



Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

Systems and Legal Advocacy for vulnerable people with Disability

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

**Submission by Queensland Advocacy
Incorporated**

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

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (QAI) is an independent, community-based systems and individual advocacy organisation and a community legal service for people with disability. Our mission is to promote, protect and defend, through systems and individual advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

QAI has an exemplary track record of effective systems advocacy, with thirty years' experience advocating for systems change, through campaigns directed to attitudinal, law and policy reform and by supporting the development of a range of advocacy initiatives in this state. We have provided, for almost a decade, highly in-demand individual advocacy through our individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service and the Justice Support Program and more recently the National Disability Insurance Scheme Appeals Support Program.

Summary of QAI's recommendations:

QAI recommends that the Government broaden the parameters of the redress scheme to include individuals serving custodial sentences of five or more years, allowing such individuals to be eligible for the scheme, with an appropriate amendment or excision of clause 63 of the Bill to allow for this.

With the proposed amendment, QAI supports the passage of the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018* in its present form.

Background

On 12 June 2018, the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018* was introduced into Queensland Parliament. The reforms proposed by the Bill, which align with key recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse, represent an important step towards addressing the grave abuse experienced by vulnerable Queenslanders while in institutional care. If enacted, the legislation will enable survivors of abuse to access payments of financial compensation, in addition to a personal response from the responsible institution and counselling.

QAI supports the introduction of a state redress scheme on the proposed terms, save for the exception discussed as follows.

However, clause 63 creates an exclusion to the general rules of entitlement to redress for individuals who would otherwise be entitled to redress. Under clause 63, if a person is sentenced to imprisonment for five years or longer for an offence against the law of the Commonwealth, a State, a Territory or a foreign country, the person will not be entitled to redress unless an appropriate determination is made under subsection 63(5). No mention or discussion of this proposed provision was included in the Explanatory Notes or Explanatory Speech.

QAI's response to key issues of inquiry:

QAI warns that the scheme must be inclusive and non-discriminatory if it is to deliver on its human rights commitments and provide a just response to the harm experienced by all survivors.

QAI notes that a growing collection of voices, including the Australian Council of Social Service (ACOSS), Australian Lawyers Alliance, Human Rights Law Centre and Victorian Aboriginal Legal Service, have called for the proposed parameters of the scheme to be widened to include people sentenced to a term of imprisonment of five years or more.

To exclude people with a custodial sentence of five years or more is not consistent with the findings of the Royal Commission, the findings of the Senate Community Affairs Legislation Committee, the weight of public views on this issue or basic human rights principles.

Further, QAI submits that this exclusion would significantly devalue the scheme's efficacy as a tool for the rehabilitation of offenders. Many perpetrators of crime are victims themselves. There is a wealth of evidence of the systemic nature of the problems at the intersection of

criminal culpability and disability, which are exacerbated by the experience of violence and abuse.

In QAI's recent report: *dis-Abled Justice: Reforms to Justice for Persons with Disability in Queensland*,¹ we documented how the experience of violence, abuse, trauma and neglect, particularly when inflicted on a very vulnerable person, such as a person with disability or mental illness, can increase the likelihood of that person coming into contact with the criminal justice system later in their life. Historically, people with disability and mental illness have comprised a large portion of those living in institutional settings. If the Bill is passed with the current exclusion, it will mean that a disproportionately high rate of those who are excluded from accessing the Scheme in this way are people with disability or mental illness. This would be a very unjust outcome.

QAI supports justice being delivered for all victims of institutional child sexual abuse under the redress scheme. This requires the removal or amendment of clause 63 to allow for an inclusive redress scheme which permits individuals serving custodial sentences of five or more years to fall within the scheme's ambit.

Conclusion

QAI thanks the Committee for the opportunity to make a submission to this inquiry. We would welcome the opportunity to have further input into these issues as the inquiry progresses.

¹ Queensland Advocacy Incorporated. *Dis-Abled Justice: Reforms to Justice for Persons with Disability in Queensland*. May 2015.