

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018

Report No. 8, 56th Parliament

**Health, Communities, Disability Services and Domestic
and Family Violence Prevention Committee**

August 2018

Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

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Abbreviations

Bill	National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018
CLAN	Care Leavers Australasia Network
CLCQ	Community Legal Centres Queensland
committee	Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
Consequential Amendment Bill	National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018 (Cth)
department	Department of Child Safety, Youth and Women
FACAA	Fighters Against Child Abuse Australia
FLP	Fundamental legislative principles
LSA	<i>Legislative Standards Act 1992</i>
National Bill	National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth)
National Redress Act	The National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cwth)
National Redress Scheme	The National Redress Scheme for Institutional Child Sexual Abuse
NGI	Non-government institution
NSW Bill	National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (NSW)
OQPC	Office of the Queensland Parliamentary Counsel
QAI	Queensland Advocacy Incorporated
QCEC	Queensland Catholic Education Commission
QCSALRC	Queensland Child Sexual Abuse Legislative Reform Council
QFCC	Queensland Family and Child Commission
Standing Orders	Standing Rules and Orders of the Legislative Assembly

Note: All Acts are Queensland Acts, unless otherwise specified.

Chair's foreword

This report presents a summary of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's examination of the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018.

This is an important Bill to enable victims of institutional child sexual abuse committed in Queensland are able to access redress through the Commonwealth Government's National Redress Scheme.

The Bill seeks to adopt in Queensland the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth) (the National Redress Act), and introduce a framework to enable information sharing by Queensland Government agencies for handling applications for redress under the National Scheme. The Bill also seeks to amend the *Victims of Crime Assistance Act 2009* to provide that redress payments cannot be deducted from victim assistance payments under that Act.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

I thank committee members for their work on this Bill.

On behalf of the committee, I thank those individuals and organisations who provided written submissions to our work. I also thank our Parliamentary Service staff and the Department of Child Safety, Youth and Women for their assistance.

I commend this report to the House.



Aaron Harper MP

Chair

Recommendation

Recommendation 1

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The committee recommends the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 be passed.

1 Introduction

1.1 Role of the committee

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 15 February 2018 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility include:

- Health and Ambulance Services
- Communities, Women, Youth and Child Safety
- Domestic and Family Violence Prevention, and
- Disability Services and Seniors.

Section 93(1) of the *Parliament of Queensland Act 2001* provide that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles, and
- for subordinate legislation – its lawfulness.

1.2 The Bill

The National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (the Bill) was introduced into the Legislative Assembly and referred to the committee on 12 June 2018. The committee is to report to the Legislative Assembly by 9 August 2018.

The Bill consists of 18 clauses and a schedule which contains the text of the National Redress Act with its 193 sections.

1.3 Inquiry process

The committee invited stakeholders and subscribers to provide written submissions on the Bill. The committee received and accepted for publication 16 submissions, including a late submission from the Bar Association of Queensland. The submitters are listed at **Appendix A**.

The committee received an initial public briefing about the Bill from the Department of Child Safety, Youth and Women (the department) on 25 June 2018. The committee held a public hearing and received a second briefing from the department on 20 July 2018. The briefing officers and hearing witnesses are listed at **Appendices B & C**.

The submissions, correspondence from the department and transcripts of the briefing and hearing are available on the committee's webpage.

1.4 Policy objectives of the Bill

The objectives of the Bill are to:

- enable the Queensland operation of the National Redress Scheme for Institutional Child Sexual Abuse (the National Redress Scheme) by adopting the *National Redress Scheme for Institutional Child Sexual Abuse Bill 2018* (Cth) (the National Redress Act)²

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

² Received assent on 21 June 2018

- introduce a framework to enable appropriate information sharing by Queensland Government agencies for the purposes of the National Scheme, and
- amend the *Victims of Crime Assistance Act 2009* to provide that redress payments cannot be deducted from victim assistance payments under that Act.

The Bill adopts the National Redress Act within the meaning of section 51 (xxxvii) of the Commonwealth Constitution. Further, the Bill refers power to the Parliament of the Commonwealth for the purposes of making express amendments to the National Redress Act. The adoption or the referral may be terminated at any time by proclamation.

The Bill is needed for Queensland abuse survivors to have access to the National Redress Scheme in respect of child sexual abuse committed in Queensland Government and non-government institutional settings.

The National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth), which became the National Redress Act, forms the schedule to the Bill.

The Bill also provides for the request and sharing of information, particularly:

- the Chief Executive of the department may ask a State agency for information for the purpose of the National redress scheme
- a participating State institution may give information under the National Redress Act to the operator, where the operator has requested this information in relation to an application made under the National redress scheme, and
- the Chief Executive is permitted to give information to a State agency to assist any participating State institution to comply with a request made by the operator to the participating State institution.

1.5 Consultation on the Bill

As set out in the explanatory notes, consultation for the issues traversed by the Bill include:

- extensive engagement with victims of institutional child sexual abuse, support groups and institutions by the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission), and
- a series of meetings and roundtables hosted by the Department of Premier and Cabinet with key stakeholders to inform the Government's response to the Royal Commission. The roundtables were held between March 2018 and June 2018 in Cairns, Townsville, Caboolture, Brisbane, Logan, Ipswich and the Gold Coast.

Recurring themes from the feedback from participants in the roundtables included:

- an emphasis on trauma-informed and culturally safe services responses
- the importance of community education
- resourcing issues and the needs of rural and remote people
- the needs of Aboriginal and Torres Strait islander people, and
- the ongoing impacts of abuse on people who have experienced institutional child sexual abuse.

Feedback from roundtables with religious institutions and survivors and support services relate to the design and implementation of the National Redress Scheme and:

- the need for financial literacy and other comprehensive support for survivors in addition to redress payments
- the importance of the accessibility of redress, particularly for certain groups including Aboriginal and Torres Strait Islander people, and

- the importance of redress payments not being treated as income for the purpose of access to government services and supports.

In its brief for the committee, the department advised that broader community consultation was not undertaken on the provisions in the Bill as it ‘... relates to internal operations of the Queensland Government, and operationalises the Queensland Government’s commitment to opt into the National Scheme.’³

1.6 General support for the Bill

Submitters such as LGBTI Legal Services Inc and Queensland Advocacy Incorporated generally indicated support for Queensland to join the National Redress Scheme which the Bill seeks to achieve.

Peakcare Queensland supported the adoption of the Commonwealth’s National Redress Scheme for Institutional Child Sexual Abuse Act 2018 and the associated amendment reference to the Commonwealth Parliament to provide express amendments to the national Redress Act.⁴

Peakcare Queensland also supported the Queensland Government’s approaches to: enabling a framework for information sharing by Queensland Government agencies; the establishment of a central contact point in the department for liaison with the national scheme operator; and its decision to exclude from the definition of a ‘relevant payment’ in Queensland’s *Victims of Crime Assistance Act 2009* a redress payment payable by the Queensland Government under the national redress scheme.⁵

The Care Leavers Australasia Network (CLAN) in its submission stated:

*We...commend the Queensland Government for taking place in the Redress Scheme which will hopefully allow Care Leavers who have survived horrific childhood abuse, to feel heard, recognised, and most importantly receive justice.*⁶

knowmore⁷ stated:

*knowmore fully supports the participation of the Queensland Government and other non-government Queensland based institutions in the Scheme. Accordingly, knowmore supports the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (Queensland), and recommends that it should be passed.*⁸

Community Legal Centres Queensland (CLCQ) stated:

*Given our support for a national redress scheme, we support the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (Qld), and recommends that it should be passed.*⁹

CLCQ endorsed knowmore’s submission which endorsed the redress scheme and the Bill and suggests further reforms to better reflect the Royal Commission’s recommendations and to increase access to justice for survivors.¹⁰

³ Department of Child Safety, Youth and Women, 2018, *Correspondence*, 21 June.

⁴ Peakcare Queensland Inc, submission 1, p 3.

⁵ Peakcare Queensland Inc, submission 1, p 4.

⁶ Care Leavers Australasia Network, submission 14, p 8.

⁷ knowmore is a program of National Community Legal Centres.

⁸ knowmore, submission 8, p 1.

⁹ Community Legal Centres Queensland, submission 10, p 1.

¹⁰ Community Legal Centres Queensland, submission 10, p 1.

Micah Projects acknowledged the significant milestone that the Queensland Government has achieved in preparing the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. The submission also stated:

We congratulate the Government on your commitment to survivors, your advocacy for justice in joining the scheme and the allocation of \$500,000,000.¹¹

And:

Many survivors support the introduction of the National Redress Scheme ...¹²

Fighters Against Child Abuse Australia (FACAA) applauded the Queensland Government for signing onto the scheme as a part of their commitment to upholding the recommendations of the Royal Commission into institutional responses to child abuse.¹³

The Australian Lawyers Alliance stated in its submission:

We believe that the establishment of a National Redress Scheme for Institutional Child Sexual Abuse has the potential to have a genuine positive impact on the lives of thousands of people whose lives have been affected by sexual abuse when they were children.

Many aspects of the National Redress Scheme will provide meaningful redress for survivors. Providing three forms of redress – a monetary payment, access to counselling and psychological services, and a direct personal response – will all contribute to healing, and ensure that survivors know that what has happened to them has been acknowledged as wrong, and that there are also practical tools provided to assist with their healing. The proposed standard of ‘reasonable likelihood’ is appropriate and will minimise the level of re-traumatisation that is likely to arise as a result of engaging with the Scheme.¹⁴

The LGBTI Legal Service Inc are supportive of the Bill in its current form.¹⁵

Queensland Advocacy Incorporated (QAI) is generally supportive of the Bill.¹⁶

Bravehearts Foundation Limited stated in its submission:

We are pleased to see the Queensland government proactively working towards the passing of legislation and operational processes to ensure that those harmed in Queensland government and non-government institutions will be best supported in seeking redress under the National Scheme.¹⁷

The QFCC also indicated it supports the establishment of the National Redress Scheme for Institutional Child Sexual Abuse.¹⁸

1.7 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

The committee recommends that the Bill be passed.

¹¹ Micah Projects, submission 11, p 1.

¹² Micah Projects, submission 11, p 2.

¹³ Fighters Against Child Abuse Australia, submission 3, p 6.

¹⁴ Australian Lawyers Alliance, submission 6, pp 8-9.

¹⁵ LGBTI legal Services Inc, submission 12, p 1.

¹⁶ Queensland Advocacy Incorporated, submission 4, p 3.

¹⁷ Bravehearts Foundation Limited, submission 5, p 1.

¹⁸ Queensland Family and Child Commission, submission 15, p 1.

While the National Redress Scheme may not meet every expectation, it stands to benefit many thousands of Queensland survivors of institutional child sexual abuse, and offer closure and support they may not otherwise receive. For these reasons, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 be passed.

2 Background to the Bill

This section explains the background to the Bill based on a brief provided by the department. It includes information on the Royal Commission into Institutional Child Sexual Abuse (the Royal Commission), the National Redress Scheme and the likely applicants for redress from Queensland.

2.1 The Royal Commission

On 12 November 2012, the then Prime Minister, Julia Gillard, announced that she would recommend to the Governor-General that a Royal Commission be appointed to inquire into institutional responses to child abuse. The Terms of Reference were established, and six Commissioners were appointed, on Friday 11 January 2013 by Her Excellency Quentin Bryce, Governor-General of the Commonwealth of Australia. The Hon Justice Peter McClellan AM was the chair of the Royal Commission and worked with the five other Commissioners — Mr Bob Atkinson AO APM, Justice Jennifer Coate, Mr Robert Fitzgerald AM, Professor Helen Milroy and Mr Andrew Murray.

The *Royal Commission into Institutional Responses to Child Sexual Abuse's Redress and Civil Litigation Report* was publicly released on 14 September 2015. The Report recommended the establishment of a single national redress scheme to provide eligible applicants who experienced institutional child sexual abuse with a monetary payment, access to counselling and psychological care and a direct personal response from responsible institutions.

The final report of the Royal Commission presented to the Governor-General on 15 December 2017 made 409 recommendations. Eighty-four recommendations related to the National Redress Scheme.¹⁹

2.2 Legislation for the National redress Scheme

In late 2016, the Federal Government established an Independent Advisory Council to inform development of the National Redress Scheme. The council included people who have experienced institutional abuse, representatives from support organisations, legal and psychological experts, Indigenous and disability experts, and those with a background in government.

The National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth) (National Bill) and the National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018 (Cth) (Consequential Amendments Bill) were introduced together on 10 May 2018 by then Minister for Social Services, Hon Christian Porter MP.

The National Bill and the Consequential Amendment Bill were passed by the Australian Parliament on 19 June 2018.

2.3 The National Redress Scheme

The passage of the National Bill and proclamation of the National Redress Act created the National Scheme for Institutional Child Sexual Abuse (The National Scheme). The scheme will operate for a 10-year period from 1 July 2018. States, territories and non-government institutions (NGIs) have two years from 1 July 2018 to opt into the National Redress Scheme.

To participate in the National Redress Scheme, a state must refer powers to the Commonwealth Parliament in accordance with section 51 (xxxvii) of the Commonwealth Constitution. This involves:

- all participating states referring matters relating to a redress scheme for institutional child sexual abuse to the Commonwealth Parliament (so the National Redress Scheme can apply in those states)

¹⁹ The terms of reference, information about the commissioners, reports, inquiry documents and recommendations from the Royal Commission is available from the Royal Commission's website: <http://childabuseroyalcommission.gov.au>.

- at least one state doing an initial ‘reference of scheduled text’, to enable the Federal Government to introduce a National Bill (to create a national instead of a Commonwealth scheme), and
- following the passage of a National Bill, all remaining states ‘adopting’ the national legislation in order to participate in the National Redress Scheme.

The National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (NSW) (the NSW Bill) was passed by the New South Wales Parliament on 16 May 2018.

The National Redress Scheme is intended to provide support to people who were sexually abused as children in an institutional context. It has been designed in accordance with the Royal Commission’s principle that the relevant institutions should pay for the abuse experienced by children for which they were responsible. The National Redress Scheme will operate on a voluntary basis, which requires state and territory governments and non-government institutions to opt into the scheme.

