



Monday, 7 August 2023

Dr D. J. Honey, MLA
Chair
Community Development & Justice Standing Committee
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

By Email: lacdjsc@parliament.wa.gov.au

Dear Dr Honey

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

I refer to my letter sent to you on Friday, 4 August 2023, and the enclosure provided to the Community Development & Justice Standing Committee's Inquiry into options available to survivors of Western Australia who are seeking justice.

Subsequent to reviewing the enclosed submission from the Catholic Archdiocese of Perth, I noted a number of minor typographical errors.

I therefore provide to you by way of enclosure to this letter an updated submission from the Catholic Archdiocese of Perth and request that you disregard the previous version.

For your convenience, I also attach a marked-up copy showing the corrections. As you will note, the revisions do not alter the content of the submission, but rather seek to offer minor typographical updates for clarity.

Yours sincerely,



Daniel Lynch
Executive Director, Office of the Archbishop





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

Introduction

1. The Catholic Archdiocese of Perth (**Archdiocese**) is responsible for various Archdiocesan organisations, offices, agencies and parishes within the territorial boundaries of the Archdiocese.
2. In Western Australia, there are four (4) Catholic arch/dioceses:
 - a. the Catholic Archdiocese of Perth;
 - b. the Catholic Diocese of Broome;
 - c. the Catholic Diocese of Bunbury; and
 - d. the Catholic Diocese of Geraldton.
3. Each of the four (4) Catholic arch/dioceses in Western Australia are independent from, and autonomous to, each other.
4. This submission is made on behalf of the Archdiocese, in response to the Inquiry into the options available to survivors of institutional child sexual abuse in Western Australia (**Inquiry**). This submission does not represent independently governed Catholic organisations, Catholic religious orders and their independent civil legal entities, or Catholic schools which are connected to the Catholic Archdiocese of Perth and governed independently of the Archdiocese.
5. The submission canvasses a number of the matters identified for consideration by the Inquiry, which are within the knowledge and experience of the Archdiocese.
6. There are a number of matters canvassed by the Inquiry which the Archdiocese does not purport to address, such as the direct experience of victims and survivors of child sexual abuse, as these are personal and difficult matters for each of those affected victims, survivors and families.

Enduring Apology to Victims, Survivors and the Community

7. The Archdiocese takes full responsibility for the harm caused by the tragic history of child sexual abuse by a number of clergy and lay church workers (**Church Personnel**). The failings of Church personnel who offended have harmed victims, survivors, their families, and their supporters.
8. The Archdiocese reaffirms its unreserved apology for the physical, emotional, and spiritual wounds, often lifelong, that victims and survivors have suffered, and renews its commitment to building a better future. Nothing can justify or cancel out the destructive and life altering trauma for those who, as innocent children, endured (and still to this day endure as adults) the impact of these crimes.
9. The Archdiocese has learned much about how to respond to victims and survivors, and it continues to learn. In a particular way, the Archdiocese has learned directly from victims and survivors and acknowledges all who have come forward in courage.

10. The community expects the Archdiocese to pursue a compassionate and consistent approach towards victims and survivors of child sexual abuse¹. The Archdiocese operates in a landscape where there is a duty to report matters to State authorities, an obligation to take part in reportable conduct schemes and the requirement to respond with independent investigative processes. The Archdiocese welcomes these developments, understands their purpose and complies with them.²
11. The Archdiocese affirms its commitment to creating and maintaining environments that are safe, supportive, caring and nurturing of all with whom the Archdiocese is involved, particularly children and vulnerable people. The Archdiocese has committed itself to safeguarding children and adults at risk from all abuse and neglect and maintains the safety of all children and adults at risk with whom the Archdiocese comes into contact.³

