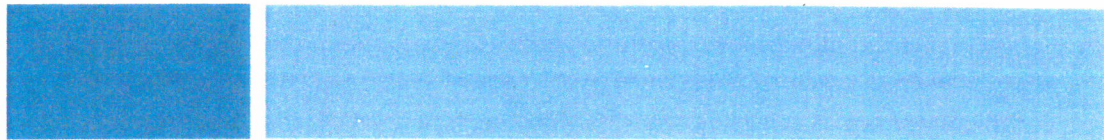


# INTERGOVERNMENTAL AGREEMENT ON THE NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE



An agreement between

- the **Commonwealth of Australia** and
- the **States and Territories**, being:
  - The State of New South Wales
  - The State of Victoria
  - The State of Queensland
  - The State of Western Australia
  - The State of South Australia
  - The State of Tasmania
  - The Australian Capital Territory
  - The Northern Territory of Australia

# Intergovernmental Agreement on the National Redress Scheme for Institutional Child Sexual Abuse

## RECITALS

1. The Commonwealth and participating state and territory governments wish to enter into this Intergovernmental Agreement (Agreement) to record the Parties' agreement on certain aspects of the National Redress Scheme for institutional child sexual abuse (the Scheme). The development and implementation of the Scheme is a shared responsibility of the Commonwealth and participating state and territory governments. The Scheme commenced on 1 July 2018.
2. The Parties enter into this Agreement in recognition of the importance of establishing a national redress scheme. This Agreement and establishment of the Scheme is an acknowledgement that sexual abuse suffered by children in institutional settings is wrong and should not have happened.
3. This Agreement continues the cooperation between the Parties on the establishment of a National Redress Scheme for institutional child sexual abuse, and outlines each Party's commitment towards achieving a survivor-focused, best practice, and simple Scheme.
4. The Parties agree the objective of providing redress for survivors of child sexual abuse is to recognise and alleviate the impact of past institutional child sexual abuse and related abuse, and to respond to the recommendations contained in the *Redress and Civil Litigation Report* of the Royal Commission into Institutional Responses to Child Sexual Abuse.
5. This Agreement reflects the commitment of the Parties to support the implementation of the Scheme and in turn, provide support and justice for survivors.
6. This Agreement sets out the roles and responsibilities of the Parties under the Scheme. This Agreement is to be read in conjunction with Scheme legislation (as defined in clause 16) and other relevant Commonwealth, state and territory legislation.
7. On 29 November 2019, the Ministers' Redress Scheme Governance Board agreed to consultation arrangements regarding Independent Decision Makers for participating states and territories. This Agreement has been updated to reflect the Board's decision, to update Scheme legislation references, and to reflect Machinery of Government changes.
8. The Ministers' Redress Scheme Governance Board agreed to Scheme improvements in response to the second year review. This Agreement has been updated to reflect these decisions.

## Part 1 — operative provisions

### Parties

9. This agreement is between:

- a) the Commonwealth of Australia (the “Commonwealth”); and
- b) the States and Territories, being:

The State of New South Wales

The State of Victoria

The State of Queensland

The State of Western Australia

The State of South Australia

The State of Tasmania

The Australian Capital Territory, and

The Northern Territory

(together, “the Parties”).

### Term of this Agreement

10. This Agreement will commence for each Party as soon as it is signed by them. This may occur before, on or after the commencement date of the Scheme. This Agreement will expire on 30 June 2028, unless terminated earlier or extended as agreed in writing by the Parties.

11. Commitments under this Agreement which refer to participating government institutions, only apply to Parties that have participating government institutions declared.

### Enforceability

12. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties’ commitment to this Agreement.

### Delegations

13. The relevant Commonwealth Minister with portfolio responsibility for the Scheme is authorised to agree to amendments to this Agreement and schedules to this Agreement in accordance with Part 5 – Governance Arrangements.

14. Respective state and territory Ministers with portfolio responsibility for the Scheme are authorised to agree to amendments to this Agreement and schedules to this Agreement in accordance with Part 5 – Governance Arrangements.

## Definitions

15. In this Agreement, unless the contrary appears:
- a) where a word or phrase has a defined meaning, any grammatical form of that word has a corresponding meaning,
  - b) a reference to legislation or a legislative provision includes a reference to any amendment, substitution or re-enactment of that legislation or provision, and
  - c) the singular includes the plural and vice versa.

