, and they provide really strong and important understandings of the experience of invalidation. The young people we work with have all been victims of abuse and neglect, some in institutions. Young perpetrators of family and domestic violence, all those we work with, have experienced and continue to experience multiple complex and compounding trauma. In most instances this is intergenerational. In all instances the young people we work with share past, current and chronic experiences of invalidation.

Our work has clearly identified that for young people that we work with violence is almost always linked to the experience of invalidation. Violence is used to communicate and to connect. It is used to be heard and seen and recognised. It is used for retribution and it is used to find and form identity. In a region with a heavy gaze to historic experiences of institutional abuse, experiences of invalidation continue to fuel current and chronic trauma in our community. Experiences of invalidation are big and small, constant and cumulative. These occur with individuals and they occur with family members and community members, but we consistently hear these happen with services and support.
As workers, we've been witness to these institutional, systemic and structural experiences of invalidation. We've heard from and been told directly by workers across sectors: these young people could get housing if they really wanted; they are cut out for the school; they are from that kind of family or that kind of community or that kind of neighbourhood. We've also heard those same workers express genuine care and concern and a frustrated sense of just not knowing what to do to effectively meet complex community needs in ways that work within their skill set, funding remit and available resources. Invalidation in epicentres of historic child sexual abuse is systemic for all involved in the system.

Finally, my recommendations for redress are that the power of systemic and structural invalidation cannot be overlooked if redress schemes are to be effective. We cannot underestimate how systemic and structural invalidation can pose a risk for new, emerging or future forms of institutional abuse to occur or for a redress response itself to perpetuate trauma. As noted in my prior evidence, our services and systems of support are currently focused on individual experiences of trauma and not on collective or community experiences.

Today I want to stress how fundamentally these are interconnected and emphasise how family and community based responses are fundamental to healing for survivors. I want to reiterate that effective redress and response has to be holistic, expansive, cross-sector and multifaceted, and also responsive to fit for purpose. Many of our existing models of service delivery continue to be hampered by a lack of time and training, but also a greater understanding of what works for whom and in what ways. Redress for victims, their families and communities needs to honour experience. It needs to invite and invest in a collaborative design of services and supports, in cooperative education and in prevention initiatives. Redress response cannot be the domain of a medicalised model of practice. It has to include collaborative co-design with Indigenous elders, with survivors and with their families, and it has to consider the principles of universal design for greater accessibility, applicability and uptake.

Fundamentally, the insights on invalidation that I've provided here today present reason for pause and contemplation for organisations, institutions and systems on the way they work, on the skill set for their work and on how well they are doing in recognising their direct and indirect contribution to ensuring the process does not replicate these experiences. Thank you.

CHAIR: Thank you very much, Dr Blakemore. Senator Siewert, would you like to begin with some questions?

Senator SIEWERT: Yes. Thank you both; you've both given us an enormous amount of evidence and different insights into some of the other evidence that we've received. Both of you have touched on the issues around the secondary victims and the broader impacts of child sexual abuse. I'd like to ask both of you to expand on what are the things outside of—we've had a lot of evidence around the Redress Scheme itself. What I'm taking from your evidence is that we need to expand outside of the current Redress Scheme and acknowledge that there are changes needed there, and put in place other measures on top of what's already there; is that correct?

Dr Blakemore: Perhaps I'll let you give a more considered response, Kathleen, and I'm happy to back you up.

Dr McPhillips: Thanks. There isn't enough research yet on the secondary impacts of historic institutional child sexual abuse, particularly on affected families and communities. We do understand what secondary or vicarious trauma is. The royal commission provided a lot of evidence that there had been significant secondary trauma to families and communities but it wasn't in their remit to document that, so they didn't. So the evidence that is there is just circumstantial. I've done primary research where I've gone and talked to survivors in families and communities, and I've also done secondary research—so I've looked at the literature. I can see very clearly that families have been subject to enormous amounts of trauma and disruption. There has been very significant interfamily violence. There has been disruption to wider families and there has been no mechanism by which that has been officially recognised and responded to. It's like they are falling into this gap, really, and the services aren't there to support them. That is something that really needs to be recognised and addressed.