To date, all state and territory governments have reportedly committed to joining the scheme, alongside a number of NGIs, including the Catholic Church, the Anglican Church, the Salvation Army, the Uniting Church, YMCA and Scouts Australia.

The Queensland Bill provides for Queensland to ‘adopt’ the National Bill and refer powers to the Commonwealth Parliament to enable future amendments to the National Bill to apply to its operation in Queensland.

2.4 Queensland Government influence on National Scheme operations

The Queensland Government has worked with the Federal Government and other state and territory governments on the design of the National redress Scheme since its establishment was announced by the Federal Government in November 2016. Once the National Redress Scheme is operational, the Federal Government will have responsibility for the scheme’s operations, including decision-making regarding applications. The Queensland Government’s involvement will include:

- responding to information requests
- providing advice on eligibility in certain circumstances, and
- paying invoices issued in relation to approved applications relating to Queensland Government institutions.

The Queensland Government will not have capacity to seek reviews of decisions.

The Queensland Government will, however, be represented on national governance structures and will have opportunities through these forums, and regular reporting required to be provided to the Federal Government on the scheme’s operations, to provide feedback on issues as they arise, and to jointly influence (along with other participating states and territories) proposed changes to the National Scheme. The national governance structures will enable responsible state and territory Ministers to vote on any proposed changes to key elements of the National Scheme, including those impacting on costs to state and territory governments.

The Queensland Government will also have control over the delivery of the counselling and direct personal response elements of redress provided within Queensland by the National Scheme.

2.5 Expected Queensland claims for redress

According to the department, its modelling indicates that approximately 10,000 redress applications may relate to abuse in Queensland institutions. This includes approximately 5,000 claims relating to Queensland Government-operated institutions across the ten-year life of the National Scheme, and a further 5,000 relating to abuse in Queensland NGI-operated institutions. The department is anticipated to be responsible for an estimated 81 per cent of all applications relating to Queensland Government institutions (across residential, foster care and juvenile justice settings).

3 Examination of the Bill

Submitters raised a broad range of issues in relation to the provisions of the Bill, primarily about the design and operation of the National Redress Scheme the Bill seeks to adopt in Queensland. Submitters also raised issues outside of the Bill about increasing vigilance to better detect institutional child sexual abuse and ensuring that the needs of abuse victims are properly addressed.

The table at **Appendix D** presents the department's written advice to the committee regarding the issues raised in submissions numbers 1 to 15.²⁰ The department has also provided responses to the issues raised that are outside the Bill.

A number of further issues about the Bill are discussed in **Part 4** of the report in relation to compliance with the *Legislative Standards Act 1992* (the LSA).

²⁰ Department of Child Safety, Youth and Women, *Correspondence*, 19 July 2018.

4 Compliance with the *Legislative Standards Act 1992*

4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles (FLPs) to the Bill. The committee brings to the attention of the Legislative Assembly the following issues in relation to clauses 3, 4, 11, 12 & 13 and sections 13, 20, 42, 43, 63, 64 & 171 in the National Redress Act at Schedule 1 of the Bill.

The committee also identified issues with the explanatory notes that accompanied the Bill.

4.1.1 Sections 42 and 43 National Redress Act (Schedule 1 to the Bill)

Rights and liberties of individuals — Section 4(2)(a) LSA

Does the Bill have sufficient regard to the rights and liberties of individuals?

The following provisions are contained in the National Redress Act (Schedule 1 of the Bill).

Accepting offer – discharging institutions from civil liability

If a person accepts an offer for redress, they must provide the Operator²¹ an acceptance document in the approved form. The acceptance document must state that the person releases and discharges the institutions and officials from all civil liability for abuse of the person (**section 42**). The person is prevented from bringing or continuing civil proceedings against a related institution or official in relation to the abuse (**section 43**).

Potential FLP issues

These sections raise the issue of whether the Bill has sufficient regard to the rights and liberties of individuals. Parliamentary committees consider the reasonableness and fairness of treatment of individuals as relevant in deciding whether legislation has sufficient regard to rights and liberties of individuals.

There is a potential departure from the principle that sufficient regard be given to an individual’s rights and liberties, under subsection 4(2) of the LSA, given that accepting an offer of redress will require the person to forego any future civil claims.

The explanatory memorandum to the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (the ‘National Redress Bill’), does not provide further explanation on the effect on civil liability of accepting an offer of redress.

The scheme is intended to be low-threshold, less legalistic and easier to access. However, claimants are being asked to forego any future civil claims by release and discharge.

The committee’s request for advice

The committee asked the department to explain how the requirement for a person to provide a release and discharge in order to accept redress under the scheme, thus foregoing future civil claims, is reasonable and fair, and that it shows sufficient regard to the rights and liberties of the person.

²¹ The ‘Operator’ is defined in the Bill at clause 9 to mean ‘the Operator within the meaning of the National Redress Act’.

The department's advice

Redress is an alternative that will be available to eligible applicants in addition to their existing (e.g. common law) rights. Applications for redress are voluntary, and people may choose not to accept an offer and retain their legal rights to bring a future civil claim in relation to the abuse. Any potential FLP departure may be justified on this basis.

Similar to other ex gratia payments, the National Scheme has a lower threshold and lower evidentiary requirements than civil litigation. Under the National Scheme a person may apply for redress by completing an application form (including a statutory declaration). Decisions will be made on the basis of reasonable likelihood rather than balance of probabilities as required in civil claims. There is also no requirement for applicants to be subjected to invasive and expensive medical or impact assessments. Accessing redress may therefore be less costly and emotionally damaging.

Some people who have experienced institutional child sexual abuse may prefer to apply for redress given the difficulties pursuing a civil claim including due to the passage of time and nature of the impact of the abuse.

Requiring a release under the National Scheme is also consistent with the Royal Commission's recommendation that a redress scheme should require applicants to release the institution from any further liability for institutional child sexual abuse by executing a deed of release, as a condition of making a monetary payment.

Free, confidential and independent legal support services are being jointly funded by the Commonwealth, state and territory governments to ensure that people have access to legal support to assist them in understanding the legal implications of accepting redress. This is also consistent with the Royal Commission's recommendations.²²

Committee comment

The committee notes and is satisfied by the department's explanation for how the requirement for a person to provide a release and discharge in order to accept redress under the scheme, thus foregoing future civil claims, is reasonable and fair, and that it shows sufficient regard to the rights and liberties of the person.

There are clear choices for abuse victims at the outset to either pursue a civil claim for compensation or to seek redress through the National Redress Scheme which has a lower threshold and lower evidentiary requirements than civil litigation. The committee also notes that requiring a release under the National Redress Scheme is consistent with the Royal Commission's recommendations.

4.1.2 Sections 13, 20, 63, 64 National Redress Act (Schedule 1 to the Bill)

Rights and liberties of individuals — Section 4(2)(a) LSA

Does the Bill have sufficient regard to the rights and liberties of individuals?

People excluded from applying or requiring a special assessment

A person must be an Australian citizen or permanent resident to be eligible for redress (**section 13**).

A number of people are excluded from applying for redress in **section 20**, including a child, and people with a security notice in force (see also **section 64**) and a person in gaol. However, a person in gaol may be permitted to apply if the Operator determines there are exceptional circumstances.

²² Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

Section 63 provides that a special assessment applies if an applicant has a serious criminal conviction. For the purposes of the National Redress Act, it means that the person has been sentenced to prison for more than five years (whether before or after making the application).

The Operator may then determine that the person is prevented from being entitled to redress under the National redress Scheme if the Operator is satisfied that if redress was provided, the scheme may be brought into disrepute or would adversely affect public confidence in, or support for the scheme.

Subsection 63(6) lists a number of items the Operator must take into account, including the nature of the offence, the length of the sentence, the length of time since the offence was committed and any rehabilitation of the person, among other things.

Potential FLP issues

Parliamentary committees consider the reasonableness and fairness of treatment of individuals as relevant in deciding whether legislation has sufficient regard to rights and liberties of individuals.

In relation to the National Redress Scheme only being open to Australian citizens or permanent residents, the explanatory memorandum to the National Redress Bill states:

This eligibility requirement is included to mitigate the risk of fraudulent claims and to maintain the integrity of the Scheme. It would be very difficult to verify the identity of those who are not citizens, permanent residents or within the other classes who may be specified in the rules. Removing citizenship requirements would likely result in a large volume of fraudulent claims that would impact application timeliness and provision of redress to survivors.²³

The explanatory memorandum does not provide specific justification for requiring an applicant with serious criminal conviction to undergo a special assessment process.

However, in one of the examples provided, it demonstrates that Person C in the example did not provide sufficient information demonstrating positive rehabilitation outcomes and it was determined by the Operator that Person C was not entitled to redress under the scheme. In another example, Person B was entitled to redress and was seen not to bring the scheme into disrepute or adversely affect public confidence in the scheme, because they displayed positive rehabilitation outcomes.

These examples tend to describe the process of making the determination under subsection 63(5) and (6) (ie successful outcomes for displaying positive rehabilitation outcomes), rather than providing an explanation of why a different process for applicants with serious criminal convictions exists.

The explanatory memorandum also does not provide any further explanation in relation to excluding applicants who have a security notice in force.

A person is also prevented from applying if they are in gaol (see section below relating to potential double punishment for persons in gaol), although an application may be accepted if the Operator determines there are exceptional circumstances.

The people excluded from applying would instead have to seek redress through civil proceedings or alternative dispute resolution.

The committee's request for advice

The committee requested that the department explain the:

- justification for preventing certain groups of abuse victims from applying for redress
- specific justification for requiring an applicant with a serious criminal conviction to undergo a special assessment process, and

²³ National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth), explanatory memorandum, p 20.

- specific justification for excluding applicants who have a security notice in force.

The committee also requested that the department provide estimates for the numbers of institutional child sexual abuse victims in Queensland who will be denied redress through the National Redress Scheme because of the provisions contained in sections 13, 20, 63 and 64 to help gauge the likely impact of sections 13, 20, 63 and 64 of the National Redress Act.

The department's advice

These matters are contained in the National Act which is Commonwealth legislation that has been scrutinised and passed by the Commonwealth Parliament. The Explanatory Memorandum for the National Bill provides some guidance on these matters. For example, in determining whether to make a determination about whether a person with certain serious criminal convictions is entitled to redress, the National Scheme Operator must consider whether the person receiving redress would not bring the Scheme into disrepute or adversely affect public confidence or support for the Scheme. Department of Social Services representatives have also advised that the restriction on applications from people in prison is necessary as the ability to deliver appropriate redress support services to people in prison is limited (see further detail below).

In relation to applicants who have a security notice in force, Department of Social Services representatives advise that these provisions are intended to ensure that those individuals assessed to be engaged in politically motivated violence overseas, fighting or actively supporting extremist groups, or that the individual would be likely to engage in conduct that might prejudice the security of Australia or a foreign country, would not be entitled to redress under the Scheme. It is not intended that every person whose passport or visa has been refused or cancelled would not be entitled to access redress, rather only in cases where it is appropriate or justified on security grounds.

In addition, restriction on the entitlement to redress for people subject to a security notice ensures integrity of and public confidence in the Scheme. Should a person no longer be subject to a security notice, they would then be able to access redress under the Scheme, if they satisfy other entitlement requirements. As section 69 of the National Act outlines, the Minister for Home Affairs is required to review the application of a security notice every 12 months, and as outlined in section 70, may revoke a security notice. The right to judicial review of the determination of a security notice is maintained, and is not limited by the National Act.

People who may not be able to access redress but who have suffered sexual abuse may also still be able to pursue a civil claim to seek remedy for the abuse suffered. In relation to the requested estimates of the numbers of people who have experienced institutional child sexual abuse in Queensland who will be denied redress through the national scheme because of the provisions contained in sections 13, 20, 63 and 64, it is difficult to provide definitive numbers, and DCSYW is unable to provide reliable data on the number of people in Queensland. However, Department of Social Services representatives have provided some information which can be inferred from various sources (except in relation to section 13) as follows:

Section 13 (not eligible): It is difficult to provide an estimate as applicants' eligibility will be assessed case-by-case.

Section 20 (application cannot be made for any reason):

During the span of the Royal Commission, 10 per cent of all people who spoke of their experiences with institutional child sexual abuse were in prison. The Department of Social Services is unable to provide estimates on the number of applications that can be expected from people aged under 18 years who will not turn 18 during the life of the Scheme.

Section 63 (serious criminal convictions): An Australian Institute of Criminology study looked at 2,759 cases of childhood sexual abuse over 31 years and found that 23.63 per cent of people in

their study cohort had a criminal offence record. The length of sentence was not indicated, however ABS – Criminal Courts Sentencing Data shows that criminal courts across Australia typically reserve longer sentence lengths for serious and/or violent crimes (homicide and related offences – average 16.8 years, sexual assault and related offences – 7.9 years, illicit drug offences – 5.9 years, robbery, extortion and related offences – 5.5 years). In 2017, there were 149 people sentenced to five years or more imprisonment for homicide and related offences, 350 people for sexual assault and related offences, 433 people for illicit drug offences and 138 people for robbery, extortion and related offences.

A person who has a serious criminal conviction may still apply to the Scheme. Applicants who indicate they have a serious criminal conviction for which they were sentenced to imprisonment for a period of five years or more, will go through a special assessment process. This will involve seeking the views of the relevant Attorneys-General of the jurisdictions in which the offending occurred and in which the person experienced abuse. These views will be taken into consideration by the Scheme Operator on whether the person receiving redress would not bring the scheme into disrepute or adversely affect public confidence or support for the Scheme, along with other factors including the nature of the offence, length of sentence, time since the offence, rehabilitation and any other relevant matter. The Scheme Operator may then make a determination that the person is not prevented from being entitled to redress.