16. Terms in this agreement will have the same meaning as in Scheme legislation.

17. In this Agreement, unless the contrary appears:

**Confidential Information** means information that:

- i. The Parties know, or ought to know is confidential, or
- ii. The Parties agree in writing after the commencement of this Agreement is confidential information for the purpose of this Agreement.

For the avoidance of doubt, Confidential Information does not include Protected Information as defined in the National Redress Scheme Act 2018. An example of Confidential Information would be a policy position shared by a Party on an issue that has arisen in the course of the Scheme.

The assessment framework policy guidelines for the monetary redress payment is Confidential Information.

**Scheme legislation** means:

- the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the National Redress Scheme Act)
- the *National Redress Scheme for Institutional Child Sexual Abuse Rules 2018* (the Rules)
- the *National Redress Scheme for Institutional Child Sexual Abuse Assessment Framework 2018*,
- the *National Redress Scheme for Institutional Child Sexual Abuse Direct Personal Response Framework 2018*,
- the *National Redress Scheme for Institutional Child Sexual Abuse Declaration 2018*,
- the *National Redress Scheme for Institutional Child Sexual Abuse (Funders of Last Resort) Declaration 2019*, and
- State referral or adoption legislation:
  - the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (NSW)
  - the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (VIC)

- the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (QLD)
- the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (WA)
- the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (TAS)
- the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (SA)

## PART 2 – OBJECTIVES

### Role and purpose of this Agreement

18. This Agreement provides the foundation for governments to work together to implement the Scheme. This Agreement will be signed by any state that seeks to become a participating state to the Scheme, the territories and the Commonwealth.
19. Non-government institutions are not Parties to this agreement but each participating non-government institution will enter into a Memorandum of Understanding with the Commonwealth, as part of opting in to the Scheme.
20. In addition, this Agreement provides Parties with the framework for delivering the Scheme by setting out:
  - a) roles and responsibilities of the Commonwealth and participating state and territory governments
  - b) governance arrangements
  - c) financial arrangements
  - d) implementation arrangements, and
  - e) Scheme operational arrangements.

### Objects of the Redress Scheme

21. The National Redress Scheme Act sets out the objects of the Scheme.
22. The main objects of the Scheme are to recognise and alleviate the impact of past institutional child sexual abuse and related abuse, and provide justice for the survivors of that abuse.

## PART 3 – ROLES AND RESPONSIBILITIES

### Shared roles and responsibilities

23. The Commonwealth and states and territories which have had participating government institutions declared will:
- a) work collaboratively to deliver redress from participating institutions to eligible survivors
  - b) share information and data, subject to this Agreement and privacy requirements, to promote a best practice and survivor-focused Scheme
  - c) monitor the progress of the Scheme's implementation and outcomes
  - d) identify and seek to resolve issues in a timely manner where Scheme arrangements are having unintended impacts, and
  - e) participate in the Ministers' Redress Scheme Governance Board and the Redress Scheme Committee.

### Roles and responsibilities of the Commonwealth

24. The Commonwealth will:
- a) Administer the Scheme in accordance with the National Redress Scheme Act and the principles and commitments laid out in the Service Charter
  - b) recruit and appoint suitably skilled and experienced Independent Decision Makers with knowledge of administrative decision making frameworks, to assess and make determinations on Scheme applications
  - c) deliver direct personal responses to its survivors in accordance with the Direct Personal Response Framework
  - d) make child safe reports in accordance with the *Commonwealth Child Safe Framework* (CCSF) and the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*
  - e) fulfil reporting obligations as set out in Part 4 – Implementation Arrangements
  - f) fulfil agreed financial obligations in accordance with Part 6 – Financial Arrangements
  - g) chair and provide secretariat support for the Ministers' Redress Scheme Governance Board and its committees, and
  - h) fund and conduct reviews of the Scheme in consultation with participating state and territory governments that have declared participating government institutions, in accordance with Scheme legislation