Responding to Victims and Survivors

12. The Archdiocese aims to be fair, reasonable and honest in its dealings with victims of child sexual abuse. Respect and dignity are afforded to victims, their families and other third parties affected by abuse. Every effort is made to ensure victims feel safe and secure, both in the telling of their stories and in the pursuit of justice.
13. In aligning itself with the National Response Protocol (2022),⁴ the Archdiocese acknowledges the terms “survivor” and “victim” when referring to someone who has been subjected to childhood abuse (adult or child). The Archdiocese recognises that some people who have been subjected to abuse prefer the term “survivor” due to the resilience conveyed by this word. It also acknowledges that some people do not feel they have “survived” their abuse and prefer the word “victim”. The Archdiocese recognises that others do not identify as either a “victim” or survivor.⁵
14. Lessons were learned in listening to the stories of the victims and survivors of child sexual abuse within the Archdiocese, during the hearings conducted by the *Royal Commission into Institutional Child Sexual Abuse (Royal Commission)*.
15. The Archdiocese has adopted and implemented the recommendations arising from the Royal Commission. A pastoral response to victims and survivors continues to be paramount. The response of the Archdiocese to the recommendations of the Royal Commission reflects a commitment to acknowledging past failures, supporting victims and survivors, and implementing comprehensive reforms. The emphasis on sincere apology, support services for survivors, structural changes, collaboration with civil authorities, and ongoing dialogue demonstrate a clear dedication to addressing the issue of child sexual abuse and ensuring a safer future for all within the community.
16. Lawyers for the Archdiocese are instructed to adopt model rules in the management of civil claims, including the confidential settlement of claims in mediation.
17. The National Redress Scheme (**the Scheme**) represents an important mechanism for providing reparation to victims and survivors who were sexually abused in Australian institutions while holding those institutions to account for this abuse. The Archdiocese

¹ **Guidelines for Church Authorities in Responding to Civil Claims for Child Sexual Abuse**, *Truth Justice & Healing Commission* – November 2015.

² **National Response Protocol: Church Authorities in Australia Responding to concerns and allegations of abuse against children and vulnerable adults** – March 2022.

³ **Apportionment of Liability: An Agreement Between Catholic Religious Australia and the Australian Catholic Bishops Conference** – 1 December 2022.

⁴ **National Response Protocol** – March 2022, p.6.

⁵ **National Response Protocol** – March 2022, p.6.

acknowledges the presence of perpetrators of abuse in Catholic Institutions and the trauma that perpetrators of abuse have created for so many people.

18. The West Australian Professional Standards Office (WAPSO)⁶ operates under the National Response Protocol which is the Catholic Church's response to complaints of emotional, physical and sexual abuse against personnel of the Catholic Church. The WAPSO responds pastorally to survivors of abuse and manages the Protocol that seeks to bring them to a place of healing, wholeness and hope.

Response by the Catholic Archbishop of Perth to Recommendations of the Royal Commission into Institutional Child Sexual Abuse (2017)

19. The Royal Commission, a landmark investigation in Australia, brought to light numerous instances of child sexual abuse within Australian institutions, including the Archdiocese.
20. Subsequent to the conclusion of the Royal Commission, the Catholic Archbishop of Perth (**Archbishop**), in his capacity as the representative of the Archdiocese, responded to the recommendations put forth by the Royal Commission. The key elements of the Archbishop's response were his commitment to acknowledging the past; renewing his commitment to offering support to survivors; and his continued implementation of robust and comprehensive reforms within the Archdiocese.⁷
 - a. **Acknowledgment of Past Failures:** The Archbishop has publicly acknowledged the past failures of the Archdiocese in adequately protecting children from sexual abuse. The Archbishop has expressed deep remorse for the harm caused to survivors and their families, recognizing that the abuse shattered the trust placed in the Church and its personnel. The Archbishop has stressed the importance of a sincere apology and reiterated the commitment of the Archdiocese to providing justice and support to survivors.
 - b. **Support for Survivors:** In response to the Royal Commission's recommendations, the Archbishop emphasized the Church's commitment to supporting survivors of child sexual abuse. He acknowledged the lifelong impact of such abuse and emphasized the responsibility of the Archdiocese in assisting survivors on their path to healing. The Archbishop has pledged to ensure that appropriate counselling services, pastoral care, and financial assistance are made available to survivors, in accordance with the recommendations.
 - c. **Implementation of Reforms:** The Archbishop has expressed a strong commitment to implementing comprehensive reforms within the Church to prevent future occurrences of child sexual abuse. He has recognised the necessity of structural changes and improvements in the safeguarding practices of the Archdiocese. The Archbishop has affirmed the importance of transparency, accountability, and the promotion of a culture of child safety. He has emphasized that the Archdiocese must learn from the past and take decisive action to protect vulnerable individuals.
 - d. **Collaboration with Authorities:** The Archbishop has acknowledged the importance of cooperating with civil authorities and law enforcement agencies in cases of child sexual abuse. He has reiterated the commitment of the Archdiocese to reporting allegations to the appropriate authorities and cooperating fully with any investigations.