Section 64 (security notice): It is anticipated that there will be a very minimal number of security notices that will impact on a person's eligibility for the Scheme.²⁴

Committee comment

The committee notes the department's advice on the reasons why the National Redress Act excludes or restricts certain groups of abuse victims from accessing redress through the scheme. These exclusions or restrictions prevent abuse victims from accessing any form of redress available through the scheme – redress payments, access to counselling and psychological services and access to direct personal responses from each of the participating institutions responsible for the abuse they suffered.

The denial of redress is on the premise that public confidence in, and support for, the Scheme may be diminished if those groups of victims were to receive redress. The committee appreciates that the Queensland Parliament is unable to amend the provisions of the National Redress Act.

4.1.3 Section 73 National Redress Act (Schedule 1 to the Bill)

Rights and liberties of individuals — Section 4(2)(a) LSA

Does the Bill have sufficient regard to the rights and liberties of individuals?

Review rights

An applicant may apply for a review of a determination under **section 73**. This review is conducted internally. An internal review is provided for under section 75.

The explanatory memorandum for the National Redress Bill rules out any other provision for external merits review or judicial review:

Merits review in the Administrative Appeals Tribunal or judicial review in the Federal Circuit Court or Federal Court under the Administrative Decisions Judicial Review Act will not be available to survivors or participating institutions.²⁵

²⁴ Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

²⁵ National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth), explanatory memorandum, p 10.

Potential FLP issues

Under the LSA section 4(3)(a)(second limb), whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The explanatory memorandum explains the reasoning for there being no external review mechanism as follows:

This is considered appropriate as redress is not intended to replicate civil litigation standards or processes. The Scheme is intended to be an alternative to civil litigation that avoids the risk of further harm to survivors. The lower evidentiary thresholds under the Scheme and the broad discretion of the independent decision-makers means that merits review and judicial review under the Administrative Decisions Judicial Review Act are not appropriate for decisions under the Scheme. The Scheme is to be supportive, survivor-focussed and non-legalistic and decisions will be made expeditiously.²⁶

The committee's request for advice

Given the potential financial implications for applicants who are denied redress, the committee asked the department to explain how section 73 is consistent with the principle that sufficient regard be given to an individual's rights and liberties, given that an applicant will only be entitled to internal review and no external merits review or judicial review. The committee also asked the department to explain why the department considers the absence of an external review right to be justified.

The department's advice

Justification of the proposed approach to review rights under the National Scheme was a matter for consideration by the Commonwealth Parliament in its consideration of the National Act. The Explanatory Memorandum for the National Bill provides that external review processes were considered to be overly legalistic, time consuming, expensive, and would risk further harm to survivors.

Free redress support services and legal services are being funded under the National Scheme to ensure people are supported to fill out the application form correctly and comprehensively, which may help mitigate any risk associated with the review mechanisms.²⁷

Committee comment

The committee thanks the department for explaining the justification.

4.1.4 Clauses 11, 12 and 13

Rights and liberties of individuals — Section 4(2)(a) LSA

Does the Bill have sufficient regard to the rights and liberties of individuals? – privacy of individuals.

Sharing information

Clauses 11, 12 and 13 of the Bill relate to the sharing of information. The chief executive may request information from a State agency for the purposes of the National redress scheme.

A participating State institution may give information to the operator for the purpose of complying with a request made by the operator. The chief executive may also give information to a State agency for the purpose of assisting the State institution to comply with a request made by the operator.

²⁶ National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth), explanatory memorandum, p 10.

²⁷ Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

Potential FLP issues

The clauses raise a potential breach of fundamental legislative principle in that it could be considered a breach of an individual's rights and liberties including the right to privacy.

In relation to the sharing of information, the explanatory notes state:²⁸

While the National Scheme is intended to operate on a low-threshold basis for evidence, and information requested to support a person's application will often relate to the applicant, Queensland requires an enabling framework for the sharing of information between State agencies and the central contact point in DCSYW, and also the National Scheme Operator, to ensure required information can, where available, be shared, collated and provided to the National Scheme Operator to assist the Operator in determining applications for redress.

The explanatory notes provide this justification:

The ability to share personal information, including third party information, is considered justified as it will be provided in very limited circumstances to enable the Queensland Government to support a person's application for redress for institutional sexual abuse they have suffered.

Limitations and safeguards will apply to the sharing of personal information, including, for example, that the chief executive may only ask another State agency for information if it is for the purposes of the National Scheme.

The committee notes the comments from the explanatory notes about these provisions. The committee also notes the particular sensitivities about the sharing of private information for abuse victims, as raised in submissions and at the hearing for our inquiry.

The committee's request for advice

The committee requested that the department explain how the sharing of abuse victims' private information will be carefully and appropriately managed by the Operator, the department and other parties for the processing of redress applications to protect the privacy of applicants.

The committee also asked the department to explain how it will ensure that applicants' highly personal and sensitive information will not be released or utilised for purposes other than the redress application process provided by the Bill.

The department's advice

Sharing relevant information as outlined in the Bill is required to enable the operation of the National Redress Scheme. Information in the redress application form and on the National Redress Scheme website makes it clear that information provided in an application may be shared by the National Scheme Operator, including with a responsible institution to enable the application to be determined.

The National Act also limits the way protected information may be used under the Scheme. Section 93 of the National Act provides that a person may only obtain, make a record of, disclose or use protected information if it is done: for the purposes of the National Scheme; with the express or implied consent of the person or institution to which the information relates; or if the person believes on reasonable grounds it is necessary to prevent or lessen a serious threat to an individual's life, health or safety.

Sections 99 – 101 of the National Act make it an offence if a person: obtains, records, discloses or uses protected information and is not authorised or required by the National Act; solicits the

²⁸ Explanatory notes, p 3.

disclosure of information from an officer of the National Scheme or another person; or offers to disclose protected information about another person.

The Explanatory Memorandum accompanying the National Bill acknowledges that a large amount of protected information will likely be acquired by the Scheme Operator through the operation of the National Scheme. The Explanatory Memorandum provides that the protection of information and a person's right to privacy is considered paramount. It also notes that the information sharing provisions are necessary to achieve the legitimate aim of assessing eligibility under the National Scheme, and are appropriately limited to ensure they are a proportionate means to achieve those aims.

The Federal Department of Human Services (DHS) has developed a secure portal to operationalise the information sharing arrangements with institutions. Access to the portal is established through DHS's Provider Digital Access (PRODA) system, which provides secure access to government services. Not until an individual's identity has been established, linked and verified by an institution will they be able to access protected information. Only PRODA authenticated users with permission to access the portal will be able to do so.

Under the Queensland Bill, limitations and safeguards will apply to the sharing of personal information, including, for example, that the chief executive may only ask another state agency for particular information if it is for the purposes of the National Scheme. The Information Privacy Principles or National Privacy Principles (for health agencies) under the Information Privacy Act 2009 (Qld) regarding storage, security and access to personal information will also continue to apply to state agencies sharing personal information for the purposes of the National Scheme.

In implementing required ICT processes and technology solutions to support the Scheme, DCSYW will ensure appropriate and robust security controls are in place to manage sensitive information. This includes incorporating all required information security controls in accordance with the Queensland Government Information Security Classification Framework.

DCSYW will ensure the Queensland Government redress ICT system is built and operated in accordance with the Information Privacy Principles. DCSYW will also ensure all staff working with sensitive information are appropriately trained, supervised, and that suitable physical and electronic security controls are in place to restrict information access to staff with an approved business need.²⁹

Committee comment

The committee notes and is satisfied that the limitations and safeguards for the protection of applicants' personal information are reasonable and appropriate.

4.1.5 Section 20 National Redress Act (Schedule 1 to the Bill)

Rights and liberties of individuals — Section 4(2)(a) LSA

Does the Bill have sufficient regard to the rights and liberties of individuals?

Section 20(1)(d) of the National Redress Act excludes a person in gaol from applying for redress under the scheme.

Potential FLP issues

Arguably, the National redress Act imposes an additional penalty to a person who is in gaol, by preventing them from applying for redress. The OQPC Notebook, in relation to proportionality, states:

Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation.

²⁹ Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

The explanatory memorandum discusses excluding people in gaol from making an application:

Paragraph 20(1)(d) is included as it would be difficult to secure appropriate redress support services for this environment, and there are risks associated with the confidentiality of applicants in a closed institutional setting.³⁰

A person in gaol is not prevented from applying for redress when released, subject to the sunset clause of the Bill, and that person may also be then subject to the special assessment provisions in relation to serious criminal convictions. Under section 20(2), the Operator may accept an application in exceptional circumstances.

The committee's request for advice

The committee asked the department to explain how section 20 has sufficient regard to the rights and liberties of those persons in gaol who are prevented from applying for redress, and to give assurances to the committee that the section is consistent with the principles of proportionality, as discussed in the OQPC Notebook. The committee also asked the department what proportion of persons in Queensland gaols are known victims of institutional child sexual abuse.

The department's advice

The provision of redress under the National Scheme is an additional avenue that will be available to eligible applicants. As such, it is not considered that it is a penalty to not provide for certain individuals to be able to access redress as it does not remove an existing entitlement. These people also retain the right to make a civil claim.

The Scheme will not ordinarily accept an application from a person who is in prison as applications can instead be made once a person is released. Department of Social Services representatives have advised that the restriction on applications from people in prison is necessary as the ability to deliver appropriate redress support services to people in prison is limited. There will also be greater difficulty maintaining survivor privacy and confidentiality. As the Scheme will run for 10 years, many people will be able to apply once released, with the full support of redress support services.

In accordance with section 20 of the National Act, a person who is in prison may be able to apply for redress where the National Scheme Operator determines there are exceptional circumstances justifying an application being made. A special assessment process will occur in these circumstances. Section 14 of the National Redress Scheme for Institutional Child Sexual Abuse Rules 2018 prescribes requirements for when there are exceptional circumstances. The National Scheme Operator can exercise discretion to accept an application from a person in prison if:

- a) the person is so ill that they would not be able to make an application when released, or*
- b) the person is expected to remain in prison until after the Scheme ends.*

For all other circumstances, the Scheme Operator must seek and consider the views of the Attorneys-General of the jurisdictions in which the person is in prison and in which the person experienced abuse when making a determination as to whether there are exceptional circumstances that justify the Scheme accepting an application from the person.

DCSYW is unable to advise the proportion of people in Queensland prisons who are known victims of institutional child sexual abuse as the Queensland Government does not collect this data. The document 'Working with the Royal Commission Queensland Inmate Engagement Strategy' which is publicly available on the Royal Commission's website (reference IND.0738.001.0001_R),

³⁰ National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth), explanatory memorandum, p 27.

provides some relevant data based on the Royal Commission Queensland Inmate Engagement Strategy (IES). The IES commenced in March 2016 and the Royal Commission visited 19 Correctional Centres across the state. This document notes that as at April 2017, 712 people had contacted knowmore for legal advice from Queensland prisons as a result of the IES (8.7 per cent of Queensland's total prison population), and of those that had legal intakes completed, 87 per cent of those fell within the Royal Commission's terms of reference.

It should be noted that this data does not represent the number of people in prison who have experienced institutional child sexual abuse, rather just the people who chose to make contact through this process. This data does not account for underreporting or other factors.³¹

Committee comment

The committee notes the department's advice, and that an application for redress through the National Redress Scheme can be made in exceptional circumstances under a special assessment. The committee also acknowledges that the Queensland Parliament is unable to amend the provisions of the National Redress Act.

Rights and liberties of individuals — Section 4(2)(a) LSA

Does the Bill have sufficient regard to the rights and liberties of individuals?

Section 171(4) provides for a defence where a financial institution fails to comply with a notice in paragraph 171(2), if the financial institution proves that it was incapable of complying with the notice. The note to clause 171(4) states that a defendant bears a legal burden of proof when raising the defence.

Potential FLP issues

A reversal of the onus of proof may fail to have sufficient regard to the rights and liberties of an individual (noting that here, financial institutions are involved, rather than individuals).

The explanatory memorandum to the Commonwealth Bill remarks:

The note to subclause 171(4) provides that the burden of proving whether a person has a reasonable excuse is on the defendant and directs the reader to section 13.4 of the Criminal Code. This provision in the Criminal Code provides that a defendant who wishes to rely on any exception, exemption, excuse, qualification or justification provided by the law creating an offence bears an evidential burden in relation to that matter.³²

No further explanation is provided.

In considering the Victorian bill adopting the scheme, the Victorian Parliament's Scrutiny of Acts and Regulations Committee provided comment on the National Redress Act:

... Proving that a financial institution was incapable of complying with a notice is a matter peculiarly within the knowledge of that financial institution. The financial institution would be best placed to prove why it was incapable of complying, based on its internal system, records processes, and policies and procedures. Conversely, it would be significantly more difficult and costly for the prosecution to disprove the matter, than for the financial institution to establish the matter. There would be no less restrictive means reasonably available to achieve the intended purpose that the legal burden seeks to achieve.³³

³¹ Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018

³² National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth), explanatory memorandum, p 99.

³³ Scrutiny of Acts and Regulations Committee (Vic), 58th *Parliament Alert Digest*, No.7 of 2018, p 15.

The committee's request for advice

The committee requested the department to explain how the requirement at section 171(4) has sufficient regard to the rights and liberties of individuals.

The department's advice

As the Committee has noted, section 171(4) relates to the recovery of amounts from financial institutions rather than individuals. As such, DCSYW is of the view that a defendant bearing the legal burden of proof when raising the defence is not a breach of the principle to have sufficient regard to individuals' rights and liberties.

However the recovery of any such funds which have been paid into the wrong account may occur in relation to an account held by an individual. Section 171(2) provides that the financial institution may be given a written notice requiring the lesser of the amount of the payment, or the amount that remains in the account when the notice is given, to be repaid. As such, where an individual may have incorrectly received a payment, the financial institution would not be required to repay money that had already been spent if insufficient funds remained in the individual's account.³⁴

Committee comment

The committee notes and is satisfied by the department's explanation for how the requirement at section 171(4) has sufficient regard to the rights and liberties of individuals.

Institution of Parliament**4.1.6 Sections 32 and 33****Delegation of legislative power — Section 4(4)(a) LSA**

Does the Bill allow the delegation of legislative power only in appropriate cases and to appropriate persons?