The broader question here is: what about communities? When you get an event like this, a catastrophic event across a community, it has multiple effects. As Tamara was saying, in particular what we're seeing coming through now in this region are the intergenerational effects of institutional abuse; that's generation to generation. We know that trauma travels through generations in multitudinal factors but we don't really have any kind of protocol or method of approaching community healing. Some of the communities that have been very badly affected—I'm thinking here of Ballarat, in Victoria—have instigated their own processes; they've done that through a variety of channels. There has been no response from governments or churches to this, so it remains a major concern.

Dr Blakemore: I would add to that that the service sector and the cross-sector response in our region has been crying out for greater understanding of trauma, from victimisation through to perpetration, to enable and support
locally led holistic responses. That's included everyone, from police to nurses, to teachers, to courts and judicial systems. So better understanding trauma and being able to work in ways that work has been a locally led driving force in our area.

Senator SIEWERT: So some of the local areas, I understand from what you've just said, have been recognising this and working on it. The next question is: is there sufficient funding to enable them to do that?

Dr McPhillips: No. The local initiatives are sort of formed around a collective impact model of work where there's a joined up response. That has happened from the ground up from what services are faced with—not with a historical top down but what we're seeing on the ground today. It isn't funded. It's cooperative and collaborative, and the biggest drain on it is the lack of resources and recognition of the resource toll that it takes.

Senator SIEWERT: So is basically where we go from here making sure this is recognised but then looking at how you invest in and work with communities to address the issues that you're so clearly articulating?

Dr McPhillips: Yes.

Dr Blakemore: Yes, that's right. That is something that's really vital. As we're saying, it hasn't been sufficiently recognised. We need to look at some of the models for community redress. What we're both saying is that the only community models that exist at the moment are bottom-up models that the communities themselves have developed, and they're not supported by funding or, if they are, it's one-off funding from small community funding pots and that kind of thing. It needs to be recognised as an issue, and we need to think about what the best practice options are here and how communities can access assistance.

Also, for families, I think family members need to have access to the Redress Scheme as well. When you're living in a family with a survivor who's had serious trauma impacts, your own mental health is likely to be affected. And there's likely to be an intergenerational transfer of that trauma as well to children. That is something that's really important. That's about the mental health and wellbeing of families.

Dr McPhillips: The other really practical way this could be done is that, when government provides funding for service delivery, that funding is contingent on service delivery also supporting fellow service providers. If we know there's a really good practitioner offering a really good service in a region, how can they then develop the community of practice around that community—that is, how do you train the trainer? How do you support the development of other sectors and bring them along rather than having this one pot of money going to one provider to provide one little service? How do you grow a community of trauma informed practitioners in a region?

Senator SIEWERT: Just extending that a bit further, you'd say then that, if there's funding being provided into one of these epicentre communities, it's provided on the basis that they develop a community practice or that all funding that goes in has to be aware of and be consistent with trauma informed practice? Is that what I understand from what you just said, Kate?

Dr McPhillips: I think there needs to be a dual focus on funding not only service provision but service sector growth. So, when you fund service, part of the dissemination of the evidence of what you're finding, how it's going and what's working goes back into that region and that community to grow the capacity of the community and a community of responders. Otherwise the funding gets concentrated in one particular sector and then that sector gets overwhelmed and there isn't that cross-sector capacity to respond.

Senator SIEWERT: You used existing funding, but I think you called it 'community redress'. Therefore are you suggesting that, regarding the approach we're taking on redress now, there be a broader recognition of the need for community healing and community redress?

Dr Blakemore: Community redress and sector support. So rather than just psychologists, medical practitioners or counsellors owning this knowledge, it would be community owned knowledge. Police officers know better how to respond. Nurses know better how to respond. Teachers know better how to respond.

Dr McPhillips: There's an example there too: take the main survivor support group in the Hunter region, the Clergy Abused Network—CAN. I think you may have heard from some members of CAN.

Senator SIEWERT: Yes, we did.