⁶ [The West Australian Professional Standards Office \(WAPSO\)](#)

⁷ **2017 response of the Catholic Archdiocese of Perth to the Royal Commission:** [RC Final Report Archdiocese of Perth.pdf \(amazonaws.com\)](#)

The Archbishop has emphasised the necessity of ensuring that justice is served and that those responsible for abuse are held accountable, regardless of their position within the Archdiocese.

- e. **Ongoing Dialogue and Consultation:** Recognizing the need for ongoing dialogue and consultation, the Archbishop has expressed his continued willingness to engage with survivors, their families, and community stakeholders. He has emphasized the importance of listening to the voices of survivors and learning from their experiences to shape the response of the Archdiocese. The Archbishop acknowledges that open communication and active engagement are vital in rebuilding trust and fostering a safer environment within the Archdiocese.
- f. **Preventive Measures and Institutional Reform:** The Archdiocese has implemented preventive measures and initiate institutional reforms to prevent future occurrences of sexual abuse. The Archdiocese has made efforts to implementing safeguarding protocols, enhancing background checks for clergy, and implementing training programs to recognize and respond to abuse allegations. However, ongoing scrutiny and independent oversight will continue to be necessary to ensure the effectiveness and sustainability of these reforms.⁸
- g. This is discussed at greater length below.

The response of the Archdiocese to civil claims

- 21. Since the introduction of the *Civil Liability Legislation Amendment Act (Child Sexual Abuse Actions) Act 2018 (2018 Act)*, the Archdiocese has received **36** civil claims as of 31 July 2023. **19** of these claims have been settled, at a gross cost of **\$10,480,947.00**. **17** civil claims are yet to be finalised.
- 22. Lawyers for the Archdiocese are instructed to, at all times, be cognisant of the trauma inflicted on abuse victims, to ensure this is of paramount concern in resolving such sensitive matters in a trauma-informed way.
- 23. The Archdiocese respects the roles of the courts in these civil matters, and expects its lawyers to act with probity and integrity, in serving the administration of justice.
- 24. The Archbishop has invited, through Archdiocesan lawyers, plaintiffs to participate in confidential mediations, which have been very successful in achieving an early and efficient resolution to these matters, while reducing the burden on the resources of the courts. These invitations have been welcomed by plaintiffs and their legal representatives.
- 25. The process adopted in respect of this early intervention is designed to minimise costs and survivor exposure to civil legal processes, including offering informal discovery and confidential mediations with a view to the earliest possible settlement.
- 26. The significant majority of these claims are not subject to any insurance policy, and have been funded directly by the Archdiocese.
- 27. Many of the claims are settled pursuant to deeds, which include standard obligations of confidentiality. While it is recognised that not all survivors are the same and do not have the same requirements in identifying an appropriate path to compensation and resolution,

⁸ **Annual reports provided to the National Office for Child Safety**, including diocesan summaries of work: <https://www.catholic.au/s/article/Royal-Commission>.

without exception, respect for privacy and confidentiality has been of paramount importance to victims and their families, in the experience of the Archdiocese. This includes standard requests to anonymise names in proceedings (to which the Archdiocese has agreed); and embracing the opportunities provided in confidential, and without prejudice, mediation fora.

Potential for ill-defined civil claims

28. While it is crucial to give victims and survivors a platform to share their experiences and seek justice through civil litigation, it is equally important to ensure that allegations are thoroughly investigated and supported by evidence. Civil claims that are unable to appropriately define or detail allegations or identify alleged perpetrators are potentially straining the limited resources of the courts.
29. Ill-defined civil claims pose significant challenges to the integrity of the legal process. Such claims potentially lead to delays in civil proceedings and increase the burden on the justice system.

Balancing the Pursuit of Justice

30. To address the rise of ill-defined claims, while ensuring justice for survivors of sexual abuse, it is crucial to strike a delicate balance. Measures must be implemented to protect vulnerable individuals so as to ensure their rights are safeguarded during the legal process. This includes comprehensive support services, independent oversight, and legal representation that prioritizes the best interests of victims and survivors. Additionally, legal practitioners and the legal system should actively discourage ill-defined civil claims while expediting the advancement and timely resolution of developed civil claims.
31. By raising these concerns, the Archdiocese hopes that it can continue to work towards a fair and equitable resolution of sexual abuse cases while ensuring the well-being and rights of survivors are prioritized.