### Roles and responsibilities of state and territory governments

25. Each participating state and territory government that intends to have participating government institutions declared will:
- a) if a state, maintain legislation to refer to the Commonwealth Parliament the text reference and the amendment reference, or adopt the relevant version of the National Redress Scheme Act once enacted and refer the amendment reference, in accordance with s 51(xxxvii) of the Constitution
  - b) deliver direct personal responses to its survivors in accordance with the Direct Personal Response Framework
  - c) fulfil reporting obligations as set out in Part 4 – Implementation Arrangements
  - d) fulfil agreed financial obligations in accordance with Part 6 – Financial Arrangements

- e) elect one of the options set out in Part 7 – The Scheme, relating to the provision of counselling and psychological care (CPC) to survivors
  - f) participate in the review of the Scheme, and
  - g) participate in the Ministers’ Redress Scheme Governance Board.
26. Each state that is a participating state but does not intend to declare participating government institutions will:
- a) maintain legislation to refer to the Commonwealth Parliament the text reference and the amendment reference, or adopt the relevant version of the National Redress Scheme Act once enacted and refer the amendment reference, in accordance with s 51(xxxvii) of the Constitution
  - b) elect one of the options set out in Part 7 – The Scheme, relating to the provision of CPC to survivors, and
  - c) participate in the Ministers’ Redress Scheme Governance Board.

### **Operational procedures**

27. A Service Charter will inform the day-to-day operations of the Scheme to improve survivor experience.
28. Materials will be provided to participating institutions to provide guidance on the day-to-day operations of the Scheme.

## **PART 4 – IMPLEMENTATION ARRANGEMENTS**

### **Reporting**

29. The Commonwealth will provide states and territories which have had participating government institutions declared with:
- a) an individual monthly report that provides information on applications made under the Scheme that relate to their participating government institutions. This may include, but is not limited to, information on the number of completed applications, number of completed internal reviews of decisions, the proportion of affirmed decisions, the proportion of accepted offers, the average payment amount, the composition of payments, the number of applicants that have been determined not entitled to redress under the criminal convictions policy, the number of applications in which the state or territory acted as funder of last resort, and the number of applications to be processed,
  - b) six monthly reports including whole of Scheme statistics on average processing timeframes, average payment rates, the number of applications per jurisdiction, the number of applications for which jurisdictions are responsible, the number of applications for which non-government institutions are responsible and the proportion of approved applications for redress under the Scheme, and

- c) a report against the agreed NRS Strategic Success Measures, which are: Application timeliness; Survivor journey; Survivor acceptance; Maintaining institutional participation; Scheme accessibility; and, Support service accessibility. These reports will be issued every 6 months. The reports will be provided to states and territories and published on the National Redress Scheme website.
30. States and territories that have participating government institutions declared will provide the Commonwealth with annual reports on the number and type of direct personal responses they have delivered.
31. Participating state and territory governments that have elected to deliver CPC services directly will provide the Commonwealth with annual reports on the provision of CPC services to survivors, including details about the number of survivors who have engaged in CPC in the year and the number of hours accessed.

### **Confidential Information**

32. Subject to clause 31, a Party must not disclose Confidential Information to anyone, without the prior written consent of the Party that provided them with the information. Confidential Information includes, for example, the deliberations of the Ministers' Redress Scheme Governance Board (see clause 43).
33. A Party can disclose Confidential Information to the extent that it:
- a) is disclosed to its internal management personnel, solely to enable effective management or auditing of the Scheme
  - b) is disclosed by the Commonwealth in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia or by a state or territory in response to a request by a House or Committee of its Parliament, or its Legislative Assembly
  - c) is shared within a Party, or with another agency, where this serves the Commonwealth's or a state or territory's legitimate interests
  - d) is authorised or required by law to be disclosed, or
  - e) is in the public domain otherwise than due to a breach of this Agreement.
34. Where a Party discloses Confidential Information to another person under clause 31 they must:
- a) notify the receiving person that the information is confidential, and
  - b) not provide the information unless the receiving person agrees to keep the information confidential.
35. A Party receiving Confidential Information will take all reasonable steps to ensure that the Confidential Information of the other Party is protected at all times from any unauthorised use or access and to immediately notify the other Party if the receiving Party becomes aware of any unauthorised access to, or use or disclosure of Confidential Information.



