

***Submission to the Community Development and Justice Standing Committee  
Inquiry into options available to survivors of institutional child abuse in Western  
Australia who are seeking justice***

21 September 2023



Dr D.J. Honey, MLA  
Chair  
Community Development and Justice Standing Committee  
Parliament House  
4 Harvest Terrace  
West Perth  
WA 6005

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Dear Dr Honey,

Wanslea welcomes the opportunity to provide its feedback into the options available to survivors of institutional child abuse in Western Australia who are seeking justice.

From 1943, Wanslea provided residential care for children and young people who for various reasons were unable to live with their families.

At times in our history, we acknowledge with sorrow and deep regret some children and young people in our care were mistreated and neglected. Such failures as those in Wanslea's past must never be allowed to happen again. The Wanslea of today is very different to the past.

We are dedicated to best practice child safety and continually improving our practices. Today, we have strong systems, policies and processes in place to protect the children and young people we serve such as thorough staff and volunteer screening, ongoing training and supervision, involving children and young people in decisions that affect them and we have multiple ways people can report concerns or provide feedback to our organisation.

Our hope is that our continued participation in the Scheme will go some way to assisting with healing the hurt that has been caused. We have provided in this submission data available to us and our thoughts and experiences with the Civil Liability processes and the National Redress Scheme.

### About Wanslea

Wanslea have supported children and young people under 25 years of age within Australia for over 80 years. The range of support services offered by Wanslea to children and young people include out of home care, early childhood intervention, community services, child care and mental health programs. Our purpose is to support children and young people to grow and develop, safely.

### Our response to questions relating to options available to survivors of institutional child abuse in Western Australia who are seeking justice

1. The impact of the *Civil Liability Amendment Act (Child Sexual Abuse Actions) Act 2018* (the Act), including:
  - a. the experience of survivors who have used the civil litigation process;

Wanslea are unable to speak to the experience of survivors who have used the civil litigation process. Wanslea have had three claims made through this process, none which have progressed to the courts.

General feedback from legal and our sector colleagues is that survivors' experiences through engaging with the civil litigation process has left them feeling respected and their experiences validated.

- b. the response of government and non-government institutions to civil claims brought by survivors;

Wanslea has developed processes to ensure that it has responded promptly and acted sensitively to claims brought by survivors by ensuring and offering engagement when required.

As an organisation, we are committed to supporting the justice process including the need for survivors to be financially compensated. However, we believe that a balanced approach is required to allow organisations such as ourselves to remain financially sustainable. For example, the civil process has led to some instances of legal representatives making clearly disproportionate claims and such action could threaten the viability of organisations like ours into the future.

In addition, our observation with the civil litigation process is that for survivors, this pathway does not include therapeutic supports such as counselling, which we believe is an important part of the healing process.

In recent years, there have been challenges in renewing insurance policies with physical and sexual abuse (PSA) cover for organisations such as Wanslea, with many commercial insurers withdrawing PSA cover altogether from the market. In view of this, any claims brought through the civil process would not be covered through insurance but rather through organisational reserves, placing increased financial risk on not-for-profit organisations such as Wanslea.

- c. the efficiency with which courts deal with civil claims;

Wanslea cannot comment on the efficiency with which courts deal with civil claims as Wanslea have not had any civil claims progress to court.

- d. State monitoring and reporting on the progress and impact of the Act.

Not applicable

2. The effectiveness of WA's support of the National Redress Scheme, including:
  - a. the experience of survivors who have accessed the Scheme;

While Wanslea is unable to comment on the experience of survivors, we are able to provide our observations and reflections based on our own experiences through our interactions with survivors who have accessed the Scheme. We note that while experiences have been mixed, generally speaking, the Scheme has provided survivors with a pathway to be able to feel heard and validated without having to enter into a civil litigation process, a process which may be complex and harrowing for some survivors.

A direct personal response is one of three components of redress under the National Redress Scheme, with the other two components being a financial payment and access to counselling. A direct personal response provides an opportunity for an applicant to receive an apology from the institution for the harm experienced as a child. It can also include a description of what the institution has done to stop abuse from happening to others.

Wanslea has observed that while the financial payment and access to counselling components are generally accessed by survivors, applicants often do not request a direct personal response, despite it being something which may be very important in obtaining a sense of healing and knowing what is being done to make things right. This may be because this component needs to be initiated by the applicant, which is somewhat counter intuitive, given the context.

Our reflection at Wanslea is that this component plays a key part of the healing process and we would like to see the direct personal response component as playing a more integral part of the Scheme.

Our experiences with survivors has highlighted that the amount of financial support allocated to counselling is not always commensurate with the level of therapeutic support required by the survivor therefore it we believe greater consideration should be made to the proportion of funds allocated to counselling.

In view of our comments above, we believe that overall greater flexibility around the design of the Scheme and its processes is needed to improve the experiences of survivors.

b. the response of Government and non-government institutions to the Scheme.