The National Redress Scheme: Assisting Survivors of Sexual Abuse and Exploring Opportunities for an Improved Model

32. The National Redress Scheme is a critical initiative designed to provide support and compensation to survivors of sexual abuse within Australia.
33. The Archdiocese welcomed the establishment of the Scheme in 2018.
34. Since 2018, the Archdiocese has received **122** National Redress Scheme applications, of which **65** have been resolved, including **4** withdrawn, at a gross cost of \$2.5m. As of 31 July 2023, **53** redress claims are currently pending.
35. Launched on July 1, 2018, the scheme aims to acknowledge the harm caused by institutions and provide survivors with a pathway to healing, justice, and financial restitution.
36. The Scheme provides financial compensation to victims and survivors as a form of redress for the harm they endured. The monetary assistance covers various aspects, including counselling, medical expenses, and economic loss suffered as a result of the abuse. The compensation aims to support survivors in rebuilding their lives and facilitating their recovery.
37. The National Redress Scheme ensures a simplified application and assessment process for survivors. This streamlined approach helps victims and survivors navigate the

complexities of seeking redress, minimizing the burden often associated with legal proceedings.

38. The Archdiocese provides significant financial resources, dedicated offices and staff to ensure that it is able to efficiently respond to applications received in the Scheme.
39. The Scheme acknowledges the trauma experienced by survivors of sexual abuse by providing official recognition of their suffering. This acknowledgment is a vital step towards healing and overcoming the psychological impact of abuse.
40. The Scheme offers survivors access to counselling and support services, recognizing the long-lasting impact of sexual abuse on mental health and well-being. This comprehensive support network helps survivors cope with the emotional challenges they face, fostering healing, and empowering them to rebuild their lives.

Opportunities for an Improved Model

41. The Scheme could benefit from a redefinition of the eligibility criteria to encompass a broader range of victims and survivors, which appear to be emerging in particular over the last 3 years. This could include expanding the timeframe for eligibility and considering additional categories of abuse that may not currently be covered. This is particularly the case in respect of historic matters (i.e. the period in which the alleged abuse occurred is 50-60 ago), giving rise to circumstances of a claim where no witnesses nor participants in the allegations are alive, save for the applicant and their families.
42. Considering the long-term impact of sexual abuse, an improved model of the Scheme could explore the provision of ongoing financial support to survivors. This support could extend beyond the initial compensation to address future expenses related to therapy, medical treatment, and other needs that arise as victims and survivors continue their healing journey.
43. The Archdiocese is open to a discussion with the State Government of Western Australia about the possibility of a co-funded contribution scheme, which will enable survivors to seek compensation, in circumstances where it may not be otherwise be available, in the absence of a fair trial.
44. The Scheme plays a crucial role in assisting survivors of sexual abuse by providing acknowledgment, financial compensation, and support services. While the current model is a significant step forward, there is an opportunity to further improve the scheme by expanding eligibility criteria, and considering a co-funded scheme which offers opportunities for plaintiffs who may otherwise not have the case to be met, in court. By evaluating and adapting the current model, the Scheme can better meet the diverse needs of victims and survivors, promote healing, and foster a society that prioritizes the well-being and justice of survivors of sexual abuse.
45. Criticisms have been raised regarding the adequacy and transparency of the administration of the Scheme. There is certainly room for exploring fair and timely resolutions through other avenues, such as a co-supported extension of a compensation scheme.
46. The Archdiocese has recently contributed to a substantial submission on the National Redress Scheme.⁹

⁹ Submission 25: Submission to Joint Standing Committee on the National Redress Scheme 2023

Co-Funded Victim Support Scheme for Historical Sexual Abuse: Empowering and Assisting Survivors