## **Privacy**

36. In exchanging information under this Agreement, officials need to be aware of their obligations under privacy legislation.

## **PART 5 – GOVERNANCE ARRANGEMENTS**

### **Variation of this Agreement**

37. This Agreement, and schedules to this Agreement, may be amended at any time by agreement in writing by all the Parties.

### **Review of this Agreement**

38. The Parties may review the operation and objectives of this Agreement following the review of the Scheme outlined in the Scheme legislation, or as otherwise agreed by the Parties through the Redress Scheme Governance Board.

### **Withdrawal and Termination of this Agreement**

39. The Parties agree that withdrawal from this Agreement will be a measure of last resort.

40. A Party that ceases to be a participating state under the Scheme legislation immediately ceases to be a Party to this Agreement.

41. A Party to the Agreement that is not terminating a reference or its adoption (including a territory government) may indicate its intent to withdraw from this Agreement at any time by notifying all other Parties in writing of its intention to do so. A Party that proposes to withdraw will give at least three months' notice of its intention to withdraw.

42. Following notification of a Party's intention to withdraw from this Agreement under clause 39, the terms of withdrawal, including the date on which the Party will cease to be a Party, and arrangements necessary because of the withdrawal, will be negotiated in good faith and agreed between the Commonwealth and the Party intending to withdraw from this Agreement.

43. If a Party withdraws, this Agreement will continue between all remaining Parties.

### **Counterparts**

44. This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute this Agreement. A Party may execute this Agreement by signing any counterpart.

### **Governance Structure**

45. The Ministers' Redress Scheme Governance Board (the Board) will assist the proper, efficient and effective performance of the Scheme.

46. The Survivor Roundtable (the Roundtable) will advise on performance and operational issues affecting the survivor's journey with the Scheme.
47. The Redress Scheme Committee (the Committee) will advise on operational and Scheme participation issues which may impact the integrity and ongoing viability of the Scheme..
48. The Terms of Reference for the Board and further information about the Committee and the Roundtable are set out in Schedules A and B to this Agreement.
49. Senior officials from participating state and territory governments form an Inter-jurisdictional Committee (IJC), whose purpose is to support the Board through the provision of advice. The IJC will meet on an as needs basis to specifically discuss key emerging policy, operational and communication issues and provide advice to the Board on amendments to Scheme legislation and policy guidelines.

### Dispute Resolution

50. Any Party may give notice in writing to other Parties of a dispute under this Agreement.
51. Officials of relevant Parties will attempt to resolve any dispute in the first instance.
52. If a dispute is unable to be resolved by officials, it may be escalated to relevant Ministers on the Board.

### Referral Legislation

53. The National Redress Scheme Act will establish the Scheme outlined in this Agreement.
54. For a state to become a participating state, the Parliament of the state will need to refer to the Commonwealth Parliament the text reference and the amendment reference, or adopt the relevant version of the National Redress Scheme Act once enacted and refer the amendment reference, in accordance with s 51(xxxvii) of the Constitution.
55. Once at least one state has enacted its State Referral Act, the Commonwealth will support passage of the National Redress Scheme Bill through the Commonwealth Parliament.
56. The Commonwealth accepts that a state may choose to refer power (or adopt the relevant version of the National Redress Scheme Act) to enable the Scheme to operate where abuse occurred in its jurisdiction, without committing to declaring its state institutions as participating. In these cases, the state will be a participating state but will not have any participating government institutions declared (see definition) for the purposes of funding redress or delivering the direct personal response component of redress.

### Ministerial declarations

57. Participating state and territory governments that wish to have participating government institutions declared are required to specify which government institutions they agree to being declared under the Scheme, in accordance with the Scheme Legislation, and may do this by specifying a list of institutions by class.
58. The Commonwealth Minister responsible for redress will declare the specified government institutions participating institutions where the relevant requirements are met, which includes the consent of the relevant state or territory. The Minister's declaration will be in the form of a notifiable instrument (which is not disallowable).