Since its inception, Wanslea has endeavoured to support the Scheme as best as possible through an approach underpinned by our purpose and values. We hope that our acknowledgement of past historical practices alongside our Apology displayed on the Wanslea public website creates a broader awareness of our commitment to the Scheme. As an organisation, Wanslea have also committed to

embedding child safe principles across the organisation and are working towards a process of child safe accreditation.

I have also met personally with survivors as part of a direct personal response process and visited support services such as Tuart Place which has assisted with my understanding of some of the trauma and experiences they have faced.

Through the course of the Scheme we have established a process for historical claims, providing dedicated staff to assisting applicants in search of records, where they exist, and by acting promptly and sensitively to those who apply to the Scheme.

This has not only involved dedicating resources to sort through, review and digitise historical archives, in the hope of finding meaningful information to support the applicant's experience, but often also providing therapeutic support to the applicant. This has included developing our own internal processes to minimise re-living their trauma (for example, by ensuring they do not need to re-tell their story unnecessarily through the process).

Therapeutic supports and deep sensitivity are also provided by our staff when advising survivors that information or records to assist in confirming their experiences are unable to be obtained.

Wanslea's staff also provides further support and assurance to the applicant that the organisation has undertaken many actions over time to ensure that abuse no longer occurs, and that the Wanslea of today is very different to the past.

### 3. The resourcing and provision of services to support survivors in whichever path they take.

Wanslea has committed a significant amount of time and resources to support the implementation of the National Redress Scheme. This has included dedicating resources to receiving requests for information, searching historical records and information pertaining to an applicant.

In addition, our staff have supported applicants requesting information through listening to their experiences and connecting survivors to other services.

Challenges include difficulty in finding records and information due to the historical nature of the claims, the duration of time elapsed, and record keeping at the time. However, our staff endeavour to do what they can to provide the best outcome for the applicant.

Our staff have also provided survivors with a therapeutic experience by listening and validating their experiences and connecting them to other services. It is our belief that to continue to do this effectively as the

Scheme continues, additional resources are required to be able to invest adequate time into retrieval of archives, records searching, etc. In view of this, Wanslea will be employing an archivist in order to continue to ensure the appropriate management and safe-keeping of our records.

Opportunities to improve support to organisations such as ours is vital to be able to support survivors in whichever path they take.

4. Other options to provide justice, resolution and/or compensation to survivors and their families, including lessons from other jurisdictions.

As noted above, Wanslea's observation is that many survivors do not take up the offer of a direct personal response as part of the National Redress Scheme, which we believe may be a significant path to contributing to psychological and emotional closure.

We believe that the design of the Scheme should take this into account and would continue to support engagement with survivors through this process.

In response to specific information on the questions relating to any instances of claims of child sexual abuse in WA:

1. How many claims have been made through:
  - a. the National Redress Scheme?

Sixty-eight (68) claims have been made through the National Redress Scheme.

Of these 68 claims, nineteen (19) are in progress, eleven (11) were determined to be not liable and thirty-eight (38) have been paid out.

- b. Civil litigation both, before and after the introduction of the 2018 Act?

There are currently three (3) claims which have been made through civil litigation all of which are in progress and may not go to court.

One is at the information sharing stage, the second one is listed as a court action and the third is undergoing settlement negotiation.

- c. any other allegations dealt with outside a) and b)

While there are no other sexual abuse allegations outside of the above claims that Wanslea are aware of, a number of other allegations of other forms of abuse, such as physical and emotional, have arisen and are being/have been investigated.

2. Of those claims or allegations, how many (for each category) have resulted in financial payments to the claimant?

For the National Redress Scheme, thirty-eight (38) claims have resulted in financial payments to the claimant.

No payments to date have been made through civil litigation as all claims are still in progress and have not yet been finalised.

3. What was the average payment for each category?

The average payment for National Redress Scheme is \$60,779.00

No claims have yet been finalised for civil litigation.

4. How many claims are still to be finalised in each category?

Nineteen (19) claims are still to be finalised for the National Redress Scheme.

Three (3) claims are still to be finalised for civil litigation.

5. How many individuals in your organisation have had allegations of child sexual abuse made against them?

It is unknown how many individuals within Wanslea have had allegations of child sexual abuse against them. Redress applications may refer to offenders have often been referred to by their role within the organisation or other children/residents, with little information provided to be able to identify perpetrators.

6. How long did it take on average to finalise the claims in each category?

For the National Redress Scheme, the average time taken to finalise the claims from the date the claim was received by Wanslea to the payment date is 238 days.

For civil litigation, no claims have yet been finalised.

Wanslea is committed to engaging with survivors of childhood sexual abuse in a compassionate manner. It is hoped that this submission along with Wanslea's data involving historical sexual abuse claims in Western Australia is able to assist with the Inquiry. We would welcome the opportunity to provide further information if required.

Kind regards



Jo Sadler  
Chief Executive Officer