

**NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE  
(COMMONWEALTH POWERS) BILL 2018**

*Committee*

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

**Clause 1: Short title —**

Committee was interrupted after the clause had been partly considered.

**Hon AARON STONEHOUSE:** One of the features of the National Redress Scheme is that survivors can access a letter or a statement of apology from an institution. Is there such a provision under the criminal injuries compensation scheme for people to access a letter or an apology?

**Hon SUE ELLERY:** No.

**Hon AARON STONEHOUSE:** I am thinking of a scenario in which someone goes through redress first, as they are supposed to, and then seeks legal advice and finds out that they would receive a larger sum of compensation through the criminal injuries compensation scheme. Is it possible for them to use the redress scheme to receive an apology from the institution that is responsible and then to reject the compensation under the redress scheme and go through the CIC scheme to receive their compensation?

**Hon SUE ELLERY:** The answer is yes, the person can make an application, accept the apology, accept counselling and then reject the monetary component.

**Hon ALISON XAMON:** Further to this particular line of questioning, if someone has put in an application and received money for counselling, and the subsequent application is rejected because it is found that there is insufficient evidence of sexual abuse having occurred, are they required to return that money in any way?

**Hon SUE ELLERY:** I am advised no.

**Hon ALISON XAMON:** I want to ask a question about non-participating institutions. Can the minister confirm whether a person is not obliged to apply for redress before criminal injuries compensation if the relevant institution is not a participating institution within the redress scheme, or are they still obliged to go through that process?

**Hon SUE ELLERY:** Clause 15 of the bill applies. Clause 15(1)(d) states that this section applies if —

the assessor dealing with the compensation application by or on behalf of a person is of the opinion there is a reasonable likelihood that the person is eligible for redress under the National Redress Scheme.

Clause 15 relates to “Deferral of compensation application if redress application not made in relation to abuse”. I am advised that the way to interpret this is that the assessor would make a judgement. If they were advised that the institution was not a participating institution, the assessor could form the opinion that there is a reasonable likelihood that the person is eligible for redress under the National Redress Scheme. Sorry, I will start that again. If the institution was not, then it is open to the assessor, in exercising their judgement about whether there is a reasonable likelihood, to form the view that they are not. To take it to a logical conclusion, they would not be prevented from seeking payment under the criminal injuries compensation scheme.

**Hon ALISON XAMON:** This was my understanding and I want to make sure that I have this right: if someone were to apply straight for criminal injuries compensation without applying for redress first, can the CIC assessor determine that there is no reasonable likelihood the person is eligible for redress and therefore they can just proceed with the CIC application without requiring that person to try to fail at redress first?

**Hon SUE ELLERY:** The answer is yes.

**Hon ALISON XAMON:** If a person applies for criminal injuries compensation and receives payment accordingly and, subsequent to that, an institution becomes a participating institution, are they able to still apply for redress in the same way that people at the moment who have historically received CIC payments can apply for redress?

**Hon SUE ELLERY:** Yes, and the National Redress Scheme will take into account the payment that they have received.

**The CHAIR:** Members, I will be reporting progress fairly soon.

**Hon NICK GOIRAN:** I think the example that has been brought forward by Hon Aaron Stonehouse is an excellent one. What has been confirmed by the government is that it is possible for a survivor of institutional child sexual abuse to apply under the National Redress Scheme and obtain an apology, but at the same time to reject the payment and then go and obtain their full rights under the criminal injuries compensation scheme. The interesting point that has been confirmed by the minister, thanks to Hon Aaron Stonehouse, is that that is of course possible

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Hon Aaron Stonehouse; Hon Sue Ellery; Hon Alison Xamon; Hon Nick Goiran

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because of the government's bill, but it would not be the case under the amendment I have put forward. The government has said that it is very important that the responsible institution pays, yet the government's scheme is to say to people, "Just reject the national redress payment and continue with your criminal injuries compensation application". Guess who pays then? The state pays, and the responsible institution pays nothing. The government said in its two-page response to members that my amendment undermined the principle that responsible institutions pay. However, as has been exposed by Hon Aaron Stonehouse, it is actually the government's scheme that undermines the principle that responsible institutions pay and it is my amendment that will ensure that responsible institutions pay and that victims do not miss out.

**Progress reported and leave granted to sit again, pursuant to standing orders.**