The assessment framework and guidelines

In order to determine the amount of redress payment and the amount of counselling and psychological component for a person, the Minister may declare a method or matters to take into account. This declaration is known as the **assessment framework** and will be a legislative instrument (**clause 32**). Section 32(3) further states that section 42 of the *Legislation Act 2003* (Cth), which relates to disallowance, does not apply to the legislative instrument (the assessment framework). This significantly constrains the Commonwealth Parliament's scrutiny of the framework.

At the Commonwealth level, generally legislative instruments are subject to parliamentary scrutiny through the power of either House to disallow any delegated legislation. Scrutiny is undertaken by the Senate's Regulations and Ordinance Committee. This committee scrutinises each instrument to ensure that it:

- is in accordance with the statute
- does not trespass unduly on personal rights and liberties
- does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal, and
- does not contain matter more appropriate for parliamentary enactment.

³⁴ Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

The committee may recommend the disallowance by the Senate of any delegated legislation not in accordance with the committee's principles. This disallowance power is set out in section 42 of the *Legislation Act 2003* (Cwth). This sets a process in motion where the minister may amend the instrument and the instrument is potentially then subsequently remade or disallowed. As noted earlier, section 42 does not apply to the legislative instrument (the assessment framework).

Based on the Regulations and Ordinance Committee's role and the relevant Senate Standing Order 23, it seems probable that that committee will only review a 'disallowable instrument'.

Potential FLP issues

Section 4(4)(a) of the LSA provides that a Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons. As noted in the OQPC FLP Notebook, this matter is concerned with the level at which delegated legislative power is used.

Generally, the greater the level of political interference with individual rights and liberties, or the institution of Parliament, the greater the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament.

The assessment framework has been declared by the Minister, and sets out the method or matters to take into account for the purposes of working out the amount of redress payment and counselling and psychological component ('the redress amount') for a person. The declaration is not set out within the Act, rather it is provided for in a legislative instrument.

The determination of the redress amount is an important matter and would arguably be better provided for in legislation.

Of further concern, is that the Queensland Parliament will be adopting the National Redress Act, and by extension, the assessment framework (the legislative instrument), both of which will be created by bodies outside of the Queensland Parliament. As noted above, the normal disallowance powers of the Commonwealth Parliament under section 42 of the *Legislation Act 2003* (Cth) do not apply to the framework.

In regard to these issues, the explanatory memorandum to the Commonwealth Bill states:

Subclause 32(3) provides that a declaration under subclause 32(1) is a legislative instrument, but is exempt from section 42 of the Legislation Act 2003, which provides for disallowance. It is necessary to exempt this Ministerial declaration from disallowance so that the method or matters to be taken into account for the purpose of working out the amount of redress payment for a person are certain for applicants to the Scheme and decision-makers. This declaration would ordinarily be of an administrative character and would not be a legislative instrument without this provision. However, in order to ensure certainty and transparency it is appropriate to make this declaration a legislative instrument. (emphasis added).³⁵

³⁵ National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth), explanatory memorandum, p 38.

The committee's request for advice

The assessment framework contains a number of key provisions to the operation of the National Redress Scheme and to the interests of abuse survivors who will seek redress from the scheme.

The committee asked the department to explain how it is reasonable for the framework to be contained in a legislative instrument that another parliament may not fully scrutinise, and has no powers to disallow, rather than in an Act that is subject to full parliamentary scrutiny, and how this provide greater certainty and transparency.

The committee also asked the department to explain whether delegation of powers in this instance is an appropriate case at an appropriate level and to appropriate persons.

The department's advice

Department of Social Services representatives have advised that having the Assessment Framework in a legislative instrument provides appropriate flexibility in the event that aspects of the framework need be adapted and modified in a timely manner. It also provides a standalone source of information for applicants if they are seeking information about how their redress payment is calculated.

The instrument is available online and may be examined by state parliaments in the same manner as the National Act. State parliaments are not able to move amendments to that Act nor that instrument. However, as noted above, Queensland's adoption of the National Act may be terminated, and governance arrangements have been nationally agreed to facilitate state and territory lead redress Ministers holding some influence over amendments to the National Scheme.³⁶

Committee comment

The committee notes the department's advice.

National scheme legislation

If the Bill implements a national scheme, are any limitations on the sovereignty of the Queensland Parliament justifiable?

Clause 3 adopts the National Redress Act. It also refers matters relating to a redress scheme for institutional child sexual abuse to the Parliament of the Commonwealth to the extent of the making of laws with respect to the matter by making express amendments of the National Redress Act.

Clause 4 recognises that the National Redress Act may be expressly amended or have its operation otherwise affected by provisions of Commonwealth Acts and instruments made or issued under the National Redress Act.

The adoption and amendment reference may be terminated at any time by proclamation (**clause 7**).

Potential FLP issues

The OQPC Notebook relevantly states:³⁷

Parliament's sovereign power to make laws for Queensland should not be compromised by administrative agreements made between Australian executive governments that bind the parties to obtain specific laws from their Parliaments without amendment by their Parliaments.

³⁶ Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

³⁷ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 176.

... A tension is therefore created between the efficient collaboration between the several jurisdictions of Australia and the independence of action of each of their sovereign Parliaments.

The OQPC Notebook goes on to further state that national schemes of legislation have been a source of considerable concern, both to the Queensland Scrutiny Committee and to its interstate and Commonwealth counterparts, adding:

The Scrutiny Committee's greatest objection to national schemes of legislation is when they involve predetermined legislative schemes. The committee takes the view that it has become ineffectual for members to propose amendments because of the stance taken by sponsoring Ministers that they have an obligation to keep to the terms of legislation agreed between various jurisdictions.

This is further reiterated at paragraph 4.2.4 of the OQPC Notebook:

The Scrutiny Committee is generally very wary of national scheme legislation because it believes that when the legislation is introduced or tabled in Parliament following the national agreement on the laws under administrative arrangements, there is little real capacity of the Parliament to amend, refuse to pass, or disallow the law.

The department's briefing paper to the committee dated 21 June 2018 commented in relation to the referral of powers:

... the Queensland Bill provides for Queensland to 'adopt' the National Bill and refer powers to the Commonwealth Parliament to enable future amendments to the National Bill to apply to its operation in Queensland.³⁸

In relation to Queensland Government influence on the National redress Scheme operations, the briefing paper makes clear that 'the Federal Government will have responsibility for [the scheme's] operations, including decision-making regarding applications'. Further, 'The Queensland Government will not have capacity to seek review of its decisions'.³⁹

The briefing does state, however, that the Queensland Government will not be without recourse. The Queensland Government will be represented on national governance structures and will be able to provide feedback on issues and to jointly influence proposed changes to the National Redress Scheme. The Queensland Government (along with other State and Territory Ministers) will also be able to vote on proposed changes to key elements of the National Redress Scheme.

The adoption and referral of powers can be seen to be removing the decision making powers of the Queensland Parliament.

The committee's request for advice

The committee asked the department to explain what, if any, capacity the Queensland Parliament will have to amend, refuse to pass, or disallow the National Redress Act, future amendments to the Act passed by the Commonwealth Parliament or instruments made under the Act, if the Bill is passed.

The department's advice

The National Act is Commonwealth legislation that has been scrutinised and passed by the Commonwealth Parliament, and since 1 July 2018 now operates in relation to the Commonwealth and within the jurisdictions that have referred powers. While the Queensland Parliament does not have power to amend the National Act as it is now in force, it is a matter for the Queensland Parliament to determine whether or not to pass the Bill to enable the National Scheme to apply in Queensland.

³⁸ Department of Child Safety, Youth and Women, *Briefing to committee*, 21 June 2018, p 5.

³⁹ Department of Child Safety, Youth and Women, *Briefing to committee*, 21 June 2018, p 7.

Clause 3 of the Bill proposes that the National Act be adopted and powers in relation to that Act be referred to the Commonwealth Parliament within section 51 (xxxvii) of the Commonwealth Constitution. This provision proposes referring powers to the Commonwealth Parliament for the limited purpose of the National Scheme.

Passage of clause 3 of the Bill by the Queensland Parliament would enable the National Scheme to operate in Queensland, including enabling non-government institutions and Queensland Government agencies to opt in to the Scheme. Given the limits on the Federal Government's powers under the Commonwealth Constitution, if the provisions in clause 3 of the Bill are not passed, the Scheme will not be able to operate in Queensland and people who experienced institutional child sexual abuse in Queensland institutions (other than in Commonwealth Government run institutions) will not be able to access the Scheme.

In order for the National Scheme to operate effectively and consistently across jurisdictions, section 4 of the Bill provides that the National Act may be expressly amended or otherwise affected by provisions of Commonwealth Acts or instruments made or issued under the National Act.

Part 2 of the Bill also makes it clear that the State may establish its own redress scheme despite the operation of the National Scheme (clause 5), and the adoption and referral of powers can be terminated (clause 7).

In relation to future amendments to the National Scheme, governance arrangements have been nationally agreed that provide states and territories that opt in to the Scheme with an ability to influence amendments to the Scheme. Specifically, a Ministers' Redress Scheme Governance Board has decision making powers in relation to amendments to the National Act, Rules and policy guidelines. In accordance with the National Redress Scheme Intergovernmental Agreement, a unanimous vote will be required for any changes that would make significant design changes or impact participation costs for states and territories.⁴⁰

Committee comment

Given the overall purpose of the National redress Scheme and the desirability of a uniform national approach, and the Queensland Government's continuing involvement in the national governance structures, the committee is satisfied that the breaches of fundamental legislative principle involved in the limitations on the sovereignty of the Queensland Parliament are justified.

4.2 Explanatory notes

Part 4 of the LSA sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. Other than as set out below, the notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

Paragraph 23(1)(f) of the LSA requires explanatory notes to include an assessment of the consistency of the Bill with the FLPs. In this case, the only FLP matter traversed in the explanatory notes is that regarding confidentiality of private information (regarding the information sharing provisions in the Bill). The explanatory notes fail to address other issues of fundamental legislative principle raised by the Bill's provisions (including relating to the referral and adoption of powers which would affect the sovereignty of the Queensland Parliament and relating to the delegation of power to an outside body (assessment framework), and including issues raised by provisions in the schedule to the Bill.

In advice to the committee dated 25 July 2018, in response to questions taken on notice at the briefing on 20 July 2018, the department states:

⁴⁰ Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

The National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth) (National Act) raises potential fundamental legislative principle (FLP) issues, including a potential departure from the principle that sufficient regard be given to an individual's rights and liberties (privacy and confidentiality and compliance with natural justice principles) under the Legislative Standards Act 1992. The Explanatory Notes in relation to the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018 (the Bill) raise similar issues in relation to the Bill, but do not cover FLP issues related to the National Act.

Consideration of relevant FLP (or equivalent) issues were a matter for the Commonwealth Parliament in its deliberations regarding the National Act and the National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Act 2018 (the Commonwealth Acts). The Explanatory Memorandum for this legislation addressed a number of relevant considerations in its statement of compatibility with human rights, including the right to protection against arbitrary or unlawful interferences with privacy. The Explanatory Memorandum relating to the Commonwealth Acts is on the public record and is available at the Parliament of Australia website:

https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6101

Whilst the Bill proposes to adopt the National Act, because the National Act is separate Commonwealth legislation and the National Bill is only attached to the Bill for definitional purposes, the Department of Child Safety, Youth and Women is of the view that section 23 of the Legislative Standards Act 1992 does not require any FLPs relating to the National Act to be addressed in the Explanatory Notes for the Bill. This is consistent with the approach taken to the Explanatory Notes for previous Queensland referral and adoption legislation, including the Credit (Commonwealth Powers) Act 2010 and the Vocational Education and Training (Commonwealth Powers) Act 2012.⁴¹

In the committee's view, the inclusion of the Commonwealth provisions in the schedule to the Bill makes them part of the Bill, and the requirements in the LSA regarding FLPs and the content of explanatory notes apply to those provisions.

The department's advice references two earlier Acts of 'referral and adoption', the *Credit (Commonwealth Powers) Act 2010* (Cth) and the *Vocational Education and Training (Commonwealth Powers) Act 2012* (Cth). However, in neither case was the Commonwealth Bill/Act included as a schedule as in the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers Bill 2018).

The committee also noted the Health Practitioner Regulation National Law Bill 2009. That Bill included the Health Practitioner National Law as a schedule. The explanatory notes tabled with that Bill included both a clause-by-clause consideration of the scheduled national law, and extensive discussion of FLPs in the Bill, including issues raised by the national law.

The department's response included a link to the Commonwealth explanatory memorandum. While useful to the committee, sharing a link in advice to the committee has not satisfied the requirements of the LSA section 23(f) for providing information on FLPs. The Commonwealth memorandum does not address FLPs as specified in the LSA.

It can be argued that nothing in the Legislative Standards Act exempts or limits the Act's application to legislation from other parliaments that is included in a Bill before the Queensland Parliament, as in the case of this Bill. Legislation adopted from other parliaments must still meet the high standards established by the LSA. Similarly, the explanatory notes provided to the Queensland Parliament to explain legislation being adopted from other parliaments, where it forms part of a Bill, must still explain

⁴¹ Department of Child safety, Youth and Women, *Correspondence*, 25 July 2018.

the legislation and apparent breaches of FLPs. Explanatory notes serve a very useful purpose for the members of the Queensland Parliament as well as the stakeholders and others seeking to understand the implications of the legislation.

The committee's request for advice

The committee asked the department to clarify whether it would be preparing an erratum to the explanatory notes to the Bill for tabling by the Minister to inform the House comprehensively about the issues of fundamental legislative principle raised by provisions of the Bill, including an explanation of the provisions of the Commonwealth Act that forms the schedule to the Bill, and the fundamental legislative principle issues it raises.

The department's advice

An erratum to the Explanatory Notes to provide a brief assessment of the consistency of the Bill with fundamental legislative principles (FLPs) and the reasons for any inconsistencies will be prepared.