## PART 6 – FINANCIAL ARRANGEMENTS

59. The Scheme will operate on a 'responsible entity pays' basis, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse. Parties will fund the cost of providing redress to each eligible survivor for whom one of their participating government institutions is responsible. This includes the monetary payment, access to CPC and costs associated with delivering direct personal responses.
60. The Commonwealth will contribute to Scheme administration costs, which include funding of specialist support services for survivors (as outlined in clauses 76-80) as well as the costs of processing applications.
61. Participating institutions, including participating government institutions, that are determined to be responsible for abuse will pay an administrative charge, set at 7.5 per cent of the total value of the institution's gross liability for redress payments made in relation to that abuse in each quarter.
62. Participating institutions, including participating government institutions, will also be required to pay a per-claim a contribution towards legal support costs, delivered by the Scheme's legal support services. This amount will be \$1,000 for each claim for which the institution is the only liable participating institution, or a portion of the \$1,000 contribution proportionate to the institution's share of the redress payment where it is jointly responsible for providing redress with another institution or institutions. This amount does not include any GST, and no GST will be charged. These costs are directly attributable to supporting eligible applicants to access legal support. The Commonwealth will fund all remaining costs for legal support services.
63. Parties will be invoiced in arrears on a quarterly basis. The quarterly invoice will include the total amount owed and the total number of applicants who have been paid in the quarter broken down by CPC contribution, redress payment, legal support contribution and administrative charge along with details for payment. This approach ensures Parties will not have to make up front contributions to the Scheme based on estimated exposure to claims.

64. The per claim administrative charge will be reviewed by the Scheme Operator in accordance with the requirements under the Scheme legislation to ensure it accurately reflects the costs being recovered. Reviews of the administrative charge will be undertaken as agreed by the Board.

## PART 7 - THE SCHEME

65. The National Redress Scheme Act establishes the National Redress Scheme for Institutional Child Sexual Abuse. It provides the legislative basis for entitlement, participation, how to obtain redress, offers and acceptance of redress, provision of redress, funding, funder of last resort and other administrative matters.

### Responsibility for redress

66. A participating institution will be responsible for redress if the abuse occurred in circumstances where the institution is, or should be treated as being, primarily or equally responsible for the abuse.

### Responsibility prior to self-government of territories

67. The Commonwealth is responsible for providing redress to survivors who experienced child sexual abuse in government institutional contexts in the Northern Territory and the Australian Capital Territory pre self-government. That is prior to 1 July 1978 in the Northern Territory and prior to 11 May 1989 in the Australian Capital Territory.
68. For applications to the Scheme that relate to government institutions prior to self-government in the Northern Territory and the Australian Capital Territory, the Scheme will contact the relevant Commonwealth agency. That agency will then determine whether it needs to seek records from the relevant territory government.

### Funder of last resort arrangements

69. A Party may act as funder of last resort where the relevant Party agrees to act as funder of last resort and:
- a) a participating government institution of that Party is equally responsible with a non-government institution and the equally responsible non-government institution no longer exists and has not been subsumed by another institution, or
  - b) a non-government institution no longer exists and there is no equal responsibility with a participating government institution, or
  - c) a non-government institution is capable only of partly participating in the Scheme as it is unable to meet the legislative requirements to join the Scheme, or
  - d) exceptional circumstances justify the institution being listed.
70. Parties will not generally agree to act as funder of last resort where there exists another participating non-government institution which would reasonably be expected to assume liability for the non-existent responsible non-government institution, but may consider acting as funder of last resort on a case-by-case basis.

For example, where the institution that no longer exists would have fallen under a national body that still exists, that national body would be expected to assume liability for the defunct institution rather than a government stepping in as funder of last resort.

71. Where funder of last resort arrangements apply, the Party will pay a share of costs that the non-government institution would have otherwise paid, in accordance with the National Redress Scheme Act. For clauses 69 (b) & (c), the Commonwealth will pay a half share of costs that the non-participating institution would have otherwise paid in accordance with the National Redress Scheme Act.

### **Release from civil liability**

72. Survivors receiving redress under the Scheme will be required to release the responsible participating institution(s), their associates and the officials of these institutions (other than the abuser) from all civil liability in relation to all instances of child sexual abuse, and related non-sexual abuse within scope of the Scheme. This will be a condition of accepting any components of redress under the Scheme.
73. Where a participating institution has been released from civil liability either at common law or under another payment scheme in relation to the abuse they have been found liable for under the Scheme, then that release and any confidentiality provisions, cannot be relied upon for the limited purpose of determining the payment amount that a survivor may be entitled to under the Scheme.
74. Parties agree that their participating government institutions will waive their rights under prior releases to the extent necessary, and will not take action against survivors for failing to comply with the prior release simply on the basis that the survivor has applied for redress and notified the scheme of information relevant to their application including a prior payment received. All other conditions under existing releases with survivors will remain.