47. A victim compensation scheme co-funded by the State may offer victims and survivors bringing problematic cases to court an alternative pathway on their healing journey.
48. Historical sexual abuse survivors often face unique challenges due to the passage of time. By establishing a co-funded victim support scheme, the State acknowledges the long-lasting impact of historical abuse and recognizes the need to address the specific needs of victims and survivors, even years or decades after the abuse occurred.
 - a. **Financial Assistance for Restitution:** Co-funding a victim support scheme ensures that survivors receive financial restitution for the harm they endured. This support can cover a range of areas, including therapy expenses, medical costs, legal fees, and other financial burdens resulting from the abuse. By alleviating these financial stresses, survivors can focus on their healing and rebuilding their lives.
 - b. **Access to Specialized Services:** Historical sexual abuse survivors often require specialized support services tailored to their unique experiences. Co-funding enables the victim support scheme to provide survivors with access to trauma-informed counselling, therapy, and other professional services that specifically address the long-term effects of historical abuse. These services can significantly contribute to survivors' healing and recovery.
 - c. **Empowerment and Advocacy:** A co-funded victim support scheme empowers survivors by offering dedicated advocacy and support. Through this scheme, survivors have a platform to voice their experiences, concerns, and needs. Additionally, the scheme can provide legal assistance, ensuring survivors have access to justice and their rights are protected throughout the process.
 - d. **Collaborative Funding and Benefits**
 - i. Co-funding the victim support scheme reflects a shared responsibility between the State and other stakeholders, such as community organizations, non-government organizations, including the Catholic Archdiocese of Perth. This collaborative effort demonstrates a commitment to supporting victims and survivors in addressing the societal impact of historical sexual abuse.
 - ii. The collaboration of funding sources enhances the overall resources available to support survivors. Co-funding ensures a more sustainable and long-term approach, allowing the victim support scheme to provide continuous assistance to survivors and adapt to their changing needs over time.
 - iii. Co-funding between State and non-government institutions, including the Catholic Archdiocese of Perth, enhances the transparency and accountability of the victim support scheme. It fosters public confidence by demonstrating that multiple stakeholders are invested in supporting survivors and preventing future abuse. The diverse funding sources also help ensure that the scheme operates independently and impartially.

- iv. Co-funded victim support schemes can offer a more comprehensive range of support services to survivors. The collaboration allows for the integration of various expertise, such as legal assistance, mental health support, and community outreach programs, providing survivors with a holistic support system.
- v. A co-funded victim support scheme for survivors of historical sexual abuse is a vital initiative that recognizes the change in circumstances of many victims of institutionalised child sexual abuse, and the long-lasting impact of complex court processes and the justice system, in seeking compensation. By addressing the unique needs of historical abuse survivors, providing financial assistance, access to specialized services, and empowering survivors through advocacy and education, this scheme helps survivors on their healing journey and contributes to a society that prioritizes justice, support, and prevention of sexual abuse. The collaborative funding approach strengthens the sustainability and impact of the scheme, ensuring that survivors receive the support they need to rebuild their lives and thrive.

References

Submission 25: Submission to Joint Standing Committee on the National Redress Scheme 2023 (attached)

- i. Supported by the Catholic Archdiocese of Perth, as a participant and contributor to each of the supporting parties:
- ii. Australian Catholic Redress Limited
- iii. Australian Catholic Bishops Conference
- iv. Australian Catholic Safeguarding Limited
- v. Catholic Social Services Australia

2017 response of the Catholic Archdiocese of Perth to the Royal Commission:

[https://s3.ap-southeast-](https://s3.ap-southeast-2.amazonaws.com/acbcwebsite/Articles/Documents/ACBC/RC%20Final%20Report%20Archdiocese%20of%20Perth.pdf)

[2.amazonaws.com/acbcwebsite/Articles/Documents/ACBC/RC%20Final%20Report%20Archdiocese%20of%20Perth.pdf](https://s3.ap-southeast-2.amazonaws.com/acbcwebsite/Articles/Documents/ACBC/RC%20Final%20Report%20Archdiocese%20of%20Perth.pdf)

Annual reports provided to the National Office for Child Safety, provided by the Australian Catholic Bishops Conference and the CRA, on the work done to respond to the Royal Commission. The 2023 Report has been signed by the Catholic Archbishop of Perth. Reports, including diocesan summaries of work, here: <https://www.catholic.au/s/article/Royal-Commission>.

Model Guidelines for Church Authorities in responding to civil claims for child sexual abuse, 2015, Truth and Justice Commission.