Provisions of the National Redress Scheme for Institutional Responses to Child Sexual Abuse Bill 2018 (the National Bill) may present potential departures from the fundamental legislative principle (FLP) that sufficient regard be given to an individual's rights and liberties in:

- *the sharing of personal information*
- *the inability for certain people to access redress, and the special assessment processes that apply to certain cohorts*
- *the requirement for a redress recipient to relinquish their future right to bring a civil claim against the responsible institution in relation to the abuse, and*
- *the lack of external review mechanisms.*

The National Redress Scheme for Institutional Responses to Child Sexual Abuse Act 2018 (Cth) (the National Act) has now passed and is operational. The legal effect of Clause 3 of the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (the Bill) is to adopt the National Act. It is noted that the Queensland Parliament and the Queensland Government do not have responsibility for or influence over legislative standards in Commonwealth legislation. As the Commonwealth Parliament has enacted the National Act, the proposal in the Bill is for the Queensland Parliament to adopt it.

DCSYW also notes that the Queensland Bill was not developed or intended to operate in the same way as the Health Practitioner Regulation National Law Bill 2009. Rather than adopting Commonwealth legislation, the Health Practitioner National Law (which was included as a schedule of the Health Practitioner Regulation National Law Bill 2009) does not refer powers to the Commonwealth Parliament and was introduced in the Queensland Legislative Assembly with the intention that it would be passed as Queensland law and subsequently adopted by other participating states and territories.⁴²

Committee comment

The committee welcomes the department's advice that it will prepare an erratum to the explanatory notes to explain the fundamental legislative principles issues, including issues raised by provisions of the schedule to the Bill.

⁴² Department of Child Safety, Youth and Women, *Correspondence*, 2 August 2018.

Appendix A – Submitters

Sub #	Submitter
001	PeakCare Queensland Inc
002	Queensland Child Sexual Abuse Legislative Reform Council
003	Fighters Against Child Abuse Australia
004	Queensland Advocacy Incorporated
005	Bravehearts Foundation Limited
006	Australian Lawyers Alliance
007	Queensland Catholic Education Commission
008	knowmore
009	Queenslanders with Disability Network Ltd
010	Community Legal Centres Queensland
011	Micah Projects
012	LGBTI Legal Service Inc
013	Name withheld
014	Care Leavers Australasia Network
015	Queensland Family and Child Commission
016	Bar Association of Queensland

Appendix B – Officials at public departmental briefings

Department of Child Safety, Youth and Women

25 June 2018 briefing

- Ms Leigh Roach, Deputy Director-General, Strategy
- Ms Donna Burnett, Acting Director, Redress Policy and Legislation

20 July 2018 briefing

- Ms Megan Giles, Executive Director, Policy and Legislation
- Ms Donna Burnett, Acting Director, Redress Policy and Legislation

Appendix C – Witnesses at public hearing

Queensland Advocacy Incorporated

- Ms Michelle O’Flynn, Director

Australian Lawyers Alliance

- Ms Michelle James

knowmore

- Mr Warren Strange

Community Legal Centres Queensland

- Mr James Farrell, Director

Micah Projects

- Ms Karyn Walsh AM, CEO

Appendix D – Departmental advice on issues raised by submitters

Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

Issues raised in written submissions regarding the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) received 15 submissions regarding the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (the Bill). Submissions were received from:

1. PeakCare Queensland Inc
2. Queensland Child Sexual Abuse Legislative Reform Council
3. Fighters Against Child Abuse Australia
4. Queensland Advocacy Incorporated
5. Bravehearts Foundation Limited
6. Australian Lawyers Alliance
7. Queensland Catholic Education Commission
8. knowmore
9. Queenslanders with Disability Network Ltd
10. Community Legal Centres Queensland
11. Micah Projects
12. LGBTI Legal Service Inc
13. Name suppressed
14. Care Leavers Australasia Network
15. Queensland Family and Child Commission

Note: the submission numbering above reflects the numbering on the submissions as provided by the Committee.

Department of Child Safety, Youth and Women response to issues raised in written submissions

A number of submissions raised issues in relation to:

- the design and operation of the National Redress Scheme and the provisions of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the National Act) and *National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Act 2018* (the Consequential Amendments Act). These Acts were passed by the Parliament of the Commonwealth of Australia on 19 June 2018.; and
- the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Where possible, the Department of Child Safety, Youth and Women has provided information in relation to these issues. The department will raise operational issues about the National Redress Scheme with the Australian Government through ongoing participation in national governance arrangements.

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	from	Department of Child Safety, Youth and Women (DCSYW) response
Queensland Redress Bill - information sharing						
Compliance with information requests	No. 5 Bravehearts	11(3), 11(4)	26	Lack of penalties for non-compliance with information request.		<p>This provision creates an obligation for a Queensland Government agency to comply with a request from the chief executive to provide information for the purpose of the National Redress Scheme. The Bill does not require a penalty for a state agency's failure to comply with a request under the provision. The Queensland Government has indicated its intention to opt in to the National Scheme as a participating institution and in so doing has indicated its commitment to meet the requirements of the Scheme.</p> <p>This clause is consistent with the National Scheme (section 25 of the National Act). The National Scheme provides that in circumstances where a participating institution does not provide information in relation to an application for redress, the National Scheme Operator may progress the application and make a determination on the basis of the information it has received (section 26 of the National Act).</p>
	No. 8 knowmore			Mechanism should be developed through which any such instances of non-compliance are identified and referred to enable investigation to occur, such as through a Parliamentary reference, following upon reporting		

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
				by the chief executive of any such instances.	<p>If a Queensland Government agency is not able to provide information as requested by the National Scheme Operator within specified timeframes, a request for an extension may be made by the participating institution. Such a request may be made by an institution when historical records have not been able to be located or have not been able to be properly analysed within the specified timeframe.</p> <p>The Queensland Government will continue to monitor its implementation of the National Scheme to ensure that any barriers to the sharing of information by state agencies is carefully considered and addressed.</p>	
Information sharing provisions do not extend to non-government institutions	No. 7 Queensland Catholic Education Commission	12	25	Given that the National Redress Scheme Operator is authorised under Australian Government legislation to request information directly from non-government institutions, this approach appears appropriate.	<p>The scope of the information sharing provisions in the Bill is to enable Queensland Government agencies to share information for the purposes of the Queensland Government's participation in the National Scheme as a participating institution. The National Scheme Operator will request information from the Queensland Government as a participating institution. To facilitate the government's efficient and effective participation in the National Scheme, the Department of Child Safety Youth and Women (DCSYW) will provide a central point of contact for the National Scheme Operator on behalf of all government agencies. The information sharing provisions in the Bill enable DCSYW to perform this function.</p> <p>It is a matter for non-government institutions to independently opt in to the National Scheme. The National Scheme Operator will request information directly from relevant participating non-government institutions. This is provided for under the National Act.</p>	
Central coordination of information requests	No. 12 LGBTI Legal Service Inc	11	N/A	Information requests to Queensland Government institutions be coordinated centrally through the Department	The Queensland Government central contact point will be established in the DCSYW (previously part of the former DCCSDS).	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
				of Communities, Child Safety and Disability Services (DCCSDS).	<p>The Bill provides that the chief executive, DCSYW, may request information from other Queensland Government agencies.</p> <p>As the central contact point, DCSYW will coordinate and manage information requests from the National Scheme Operator and liaise with relevant Queensland Government agencies.</p>	
Information sharing outside of the purposes of the National Scheme	No. 12 LGBTI Legal Service Inc	12	25	The coordinating agency should have the power to share information it collects with the Queensland Police Service and Director of Public Prosecutions, particularly given redress under the scheme does not preclude criminal proceedings under other laws. Clause 12(2) of the Bill appears to preclude information sharing for such purposes	<p>Clause 12 of the Bill enables a participating state institution to give information to the National Scheme Operator to comply with a request made by the National Scheme Operator and enables the chief executive to give information to a Queensland Government agency for the same purpose.</p> <p>The Bill does not affect existing policy or legislative requirements to report an alleged criminal offence to police or a child protection concern about a child to Child Safety Services. These existing disclosure and reporting requirements will continue to operate alongside the National Scheme.</p> <p>The National Act does not preclude the Queensland Government or its agencies from sharing information with relevant investigative authorities. Appropriate processes for reporting concerns to the Queensland Police Service, Child Safety, or other authorities are in place and particular guidance will be provided in the context of the operation of the Scheme.</p>	
Balancing individuals' right to privacy	No. 12 LGBTI Legal Service Inc	11, 12	25	Ability to share information must be balanced with individuals' right to privacy, which is a particularly sensitive issue for the LGBTI community. Agencies	<p>The Bill expressly provides that the chief executive may only ask a state agency to give the chief executive particular information in the agency's possession or control for the purposes of the National Scheme.</p> <p>Limitations and safeguards will apply to the sharing of personal information, including, for example, that the chief executive may only ask another state agency for particular information if it is for the purposes of the National Scheme. Clause 13 of the Bill enables a regulation to be made</p>	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	from	Department of Child Safety, Youth and Women (DCSYW) response
				must exercise information sharing powers with absolute care and diligence, particularly when dealing with information that discloses a person's sexual or gender identity.		to prescribe laws that will continue to prevent information from being shared with the chief executive under clauses 11 and 12. Queensland agencies will also be required under the <i>Information Privacy Act 2009</i> (Qld) to continue to comply with the Information Privacy Principles or National Privacy Principles (for health agencies) regarding storage, security and access to personal information.
Responding to allegations of child sexual abuse						
Responding to allegations of child sexual abuse raised in scheme applications	No.2 Queensland Child Sexual Abuse Legislative Reform Council	N/A	Chapter 4, Part 4-3, Division 2	Suggests there should be adequate funding of police and the Director of Public Prosecutions relating to matters where charges need to be laid.		Both the National Redress Scheme and participating institutions have obligations to report risks of ongoing abuse to the police and/or child protection authorities. This is clearly communicated on the National Scheme application form that also advises applicants that the scheme will contact them if the scheme needs to report abuse.
	No.5 Bravehearts			Stressed the importance of ensuring that when names of alleged perpetrators are provided during an application to the Scheme, there must be a process of ensuring the protection of children from risk of potential harm. Suggested that any information regarding individuals who have		A copy of the redress application form is available at the Federal Government National Redress Scheme website at: https://www.nationalredress.gov.au/sites/default/files/documents/2018-07/NRS001_180702.pdf The National Act permits protected information to be obtained, recorded, disclosed or used by a person if the person believes on reasonable grounds that this is necessary to prevent or lessen a serious threat to an individual's life, health or safety. It also provides that if protected information is disclosed to a government institution, an employee or officer of that institution can use the information for the purposes of enforcing the criminal law, the safety or wellbeing of children, or for investigatory,

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				allegedly committed sexual offences against children or young people must be forwarded to the authorities for assessment.	disciplinary or employment processes related to the safety or wellbeing of children. Further information about how the National Scheme will protect information provided by an applicant for redress is available at the National Redress Scheme website. This includes information about how abuse may be reported to authorities. Queensland Government departments and agencies also have relevant disclosure and reporting requirements within existing legislation, and these will continue to operate alongside the scheme.
Operational issues					
Survivor access to information	No. 13 Name suppressed	N/A	N/A	Provide survivors with rights to access information held about them by institutions.	Applicants are not required to provide supporting documentation with their application (but may if they choose). A person who was a child in care in Queensland, sections 187(4) and 188C of the <i>Child Protection Act 1999</i> enable the chief executive to give them child protection information about the person and other people obtained through the administration of the Child Protection Act 1999 or another similar Act. These provisions enable the administrative release of information including care history summary statements (key dates and locations) and relevant information from Queensland Redress Scheme files. This information may assist a person to make an application for redress. People who have been in care in Queensland can also access information about their time in care through the Time in Care Information Access Service, which provides a report of a person's care experience based on DCSYW's records which can include giving access to shared personal information.

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
					<p>Other Queensland Government agencies also operate administrative release processes.</p> <p>People involved in Queensland Government institutions may also make a Right to Information application for any information held by a Queensland Government agency or an Information Privacy application for a document that has their own personal information in it.</p>	
Review of Queensland implementation of the National Redress Scheme	No. 12 LGBTI Legal Services Inc	N/A	192	<p>Recommends Committee review implementation of the National Redress Scheme in Queensland and consider: whether the scheme is being efficiently and effectively operationalised, whether stated objectives are being met, and whether those objectives respond to the needs of sexual abuse survivors. This assessment should be made through a discrete inquiry, rather than through the estimates or agency annual reporting processes.</p>	<p>The National Redress Scheme will be administered under the National Act by the Federal Government. Section 192 of the National Act provides that a review of the scheme will be undertaken as soon as possible after the second anniversary of the scheme start date.</p> <p>The Queensland Government will continue to monitor the implementation of the National Redress Scheme in Queensland to ensure that it remains survivor-focused and meets the needs of Queenslanders. This includes through the establishment of Queensland interdepartmental governance arrangements and the establishment of the Truth, Healing and Reconciliation Taskforce announced as part of the Government's response to the Royal Commission. The Taskforce provides an opportunity for the Queensland Government to build on the work of the Royal Commission in hearing the voices of people who experienced institutional child abuse. The Taskforce will comprise an eminent chair, people who have experienced institutional child sexual abuse, a representative from a religious institution, a representative care provider, and a representative from a non-government service that provides support to people who have experienced institutional child sexual abuse.</p> <p>The Taskforce will assist the Queensland Government to implement the Royal Commission's recommendations and will support government efforts in making the attitudinal and cultural change recommended by the Royal Commission.</p>	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
					<p>The Minister for Child Safety, Youth and Women and the Minister for Domestic and Family Violence will establish this Taskforce as a priority.</p> <p>The Queensland Government will also participate in national governance mechanisms that oversee the implementation of the National Redress Scheme including Ministerial participation on a National Redress Board and ongoing senior executive participation in a national forum.</p> <p>The Queensland Government response to recommendation 17.2 of the Royal Commission's final report included a commitment to report on progress in implementing the Royal Commission's recommendations from the Final Report, the Working with Children Checks, Redress and Civil Litigation, and Criminal Justice Reports. These progress reports will be tabled before the Queensland Parliament.</p>
Issues raised regarding the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 (Cth)					
National Redress Scheme – information sharing					
Identification of staff dealing with personal information in participating institutions	No. 13 Name suppressed	N/A	N/A	The National Act be amended to require participating institutions to identify to the National Scheme Operator the staff within the institution who are assigned to working on the scheme and who therefore have a proper purpose to access privacy information.	<p>The National Act was passed in the Parliament of the Commonwealth of Australia on 19 June 2018. Clause 3 of the Bill proposes to adopt the National Act to enable the National Scheme to operate in Queensland. Any amendments to the National Act are a matter for the Commonwealth Parliament.</p> <p>Queensland Government representatives will continue to monitor privacy issues related to the operation of the National Scheme through participation in national governance arrangements.</p>