### **Specialist support services**

75. There will be three components of support provided to survivors, including access to community-based support services, financial counselling support and legal support services. These services will be available over the life of the Scheme to survivors engaging with the Scheme.
76. Redress Support Services (RSS) will give survivors timely and seamless access to trauma-informed and culturally appropriate community-based support services throughout their engagement with the Scheme. This may include providing assistance to prepare an application, help with understanding the application process, providing referrals to other services including counselling services, and support during the delivery of the Direct Personal Response by responsible institutions. RSS will be available through Commonwealth funded community-based support services to survivors over the life of the Scheme. RSS will be available nationally and will use face-to-face, telephone, online and outreach services to ensure adequate coverage.

77. Survivors will have access to free financial counselling provided through a service funded by the Commonwealth. The financial counselling will be available over the life of the Scheme to survivors engaging with the Scheme. This includes assistance to understand how a redress payment may affect a survivor's financial situation.
78. Free legal support services will be provided through a legal service provider engaged by the Commonwealth. The legal support services will be available to survivors throughout their engagement with the Scheme. This includes assistance to understand the eligibility requirements and the application process, advice on participating in the Scheme, during completion of a survivor's application, after a survivor receives an offer of redress and elects to seek an internal review, and prior to signing the release from civil liability to support survivors to understand the effect of the release on their future legal rights.
79. Information on these services will be available on the dedicated Scheme website.

### Counselling and psychological care

80. Parties agree that survivors found eligible under the Scheme, and who have signed the release from civil liability, will have the opportunity to access CPC to address the impact of their experience.
81. Parties agree to provide survivors residing in their state or territory with access to CPC by either:
- a) having survivors receive a tiered payment of \$1,250, \$2,500 or \$5,000 (based on the severity of sexual abuse) to assist them in accessing CPC services privately, or
  - b) delivering CPC services directly to survivors and receiving a tiered payment of \$1,250, \$2,500 or \$5,000 from responsible institutions for the provision of their services (again based on severity of sexual abuse).
82. Parties who elect to deliver services directly to survivors agree to adhere to the national service standards for the provision of CPC contained in Schedule C to this Agreement.
83. The following arrangements will apply where a state or territory fails to meet the national service standards:
- a) The Scheme Operator as defined under the Scheme legislation (Scheme Operator) will notify the state or territory if they are concerned that it is not adhering to the agreed service standards for the delivery of CPC. The Scheme Operator will provide the state or territory with sufficient particulars of the concern for the state or territory to understand and respond.
  - b) The state or territory will have 60 days to respond to the identified concerns and demonstrate that it is adhering to the agreed service standards for the delivery of CPC including by outlining how any issues identified with service delivery have been rectified.
  - c) If the concerns continue, the matter will be brought to the Ministers' Redress Scheme Governance Board for a decision as to how the dispute should be resolved.

84. Parties agree to the following arrangements if a survivor moves to another jurisdiction after making an application for redress under the Scheme:
- a) Parties who elect to deliver CPC services will not be required to offer services to survivors who have received a lump sum payment for CPC.
  - b) Parties who elect to deliver CPC services will provide telephone and/or internet services at the request of the survivor if they move to another jurisdiction, as a minimum delivery standard.
  - c) Parties who elect to deliver CPC services will manage the transfer of survivors moving to another jurisdiction also delivering CPC services in accordance with agreements entered into between those jurisdictions (if any), at the survivor's request.

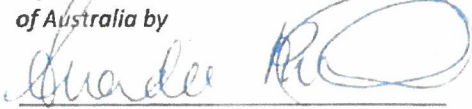
### Direct personal response

85. Parties agree that survivors who are entitled to redress under the Scheme, and who have signed the release from civil liability, should have the opportunity to receive a direct personal response from the responsible participating institution(s), if they choose it.
86. Parties that have had participating institutions declared agree to adhere to the Direct Personal Response Framework.