Dr McPhillips: They received no government funding, and they're basically run on volunteer labour. As part of their redress and larger approach to the repatriation scheme, the Marist Brothers have funded a part-time counsellor to work with the Clergy Abused Network in providing counselling assistance for survivors in that group. That's an example of one thing that the Marist Brothers are doing. But here would be a perfect example of where you could fund a group that then can, as Tamara was saying, build capacity by providing more resources into that group to engage in a whole series of activities that are going to build community support and resilience, and re-establish that social cohesion that has been so devastated by historic child abuse.
Ms CLAYDON: Thank you to both Dr McPhillips and Dr Blakemore for your evidence. It was terrific to listen in on that discussion. I know that both of you have been very focused and committed to looking at what will also deliver a broader restorative justice and healing process. I wanted to check in with you. I think much of the discussion you were just having with Senator Siewert illuminated what that broader kind of community approach to restorative justice and healing might look like. We're about to come up to the two-year review of the National Redress Scheme, so it is very timely. That means we're looking at the way the Redress Scheme has operated for the last two years but also the potential to make some recommendations going forward. Have you given some thought around what that future might look like to broaden the remit of the Redress Scheme to include families in these communities? Is there a very specific set of recommendations that you would like to put to the committee?

Dr McPhillips: I did put a specific recommendation to the committee that secondary victims and family victims be included in the Redress Scheme. I was very specific in that, and I think that's essential. However that might look for the Redress Scheme—what that would exactly look like would have to be nutted out—I think it's essential, because there is such a gap at the moment in family members getting any supported access to psychological services, medical services and other related services. So I definitely think that is important.

Also, as you know, a recommendation was that there should be no closing date for the scheme. That does concern me, because I don't think there is really any evidence to say that by 2028 survivors of child institutional sexual abuse will just automatically stop. They won't. Evidence suggests that it's still occurring—certainly not at the levels of the historic abuse that we saw, but it is still occurring. As long as there are big institutions then harm can happen. We need to ensure that the scheme is going to be available in an ongoing fashion.

Ms CLAYDON: I expect this question is to Dr Blakemore, and it's in terms of trying to increase the capacity of providers on the ground. I know that the last time we spoke with you there were concerns around training and education skill development for everyone working with trauma. Since we last spoke on record, have you had any further thoughts about how that best takes place? Have you noticed any efforts to increase capacity on the ground? Does it receive any kind of official government support? And how might we do this better?

Dr Blakemore: I think there definitely has been some increased growth in that sector, and certainly some very promising practice led by Blue Knot Foundation. I recognise organisations providing very good quality trauma informed training. On the ground, I see that most frequently in education—working with schools. There are quite a number of schools now in our local region which are very well trauma informed and very well educated in terms of a trauma informed practice.

There are still huge gaps, though, in recognising the institutions and organisations that victims, survivors and their families come into contact with frequently, either through the impacts of institutional abuse and the long-term impacts or just through the developmental chronological progression. The justice sector continues to be a sector where trauma informed care is a massive gap. We've begun working locally with police on that aspect, and that's a challenge. It's been a challenge, but they've been very receptive. It's a very different model of work and a different model of thinking.

The other unknown—and a huge factor—is aged care; that as victims and survivors age and go into aged-care facilities, the capacity of that sector and that workforce to be trained in trauma informed care hasn't yet even been addressed or thought about. So, yes, there is good training available and, yes, some sectors are more likely to pick it up than others and it's been recognised and funded. Other sectors just haven't even got there yet.

Ms CLAYDON: Thank you both enormously. I think the challenge before us is in how we contemplate an extension of support and assistance to family members to deal with these very real aspects of intergenerational impacts of institutional child sexual abuse. I think it would be fair to say that the scheme has not really put its mind to that as yet. Thank you for bringing that to our attention.

CHAIR: Is there anything further, Dr McPhillips and Dr Blakemore, you'd like to add?

Dr Blakemore: No, thank you.

Dr McPhillips: I would like to thank Sharon Claydon for her support of survivors and victims in the region and also for her ongoing support of the research that we do at the university.

Ms CLAYDON: Thank you.

CHAIR: Excellent. Congratulations, Ms Claydon. Thank you very much, Dr McPhillips and Dr Blakemore. We are now past the closure date. Thank you very much for your very thorough evidence and participation today. If the committee have any further questions, we will put them in writing to you. You will be sent a copy of the transcript of your evidence and you will have an opportunity to request corrections to any transcription errors. The next teleconference and hearing of this committee is scheduled for 1 April. I thank colleagues for their participation and I thank all the witnesses.
Dr McPhillips: Thank you.
Dr Blakemore: Thank you.

Committee adjourned at 16:35