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	from	Department of Child Safety, Youth and Women (DCSYW) response
Restrict the provision of personal information, and prohibit the provision of medical records, by the National Scheme Operator to participating institutions	No. 13 Name suppressed	N/A	N/A	The National Act be amended to restrict the National Scheme Operator from passing privacy information to the institution, limited for example to passing on the name, date of birth, for the purpose of the institution locating records relating to the survivor and providing those records to the National Scheme Operator.		The National Redress Scheme application form includes information about how personal information may be used by the National Scheme Operator for the purposes of the Scheme. Information is also available on the National Redress Scheme website. The National Scheme Operator will provide some information to institutions named in an application. This will include: the person’s name, date of birth, and description of the abuse and its impact, the Independent Decision Maker’s decision, the response to the offer of redress and the outcome of any review. This information will be provided to the institution to enable it to provide information to the National Scheme Operator to assist in the assessment of an application for redress; to enable the institution to meet the requirements of an offer of redress including to provide a direct personal response; or for internal investigation and disciplinary procedures.
	No. 13 Name suppressed			Prohibit the provision by the National Scheme Operator to the institution of any medical records or information pertaining to the survivor.		
National Redress Scheme – monetary payments						

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
Payments capped at \$150,00 instead of \$200,000	No. 2 Queensland Sexual Abuse Legislative Reform Council, No 8 knowmore, No. 10 Community Legal Centres Queensland, No. 13 Name suppressed	N/A	16	The lowering of the maximum redress payment amount from the recommended \$200,000 to \$150,000 is a key issue. National legislation should be amended to ensure the Scheme reflects the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission)'s recommendations.	<p>Capping the maximum payment under the National Redress Scheme (the scheme) to \$150,000 was the decision of the Federal Government. This cap aims to enable the Scheme to provide access to redress to the large number of people across Australia who have experienced institutional child sexual abuse whilst providing an affordable and sustainable scheme.</p> <p>While the Royal Commission recommended a maximum amount of \$200,000, the average payment based on the assessment framework under the scheme is expected to be around \$11,000 higher than the average payment recommended by the Royal Commission.</p> <p>As a low threshold scheme intended to be an alternative to potentially costly, adversarial, and stressful civil litigation processes, redress payments are intended to provide a tangible means of recognising past wrongs and do not constitute full compensation.</p>	
	No. 6 Australian Lawyers Alliance	N/A		The monetary payment of \$150,000 is too low and will force more cases to be run at common law. This is more distressing for people who have experienced child sexual abuse and ultimately more costly for the state and for the institutions.		
	No. 14 Care Leavers Australia Network	N/A		The monetary payment of \$150,000 is too low and does not reflect the long term legacy of abuse that Care Leavers		

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				carry. Many care leavers will likely choose to pursue civil litigation as a result.	
Relevant prior payments to be indexed and deducted from monetary payments	No. 2 The Queensland Child Sexual Abuse Legislative Reform Council	N/A	30	The Queensland Child Sexual Abuse Legislative Reform Council notes the issue of solicitors fees previously being indexed has not been addressed at a Federal level and the state do not appear to have addressed this.	<p>Under the National Act, a person who has experienced institutional child sexual abuse and has previously received redress under another scheme is not excluded from applying for redress. However, under section 30 of the National Act, any relevant prior payments made by a participating institution in relation to the abuse suffered by the person that is within the scope of the National Scheme, will be deducted from the amount payable by that participating institution.</p> <p>Section 26 of the <i>National Redress Scheme for Institutional Child Sexual Abuse Rules 2018</i> further defines what types of payments are considered a relevant prior payment. This section clarifies that to the extent that a prior payment is not in recognition of abuse or harm caused by the abuse, it is not a relevant prior payment that will be deducted from the monetary payment. Additionally, to the extent that a payment is reasonably attributable to medical, dental, or other treatment expenses, or any other expenses, it is not a relevant prior payment.</p> <p>The National Act was passed in the Parliament of the Commonwealth of Australia on 19 June 2018. Clause 3 of the Bill proposes to adopt the National Act to enable the National Scheme to operate in Queensland. Any amendments to the National Act are a matter for the Commonwealth Parliament.</p>
	No. 13 Name Suppressed, No. 14 Care Leavers Australia Network	N/A		<p>When deducting the prior payments made by the institution, the proportion of that payment made to lawyers should not be included.</p> <p>Submission No.13 also raised concerns about Medicare reimbursements being included in the calculation of the monetary payment.</p>	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
	No. 6 Australian Lawyers Alliance	N/A		Given that any modest payment made is likely to have been spent quickly and not invested so as to increase, then the adjustment for inflation makes the small figure available under the redress scheme look even more inadequate. More victims will be likely to turn to common law.	
	No. 11 Micah Projects	N/A		Notes that many survivors have concerns about the deduction of Queensland Redress Scheme payments, given those payments were not for sexual abuse alone however are being deducted as a whole with indexation.	
Assessment Framework	No. 2 Queensland Child Sexual Abuse Legislative Reform Council, No.13 Name	N/A	32, 33	The Queensland Child Sexual Abuse Legislative Reform Council requests clarity regarding the Assessment Framework.	The <i>National Redress Scheme for Institutional Child Sexual Abuse Assessment Framework 2018</i> was registered on 29 June 2018. This publicly available legislative instrument outlines how the amount of a redress payment and amount of the counselling and psychological component of redress will be calculated. The assessment framework is available at: https://www.legislation.gov.au/Details/F2018L00969

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
	suppressed, No.14 Care Leavers Australia Network (CLAN)			CLAN and Submission No.13 recommend the detail of the Assessment Framework and Assessment Framework Policy Guidelines should be subject to community review before implementation. CLAN raises concerns with the 'hierarchy of abuse' created by an Assessment Matrix, and notes it is likely to result in injustice and harm to survivors.	Under the National Act, guidelines may also be made for the purposes of applying the assessment framework. These assessment framework policy guidelines may be taken into account by the National Scheme Operator when applying the assessment framework. These guidelines will not be public to protect the integrity of the National Scheme.
National Redress Scheme – Eligibility					
Access to redress for people with criminal convictions who have been sentenced to five or more years in gaol and people currently in prison	No.3 Fighters Against Child Abuse Australia, No.4 Queensland Advocacy Incorporated, No.5 Bravehearts, No. 8 knowmore, No. 9	N/A	63	Submissions raised concerns about the exclusion of people with criminal convictions or people in prison. Bravehearts suggested that if excluded survivors were unable to access redress, they should still be offered a direct personal response and	The criteria for a person to be entitled to redress and to be eligible to apply for redress under the National Redress Scheme is provided for in the National Act. The National Act was passed in the Parliament of the Commonwealth of Australia on 19 June 2018. Clause 3 of the Bill proposes to adopt the National Act to enable the National Scheme to operate in Queensland. Any amendments to the National Act are a matter for the Commonwealth Parliament. Under section 63 of the National Act, a person can apply for redress if they have a criminal history, however if the person has been sentenced to a

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	from	Department of Child Safety, Youth and Women (DCSYW) response
	Queenslanders with Disability Network Ltd, No.10 Community Legal Centres Queensland (CLCQ), No. 11 Micah Projects, No. 13 Name Suppressed, No.14 Care Leavers Australia Network			<p>counselling and psychological care.</p> <p>Knowmore notes that the current scheme does not entirely reflect the scheme recommended by the Royal Commission in regard to the exclusion of abuse survivors currently in prison and survivors who at some time in their life been sentenced to a term of imprisonment of five years or more.</p> <p>CLCQ endorse knowmore's comments.</p> <p>Queenslanders with Disability note that people with disability are over-represented in the prison system and the scheme should include people sentenced to a term of imprisonment who are presently proposed to be excluded from the scheme unless otherwise deemed eligible.</p>		<p>term of imprisonment for a period of five years or more there will be a special assessment process undertaken by the National Scheme Operator to determine their entitlement to redress.</p> <p>In deciding whether to make such a determination, the National Scheme Operator must seek and take into account advice from the Attorney-General (or nominee) of the jurisdiction where the abuse occurred and from the Attorney-General (or nominee) of the state or participating territory where the offence was committed, amongst other factors. In these circumstances, claims will be considered on a case by case basis. The National Scheme Operator may determine that the person is not prevented from being entitled to redress under the Scheme if the Operator is satisfied that it would not bring the Scheme into disrepute, or adversely affect public confidence in, or support for the scheme.</p> <p>When making a determination, the National Scheme Operator must take into account the matters outlined in the National Act including any advice given by a state or territory Attorney-General (or their nominee); the nature of the offence; the length of the sentence of imprisonment; the length of time since the person committed the offence; any rehabilitation of the person; and any other relevant matters.</p> <p>A similar process applies to people who are incarcerated to determine their ability to make an application for redress.</p>

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
Access to the National Redress Scheme for people who experienced other forms of institutional child abuse, such as child physical abuse, emotional abuse and neglect and psychological abuse.	No.11 Micah Projects	N/A	13	Many survivors feel that the scheme has not focussed on the needs of all survivors of childhood abuse in institutional settings. Raises the concerns of some survivors that the scheme may focus services away from supporting other abuse survivors.	<p>The criteria for a person to be entitled to redress and to be eligible to apply for redress are provided for under the National Act.</p> <p>The National Redress Scheme aligns with the recommendations of the Royal Commission. The Royal Commission recognised that people may have experienced other forms of unlawful or improper treatment, including physical, emotional or cultural abuse and neglect, as well as sexual abuse in institutional settings, and recommended that monetary payments offered as part of redress take this into account. Consistent with this, in assessing a claim, the National Scheme will take into consideration other abuse that is associated with child sexual abuse.</p>	
	No. 13 Name suppressed	N/A		Recommends that Care Leavers should be eligible for redress based on having been a Care Leaver, and be exempt the eligibility criteria of having suffered sexual abuse specifically.		
	No. 14 Care Leavers Australia Network	N/A		The inclusion of other forms of abuse is critical, not all children abused in institutions were sexually abused but all were harmed and have lived		