### Independent Decision Makers

87. The Commonwealth is responsible for screening, vetting, recruiting and engaging suitably skilled and experienced candidates to be considered for appointment as Independent Decision Makers. This will include particular care to scrutinise and address sensitivities and real or perceived conflicts of interest. The Commonwealth will source potential candidates. States and territories may also refer potential candidates to the Commonwealth.
88. State and territory Ministers with portfolio responsibility for the Scheme agree that responsibility for responding to all consultation on Independent Decision Maker candidates may be delegated, to officials at Senior Executive Officer level, or equivalent, but that such officials will not sub-delegate or otherwise authorise any other person to respond.
89. The consultation process for engagement of Independent Decision Makers will be as follows:
- a) The Scheme Operator will write to delegated officials of the participating States and Territories, consulting them on candidates in accordance with Scheme Legislation.
  - b) Responses will be taken as votes (out of session) for the purposes of the two-tier voting process set out in Schedule A. If no response is received from a state or territory within ten working days of the Scheme Operator's correspondence to the delegated official of the state or territory receiving a copy of the correspondence, that state or territory will be deemed to have voted in favour of all proposed candidates.

*Signed for and on behalf of the Commonwealth of Australia by*



**The Honourable Amanda Rishworth,**  
Minister for Social Services

Date

*Signed for and on behalf of the State of New South Wales by*

**The Honourable Mark Speakman SC MP**  
Attorney General of the State of New South Wales

Date

*Signed for and on behalf of the State of Victoria by*

**The Honourable Jaclyn Symes MLC**  
Attorney-General of the State of Victoria

Date

*Signed for and on behalf of the State of Queensland by*

**The Honourable Leanne Linard MP**  
Minister for Children and Youth Justice and Minister for Multicultural Affairs of the State of Queensland

Date

*Signed for and on behalf of the State of Western Australia by*

**The Honourable John Quigley MLA**  
Attorney-General of the State of Western Australia

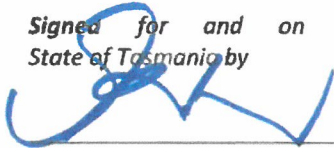
Date

*Signed for and on behalf of the State of South Australia by*

**The Honourable Kyam Maher MLC**  
Attorney-General of the State of South Australia

Date

*Signed for and on behalf of the State of Tasmania by*



**The Honourable Elise Archer MP**  
Attorney-General of the State of Tasmania

Date **2 December 2022**

*Signed for and on behalf of the Australian Capital Territory by*

**The Honourable Shane Rattenbury MLA**  
Attorney-General of the Australian Capital Territory

Date

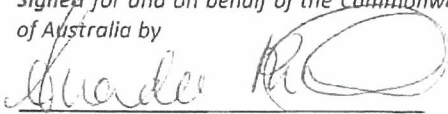
*Signed for and on behalf of the Northern Territory by*

**The Honourable Chanston Paech MLA**  
Attorney-General of the Northern Territory of Australia

Date



*Signed for and on behalf of the Commonwealth of Australia by*



**The Honourable Amanda Rishworth,**  
Minister for Social Services

Date

*Signed for and on behalf of the State of New South Wales by*

**The Honourable Mark Speakman SC MP**  
Attorney General of the State of New South Wales

Date

*Signed for and on behalf of the State of Victoria by*

**The Honourable Jaclyn Symes MLC**  
Attorney-General of the State of Victoria

Date

*Signed for and on behalf of the State of Queensland by*



**The Honourable Leanne Linard MP**  
Minister for Children and Youth Justice and Minister for Multicultural Affairs of the State of Queensland