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				their lives as damaged adults.	
Access to the National Redress Scheme for people who are not Australian citizens.	No. 8 knowmore, No.10 Community Legal Centres Queensland, No.11 Micah Projects	N/A	13	<p>knowmore notes that the current scheme does not entirely reflect the scheme recommended by the Royal Commission in regard to the exclusion of non-citizens from accessing redress.</p> <p>Community Legal Centres Queensland endorse knowmore's comments.</p> <p>Micah Projects note survivors have concerns about eligibility for redress, including having to be a resident of Australia.</p>	<p>The criteria for a person to be entitled to redress and to be eligible to apply for redress under the National Redress Scheme is provided for in the National Act.</p> <p>Under section 13(1)(e) of the National Act to be eligible for redress the person must be an Australian citizen or permanent resident at the time the person applies for redress.</p> <p>There are no restrictions preventing a person from applying for redress if they live overseas.</p>
	No. 6 Australian Lawyers Alliance	N/A		Suggests the Royal Commission did not expect or intend that children in immigration detention would be excluded from the National Redress Scheme.	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
Access to redress for people who experienced sexual abuse in care but were over the age of 18	No. 14 Care Leavers Australia Network (CLAN)	N/A	6, 14	CLAN has the knowledge of care leaver experiences who were abused from 18 through to 21 years of age whilst still considered in care. CLAN raise the issue in the hope that those institutions who are still considered responsible for care leavers abuse histories are held accountable.	<p>The criteria for a person to be entitled to redress and to be eligible to apply for redress under the National Redress Scheme is provided for in the National Act.</p> <p>In terms of age of the applicant at the time of the sexual abuse, the Royal Commission's Terms of Reference define 'child' to mean a child within the meaning of the <i>United Nations Convention on the Rights of the Child</i> (the Convention).</p> <p>For the purposes of the Convention, a child means every human being below the age of 18 years unless, under the law that applies to the child, majority is attained earlier. An applicant for redress must have been below the age of 18 years at the time the institutional child sexual abuse for which they seek redress occurred.</p>	
The inclusion of foster and kinship care as an institutional setting under the National Redress Scheme.	No.14 Care Leavers Australia Network	N/A	15	Requests reassurance that foster care will be included in this scheme, unlike the prior Queensland Redress Scheme.	<p>People who experienced abuse in foster or kinship care settings will be able to apply for redress and will be eligible where they meet eligibility requirements under the National Act, including that a participating institution is responsible for the abuse. Under section 15 of the National Act, in determining whether a participating institution is responsible for the abuse, relevant factors that will be considered include: whether the institution was the legal guardian of the person, whether the institution was responsible for placing the person in the institution, whether the institution was responsible for the day to day care or custody of the person, and when the abuse occurred, amongst other factors.</p>	
Access to redress for families of people who have experienced institutional child sexual abuse and	No.3 Fighters against child abuse Australia	N/A	N/A	The families of victims of child abuse who have taken their life as a result of the trauma should have the same levels of access to the National	<p>The criteria for a person to be entitled to redress and to be eligible to apply for redress under the National Redress Scheme is provided for in the National Act.</p> <p>This approach is consistent with the Royal Commission's position that a redress scheme should provide redress to a survivor of institutional child</p>	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
committed suicide prior to the commencement of the National Redress Scheme				Redress Scheme as any other victim.	sexual abuse, rather than their families that might also be affected by the abuse. The Royal Commission further detailed that an applicant must be alive in order to apply for and receive redress, noting that it is important that the survivors themselves are able to give an account of their experience of institutional child sexual abuse and its impact on them so that their application can be properly assessed.	
Access to all elements of redress for families of people who have experienced institutional child sexual abuse who have died after applying for redress	No.13 Name suppressed, No. 14 Care Leavers Australia Network (CLAN)	N/A	Chapter 3, Part 3-1, Division 2	CLAN suggests the direct personal response and counselling and psychological care must also be offered to families along with the monetary payment if a person dies after their application has been submitted. Submission No.13 seeks clarification about whether a nominee or the person's estate will be able to continue an application after a person has died.	Chapter 3, Part 3-1, Division 2 of the National Act provides for the circumstance where a person dies after making an application for redress. Section 60 of the National Act provides that, if a survivor dies after making a complete application, and they are made an offer of redress, the redress payment will be made to the person the Scheme Operator determines it should be paid to (for e.g. the estate or next of kin on the person's will). Beneficiaries or an executor can contact the National Redress Scheme to arrange this. In such instances, the counselling and direct personal response elements of redress will not be passed on, or made available to others.	
National Redress Scheme – funder of last resort						
The approach taken to providing a funder of last resort to provide redress	No. 8 knowmore and No.10 Community Legal Centres Queensland,	N/A	Chapter 6, Part 6-2	Noted the approach taken to providing a funder of last resort to provide redress in situations where the responsible institution no	The National Redress Scheme allows for people who experienced institutional child sexual abuse in relation to an institution that no longer exists to access redress in certain circumstances. As provided for under Chapter 6, Part 6-2 of the National Act, governments will only act as funder of last resort where they are found jointly responsible	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
where an institution no longer exists	No.13 Name Suppressed			longer exists and/or has no assets or successor remains a key issue and is an inadequate response to this issue.	with a non-government institutions for the abuse and that non-government institution no longer exists. The government must also agree to acting as funder of last resort for the non-government institution. This approach reflects the Royal Commission's concept that the 'responsible entity pays', as it does not enable governments to pay on behalf of institutions that choose not to participate in the scheme. The Queensland Government has strongly advocated for all non-government institutions in Queensland to opt in to the National Scheme.
National Redress Scheme – applications					
Redress applications in the form of a statutory declaration	No. 8 knowmore and No.10 Community Legal Centres Queensland	N/A	188	Notes that the requirement that redress applications be in the form of a statutory declaration has been raised as a key issue.	The Federal Government developed the application form in consultation with people who have experienced institutional child sexual abuse, stakeholders and state and territory governments. The Royal Commission recommended that a redress scheme may require an applicant for redress to verify their accounts of abuse by statutory declaration. The use of a statutory declaration is intended to protect the integrity of the National Scheme and ensure that redress is provided to people who have experienced institutional child sexual abuse.
Fast-tracking applications due to special circumstances of the applicant	No.14 Care Leavers Australia Network	N/A	N/A	Notes that they are yet to see on the forms an indicative box allowing an application to be 'fast tracked' due to special circumstances	This will be a matter for the National Scheme Operator to determine based on the circumstances disclosed in each case. The information sought in the application form will assist the National Scheme Operator to determine whether an application may need to be processed urgently.
National Redress Scheme – review processes					

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	from	Department of Child Safety, Youth and Women (DCSYW) response
Internal review of a determination of the Scheme Operator	No.14 Care Leavers Australia Network	N/A	Chapter 4, Part 4-1, Divisions 1 and 2.	CLAN raises the concern that internal reviews can be ineffective and sometimes biased and would prefer the alternative of an external review option.		The provision of an internal review mechanisms is provided for under the National Act. The Explanatory Notes for the National Act provide (at page 10) that the internal review will enable applicants to seek review of the determinations on applications for redress. The person conducting the review must have had no involvement in the original decision and may affirm, vary or substitute the original decision. The Explanatory Notes further include that external review processes were considered to be overly legalistic, time consuming, expensive and would risk further harm to survivors.
	No.13 Name suppressed	N/A	75	Recommends that this section of the National Act be amended to allow the internal reviewer to consider 'whatever information they consider relevant'.		
Availability of independent legal advice and timeframes to apply for a review of a determination of the Scheme Operator	No. 6 Australian Lawyers Alliance	N/A	Chapter 4, Part 4-1, Divisions 1 and 2.	Suggests it would be better if there was availability of independent legal advice prior to any time limit expiring and the time limit not expiring unless such advice has been provided.		Free, confidential and independent legal advice will be available to anyone who is considering applying for the Scheme. It is not intended that applicants will be obliged to access this independent legal advice when they do not wish to do so. A person may also wish to seek their own independent legal advice, however, this may not be free.
National Redress Scheme – participation of institutions						

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
Institutions ceasing to be participating institutions under the National Redress Scheme	No.14 Care Leavers Australia Network	N/A	116	Queries whether an institution that has committed to the scheme can retract their involvement at any time.	Section 116 of the National Act provides a process for an institution to cease being a participating institution for the purposes of the National Scheme. This approach acknowledges that there may be circumstances where, for example, an institution ceases being able to meet its financial liability under the Scheme. To protect the interests of applicants, if a declaration that an institution is a participating institution is revoked, this will not affect redress applications already made before that time (i.e. the institution will still be a participating institution for that purpose).	
National Redress Scheme – time limits						
A six month acceptance period for an offer of redress, rather than 12 months as recommended by the Royal Commission	No. 8 knowmore, No.10 Community Legal Centres Queensland, No. 13 Name suppressed	N/A	40	Notes that the current scheme does not entirely reflect the scheme recommended by the Royal Commission in that the period for accepting redress offers has been shortened to six months as opposed to the recommended 12 months.	The acceptance period for an offer of redress is provided for under the National Act. An applicant may be able to obtain an extension if there are exceptional circumstances that justify an extension.	
Timeframes for the Scheme Operator to make a	No.13 Name Suppressed, No.14 Care Leavers	N/A	26, 29	CLAN suggests there should be a six month time limit for the	The timeframes for the National Scheme Operator to make a determination was a policy decision of the Commonwealth Federal Government.	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
determination on a redress application	Australia Network (CLAN)			assessment of scheme applications. Submission No.13 suggests that there should be a clear obligation for the Scheme Operator to recommence assessment of an application once the requested information is received.	Section 29 of the National Act provides that the National Operator must make a determination to approve or not approve an application for redress as soon as practicable. This is intended to allow flexibility for the National Scheme Operator to respond to different circumstances (for example, where further information may need to be sought in order for a determination to be made) as well as to manage peak periods of demand.	
Timeframes for applicants to respond to information requests or offers of redress from the National Redress Scheme	No. 14 Care Leavers Australia Network	N/A	24, 26 and 40	Suggests that people who live in rural and remote locations, or people who are experiencing housing instability, should have more time to respond to requests from the National Redress Scheme.	The timeframes for the responses to requests from the National Scheme Operator is provided for under the National Act. An applicant is able to request an extension if there are exceptional circumstances that justify an extension. The Queensland Government will continue to work with the Federal Government to ensure the needs of all Queenslanders are met during the operation of the Scheme, including through participation in governance arrangements.	
	No. 13 Name suppressed	N/A	24, 40, 41, 45	The National Act should be amended to remove all time limits imposed on survivors, or ensure time limits imposed on survivors are not less than 12 months.		

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
The 10 year span of the National Redress Scheme	No.6 Australian Lawyers Alliance	N/A	193	Suggests that the Queensland Government should advocate for the scheme to have no fixed closing date, in line with the Royal Commission recommendations.	Under the National Act, the National Redress Scheme may be extended beyond its planned 10 year period. The Queensland Government will work closely with the Federal Government, other participating states and territories, stakeholders and participating institutions to consider any proposal to extend the Scheme's operation.
National Redress Scheme – persons working under the scheme					
Maintaining the independence of the Independent Decision Makers	No. 13 Name suppressed	N/A	185	Requests the national redress scheme legislation be amended to prohibit any person affiliated with an institution from being appointed as an independent decision-maker.	The process of appointing Independent Decision Makers (IDMs) will be managed by the Federal Government. The IDMs are approved by the Commonwealth Minister, in consultation with the appropriate Minister from the participating state or territory institution. Under section 185(4), the duty to disclose interests under the <i>Public Governance, Performance and Accountability Act 2013</i> will apply to IDMs.
Training for people involved in the scheme	No.14 Care Leavers Australia Network	N/A	10	Suggests requiring people who are involved in the scheme to have a detailed knowledge and understanding of Care Leaver issues and their histories. Requests information about what training has been provided to those	Training for staff who are involved with the National Scheme is a matter for the National Scheme Operator. Under section 10 of the National Act, principles guiding the actions of officers under the scheme include that redress should be assessed, offered, and provided with appropriate regard to: knowledge of the impacts of institutional child sexual abuse, the cultural needs of survivors, and the needs of particularly vulnerable survivors.

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				working as a part of the scheme.	Staff employed to undertake redress functions in Queensland will receive trauma-informed and care-leaver informed training to ensure staff have appropriate regard to the particular needs of survivors.
National Redress Scheme – supports for people applying for redress					
Support for people with impaired decision making capacity to apply for redress	No. 9 Queenslanders with Disability Network Ltd	N/A	9 and Chapter 4 Part 4-2	<p>Highlights the need for specifically targeted strategies and considerations for people with impaired decision-making capacity as:</p> <ul style="list-style-type: none"> they may not have other family members who can provide their life story to make an application for redress statutory bodies such as the Office of the Public Advocate do not have the resources to interview individuals about their past experiences of abuse 	<p>The redress support services funded by the Federal Government to support people through the redress process, including making an application, will provide support to all prospective redress applicants, including people with impaired decision making capacity.</p> <p>The Queensland Government is working closely with the Federal Government to ensure the needs of all Queenslanders are considered and to coordinate how the Office of the Public Guardian and the Public Trustee of Queensland can support people with impaired decision making capacity for whom they have statutory responsibility to make an application to the scheme.</p>

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				<ul style="list-style-type: none"> many people with impaired capacity are not able to recall information in sufficient detail to support their application. 	
Support to ensure equitable access to redress	No.9 Queenslanders with Disability Network Ltd and No. 12 LGBTI Legal Service Inc	N/A	9	<p>Queenslanders with Disability Network Ltd believes targeted strategies are required to ensure equitable access for: people with disability, children and young people, Aboriginal and Torres Strait Islander people, culturally and linguistically diverse people and people in prison.</p> <p>Strategies could include targeted engagement frameworks and commencement of data matching processes of people under Guardianship legislation who may be affected and eligible for redress.</p>	<p>The promotion and accessibility of the National Scheme is managed by the Federal Government and the National Scheme Operator.</p> <p>Redress support services are available to anyone considering making an application for redress, including specialised support for Aboriginal and Torres Strait Islander people, people with disability, and people from culturally and linguistically diverse backgrounds.</p> <p>The National Redress Scheme website provides information about redress support services by location. These support services are available to people applying for redress at any stage of the application process. Information about these services can be accessed at: https://www.nationalredress.gov.au/support.</p> <p>The Queensland Government is working closely with the Federal Government to ensure the support needs of all Queenslanders are met, and will continue to monitor this through the Scheme's operation.</p>

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				<p>(Suggestions for information sharing strategies are addressed further below.)</p> <p>Queenslanders with Disability Network Ltd also note people with disability seeking redress may also have additional issues relating to their safety, housing, health, social and family relationships and identity and cultural issues and may need ongoing assistance to address these matters.</p> <p>Queenslanders with Disability Network Ltd propose people with disability should be mentioned as a specific group within the Redress framework.</p> <p>LGBTI Legal Service Inc recommends that the Queensland Government provide assistance to LGBTI (and other) applicants to identify and</p>	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				locate responsive support services, regardless of whether their redress application is successful.	
Support for children and young people applying for redress	No. 9 Queenslanders with Disability Network Ltd	N/A	9, 21	Queenslanders with Disability Network Ltd believes targeted strategies are also required for children and young people.	<p>Section 21 of the National Act provides that people turning 18 before 30 June 2028 (within the ten years of the scheme) can apply for redress under the National Scheme.</p> <p>National Redress Scheme support services are being funded and managed by the Federal Government.</p> <p>The Queensland Government will continue to work closely with the Federal Government to ensure the particular needs of children and young people applying for redress are met.</p> <p>As part of the implementation of the Queensland Government's participation in the Scheme, the department is reviewing its policies and procedures to ensure children in the child protection system and in youth detention who may be eligible to participate in the Scheme are advised and supported to make an application.</p>
	No. 15 Queensland Child and Family Commission			<p>Suggests:</p> <ul style="list-style-type: none"> emotional support and assistance is needed for children and young people who are accessing the scheme. This support should be available whether or not a redress application is successful children and young people entitled to redress should be informed of their 	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
				<p>right to apply for redress, and particularly children living in institutions or in care must be supported to access information about redress</p> <ul style="list-style-type: none"> • child-friendly communication and resources should be developed • resources should be developed and made available for parents, guardians and especially assistance and legal nominees to make sure they can provide assistance, • legal assistance and the option of counselling should be available for the person acting as nominee for the 		

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				duration of their appointment.	
Access to financial counselling for people applying for redress	No. 13 Name suppressed, No. 14 Care Leavers Australia Network	N/A	9	<p>Raised concerns about ensuring people are provided with support and education on how to manage redress payments.</p> <p>CLAN suggested advice about financial support should be available at the early stages of applying for redress.</p>	<p>Access to financial counselling for people who apply for redress is managed by the National Scheme Operator.</p> <p>The Federal Government is funding support services nationally to support people through the redress process, including providing access to financial counselling. Financial support services can help people to manage their redress payments and provide referrals to other services if additional support is required.</p>
Support for people to make an application	No. 13 Name suppressed	N/A	9, 19	Suggests the National Redress Scheme legislation should oblige the Scheme Operator to assist every applicant to ensure their application is in the 'approved form'.	The Federal Government is funding support services nationally to support people through the redress process, including assistance with filling out the required application form.
Access to independent legal advice before accepting a monetary payment	No. 6 Australian Lawyers Alliance	N/A	9, 39	Suggests that it should be mandatory for a person to obtain independent legal advice before accepting a monetary payment.	<p>The Federal Government and participating state and territory governments are jointly funding legal support services under the Scheme. knowmore is being funded to provide independent legal support for anyone considering applying for the scheme. knowmore can assist people throughout the application process, including after an offer of redress is received.</p> <p>While it is not mandatory for a person to seek legal advice prior to accepting an offer of redress under the National Redress Scheme, free legal advice</p>

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018						
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response	
					is available to anyone considering making an application for redress including for people who are entitled to redress to assist them in understanding the legal implications of accepting redress. The scheme's written offer of redress includes information about accessing legal advice to help inform a decision about whether to accept an offer. An applicant may also seek their own independent legal advice.	
National Redress Scheme – access to counselling and psychological care element of redress						
Access to counselling and psychological care for the life of the scheme	No. 8 knowmore, No.10 Community Legal Centres Queensland, No. 14 Care Leavers Australia Network, No. 13 Name suppressed	N/A	16	CLAN notes that the effects of abuse are lifelong, and counselling only being available for the life of the scheme is insufficient. Submission No.13 notes that the Royal Commission recommended counselling and psychological care should be available throughout a survivor's life. knowmore and Community Legal Centres Queensland notes that the current scheme does not reflect	The National Act provides options for delivery of counselling under the redress scheme including a lump sum payment or the delivery of state-based services. As noted in the Queensland Government's Response to the Royal Commission, the Queensland Government has elected to facilitate access to counselling and psychological care services. DCSYW is leading work to facilitate access to these services under the scheme in Queensland. DCSYW is currently working through options for the delivery of counselling and psychological care as part of an offer of redress in Queensland, with a focus on being flexible and accessible to people with a diversity of needs. This includes ensuring flexible access to services for people in rural and remote locations. In accordance with the redress national standards for state and territory based counselling services, a minimum of 20 hours of counselling will be provided to redress recipients, at their election and over the course of their lifetime.	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				the Royal Commission in regard to the limitations imposed upon the provision of the redress element of counselling and psychological care services.	
Access to counselling and psychological care through a payment of up to \$5,000	No. 14 Care Leavers Australia Network, No. 13 Name suppressed	N/A	16, 31	CLAN notes that \$5,000 is not a sufficient amount to provide for lifelong counselling. Submission No.13 also notes that a maximum of \$5,000 as payment for health care for applicants is an insufficient amount for providing counselling and psychological care in any area – let alone an area identified as having no health care facilities (therefore requiring travel to health care).	
Access to counselling and psychological care under the scheme, specifically for groups such as	No. 9 Queenslanders with Disability Network Ltd, No.	N/A	16	Raised the concern that members of the LGBTI community will find themselves at a particular disadvantage in accessing services	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
people with disability and the LGBTI community.	12 LGBTI Legal Service Inc			<p>that provide optimal therapeutic outcomes.</p> <p>Advised that counselling and psychological services must be provided by professionals who understand the social situation and particular needs of LGBTI clients.</p> <p>Queenslanders with Disability Network raise the need for counselling services to incorporate targeted and specialist approaches that take into account the lived experience of people with disability. This will help ensure people have effective coping strategies to deal with the abuse and trauma they have experienced.</p>	
Access to counselling and psychological care under the scheme for people in rural,	No. 12 LGBTI Legal Service Inc	N/A	16	Concerns have been raised about the ability of people in rural, regional or remote areas to access counselling services that are	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
regional or remote areas				<p>responsive to their particular needs.</p> <p>LGBTI Legal Service Inc suggest that successful applicants who cannot access these services because of their geographical location should receive additional support, for example including transport assistance and accommodation.</p>	
Delivery of health care services under the National Redress Scheme	No. 13 Name suppressed	N/A	16 Chapter 2, Part 2-5, Division 3 – Counselling and psychological care component of redress, sections 51-53	<p>Submission No. 13 recommends that applicants meeting a threshold assessment under the Assessment Framework should be issued a Non Liability Health Care Card, similar to the DVA White Card, and that all Care Leavers should certainly qualify for such a health care card. Alternatively institutions could be required to sign a Health Care Deed (example attached to submission).</p>	<p>The elements of redress under the National Scheme are provided for under the National Act. This includes a counselling and psychological care component.</p> <p>DCSYW is currently designing for model for the delivery of counselling and psychological care under the scheme in Queensland and will consider the particular needs of vulnerable groups, including care leavers, as part of this design process. It is not intended that an offer of redress will include access to broader health services or access to a health care card outside of existing processes.</p>

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
National Redress Scheme – other issues					
Miscellaneous technical issues	No. 13 Name suppressed	N/A	64-71, 151, 152, 156, 159, 179, 184 and 185	Submission No.13 raises a number of concerns regarding provisions of the National Act: managing conflicts of interest; recovery of administration costs for non-government institutions; and exclusion from redress for a Security Notice.	The National Act was passed in the Parliament of the Commonwealth of Australia on 19 June 2018. Clause 3 of the Bill proposes to adopt the National Act to enable the National Scheme to operate in Queensland. Any amendments to the National Act are a matter for the Commonwealth Parliament.
The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission)					
Royal Commission recommendations – Redress and Civil litigation recommendations					
Removal of the limitation period for physical and associated psychological abuse in Queensland	No.6 Australian Lawyers Alliance	N/A	N/A	Noting that the redress scheme will take into account related non-sexual institutional child abuse, it is inconsistent for the Queensland Government not to remove the limitation period for physical and psychological abuse.	<p>This issue is not a matter within the scope of the Bill. The Bill implements the Queensland Government's commitment to opt in to the Federal Government's National Redress Scheme which is limited to the provision of redress for institutional child sexual abuse and related non-sexual abuse.</p> <p>The Queensland Government released an Issues Paper for public consultation, <i>The civil litigation recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse: Redress and Civil Litigation Report – understanding the Queensland context</i> (Issues Paper). The Issues Paper sought submissions as to the extension of the removal of the limitation period to child physical abuse. Submissions closed on 25</p>

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
					October 2016. Further targeted consultation, occurred between May – June 2017. The Government is considering this advice.
Redress and Civil Litigation Report, recommendation 45	No. 6 Australian Lawyers Alliance	N/A	14, 15	Notes that the criteria set out in recommendation 45 are likely to give rise to vicarious liability. Suggests those provisions should apply to common law litigation in Queensland, picking up those not in employment but in a sufficient relationship with the institution to justify vicarious liability.	This issue is not a matter within the scope of the Bill. Recommendation 45 has been taken into consideration in the design of the Scheme and sections 14 and 15 of the National Act broadly incorporate key elements of recommendation 45 is outlining when abuse is within scope of the scheme and when an institution is responsible for abuse.
Duty of institutions and identifying a proper defendant (recommendations 89-94)	No. 13 Name suppressed	N/A	N/A	Recommends that the Queensland Parliament pass legislation enacting recommendations 89-94 of the Redress Civil Litigation Report prior to commencement of the Bill.	This issue is not a matter within the scope of the Bill. The Queensland Government response to the Royal Commission includes that recommendations 89 to 94 are for further consideration.
	No. 6 Australian Lawyers Alliance			Australian Lawyers Alliance raised concerns about the Queensland Government response to recommendations	

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				relating to: reversing the onus of proof; the imposition of a non-delegable duty on institutions; vicarious liability of institutions, and, the liability of trusts in the context of identifying a proper defendant.	
	No. 8 knowmore, No.10 Community Legal Centres Queensland			knowmore notes that Queensland needs to progress reforms to implement outstanding Royal Commission recommendations relating to civil litigation. Community Legal Centres Queensland endorses knowmore's comments.	
Royal Commission recommendations – Criminal Justice recommendations					
Recommendations 17 and 18 – blind reporting	No. 6 Australian Lawyers Alliance	N/A	N/A	Australian Lawyers Alliance raised concerns about the efficacy of blind reporting as recommended by the Royal Commission,	This issue is not a matter within the scope of the Bill. The Queensland Government will continue to analyse the Royal Commission's recommendations and engage with stakeholders to reform the criminal justice system to better protect children.

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
				suggesting that the Queensland Government can do better than recommendations 17 and 18 of the Criminal Justice report.	
Recommendation 33				Suggests that the Queensland Government should go down the path of the New South Wales Government in having an offence of failure to report serious criminal conduct to an appropriate authority.	
Recommendation 45				Suggests it is appropriate for recommendation 45 to apply, but with appropriate safeguards.	
Recommendation 76				Suggests that the New South Wales approach to sentencing for child sexual abuse is a reasonable compromise.	
Royal Commission recommendations – Volume 7					

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018					
Issue	Raised by:	Clause	Related section of the National Act	Comments from submitters	Department of Child Safety, Youth and Women (DCSYW) response
Require priests to report sexual abuse of children disclosed in confessionals (recommendation 7.4)	No. 6 Australian Lawyers Alliance	N/A	N/A	Believes that priests in Queensland should be required to report sexual abuse of children disclosed in the confessional. The Australian Lawyers Alliance notes South Australia and Tasmania have already announced that they will be applying their laws on reporting to the confessional, and that Queensland has deferred consideration of the issue.	This issue is not a matter within the scope of the Bill. The Queensland Government response to the Royal Commission accepts recommendation 7.4 in principle and notes that this recommendation is contingent on national approaches.
Royal Commission recommendations – Volume 12					
Recommendation 12.7	No. 6 Australian Lawyers Alliance	N/A	N/A	Strongly supports recommendation 12.7 from the final report of the Royal Commission that regular interviews should take place with children in care in the absence of the carer.	This issue is not a matter within the scope of the Bill. The Queensland Government response to the Royal Commission accepts recommendation 12.7 in principle and recognises the importance of ensuring carer suitability and comprehensive screening processes.

Statement of Reservations

Statement of reservations

HCDSDFVPC Report No 8

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018

Non-government members of the Health Communities Disability Services and Domestic and Family Violence Prevention Committee agreed to the committee's Report No 8 on the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 which recommends that the Bill be passed, but wish to bring the following matters to the attention of Honourable Members:

Issues raised by the Bar Association of Queensland

The Bar Association provided a late submission to the committee's Inquiry. The submission raised pertinent issues related to the administration of the National Redress Scheme which the Bill seeks to adopt in Queensland. These issues relate to:

- aspects of the review procedures provided for in the National Redress Scheme
- information requests for church institutions that are no longer in operation, and
- the treatment of redress payments in family law proceedings.

Because of the lateness of the submission, the committee in its consideration of the submission did not have the opportunity to take advice from the Department of Child Safety, Youth and Women on the points raised.

We invite the Minister to respond to these points raised by the Bar Association of Queensland submission during her second reading speech on the Bill for the information of all Honourable members as follows:

- Review procedure

The Bar Association noted that there is some debate over the proper construction of ss 34 and 73 of the Commonwealth National Redress Act as to whether the review procedure is only available to someone whose application for redress is rejected, or whether it is also available to applicants for redress who are offered redress but who wish a review the quantum of redress on offer.

Can the Minister clarify if applicants for redress can seek a review of the amount of redress they are offered through the scheme?

- Information requests for church institutions no longer in operation

The Bar Association raised the scenario of where a number of church hierarchies have offered to 'stand in the shoes' of defunct church agencies or religious orders in terms of contributing financially to the National redress Scheme, but are at the same time unable or incapable of providing information requested of them for the processing of a redress application.

Can the Minister advise the House what safeguards are built into the National Redress Scheme to enable the Operator to obtain information from church hierarchies previously held by defunct church organisations where that information is required to process redress applications?

- **Treatment of redress payments in family law proceedings**

The Bar Association raised the matter of how monetary redress paid under the National Scheme will be treated in proceedings under the *Family Law Act 1975* (Cwth). The Association also questions whether the fact and amount of monetary payment by way of redress would be 'protected information' under s 92(2)(a)(ii) of the National Redress Act, and whether the operation of s 105(1) of the National Redress Act should be exempt in respect of civil litigation in the family law jurisdiction.

Can the Minister clarify these matters for the information of all Honourable members?

Opportunities for members to debate the sections of the National Redress Act that forms the schedule to the Bill

The Bill seeks to enable the Queensland operation of the National Redress Scheme for Institutional Child Sexual Abuse. It achieves this by adopting the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth). The text of the Commonwealth legislation which has 193 sections and which dwarfs the 18 clauses of the Queensland Bill, forms the Schedule to the Bill.

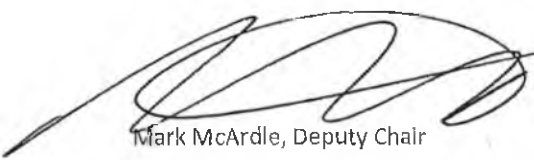
For the second reading debate of Bills in the House, it is usual practice for the adoption of the entire schedule to be put as one single question, that is:

That the schedule as read to be part of the Bill

If this practice is followed for the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018, it will mean that Honourable members will have but one chance to speak on all 193 sections of the National Redress Act which are included in full in the Schedule for adoption in Queensland.

We believe that honourable members should be provided the opportunity to speak on each section of the National Redress Act which forms the Schedule as if they were clauses of the Bill. This would reflect the significance of the legislation that the Parliament is being asked to adopt, and also the substance of the concerns raised with the committee during its examination of the Bill. Almost all of the issues raised by submitters and hearing witnesses relate to the provisions of the Schedule to the Bill, not the 18 clauses of the Bill.

We ask that the Leader of the House to move a motion to allow Honourable members to speak on each section of the Federal Act referred to in the Schedule during Consideration in Detail of the Queensland Bill.



Mark McArdle, Deputy Chair

Member for Caloundra



Marty Hunt MP

Member for Nicklin MP