Date *06 December 2022*

*Signed for and on behalf of the State of Western Australia by*

**The Honourable John Quigley MLA**  
Attorney-General of the State of Western Australia

Date

*Signed for and on behalf of the State of South Australia by*

**The Honourable Kyam Maher MLC**  
Attorney-General of the State of South Australia

Date

*Signed for and on behalf of the State of Tasmania by*

**The Honourable Elise Archer MP**  
Attorney-General of the State of Tasmania

Date

*Signed for and on behalf of the Australian Capital Territory by*

**The Honourable Shane Rattenbury MLA**  
Attorney-General of the Australian Capital Territory

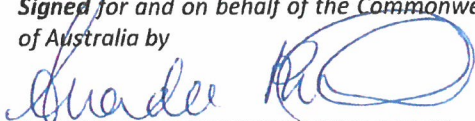
Date

*Signed for and on behalf of the Northern Territory by*

**The Honourable Chanston Paech MLA**  
Attorney-General of the Northern Territory of Australia

Date

*Signed for and on behalf of the Commonwealth of Australia by*



**The Honourable Amanda Rishworth,**  
Minister for Social Services

Date

*Signed for and on behalf of the State of New South Wales by*

**The Honourable Mark Speakman SC MP**  
Attorney General of the State of New South Wales

Date

*Signed for and on behalf of the State of Victoria by*

**The Honourable Jaclyn Symes MLC**  
Attorney-General of the State of Victoria

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Minister for Children and Youth Justice and Minister for Multicultural Affairs of the State of Queensland


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*Signed for and on behalf of the State of South Australia by*



**The Honourable Kyam Maher MLC**  
Attorney-General of the State of South Australia

Date 7-12-22

*Signed for and on behalf of the State of Tasmania by*

**The Honourable Elise Archer MP**  
Attorney-General of the State of Tasmania

Date

*Signed for and on behalf of the Australian Capital Territory by*

**The Honourable Shane Rattenbury MLA**  
Attorney-General of the Australian Capital Territory

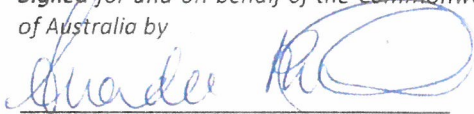
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*Signed for and on behalf of the Northern Territory by*

**The Honourable Chanston Paech MLA**  
Attorney-General of the Northern Territory of Australia

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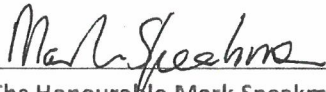
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**07 DEC 2022**

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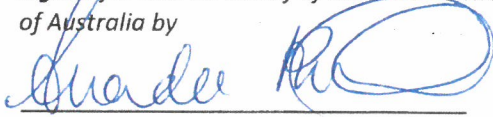
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Intergovernmental Agreement on the National Redress Scheme for Institutional Child Sexual Abuse

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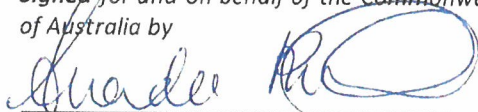
Date 12/12/22

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Date 16/12/2022

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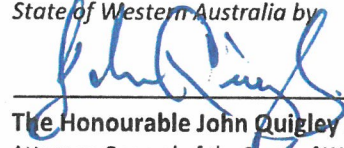
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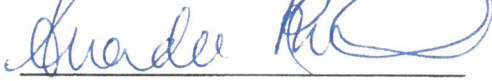
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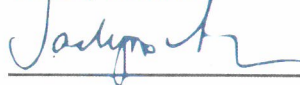
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Attorney-General of the State of Victoria

Date 27/01/2023

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Minister for Children and Youth Justice and Minister for Multicultural Affairs of the State of Queensland

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Schedule A

MINISTERS' REDRESS SCHEME GOVERNANCE BOARD



## **Ministers' Redress Scheme Governance Board Terms of Reference**

### **Role and Purpose**

The purpose of the Ministers' Redress Scheme Governance Board (the Board) is to assist the proper, efficient and effective performance of the Scheme during its period of operation. The Board has decision-making powers in relation to proposed amendments to primary legislation, rules, policy guidelines and this Agreement.

The Board will cease simultaneously with the Scheme, unless terminated earlier.

### **Members**

The Commonwealth Minister is the Chairperson of the Board. The Board consists of the Commonwealth Minister and other state and territory ministers responsible for redress in participating jurisdictions (i.e. states that have referred power or adopted the law, and territories).

Participating states and territories must nominate one Minister as the lead representative, that is, the Minister who is responsible for redress. A member of the Board may appoint a representative to act as a member of the Board in place of the member. Such appointment may be limited to a particular meeting(s) and may be revoked at any time. The acting member may exercise the voting rights of the member concerned.

### **Responsibilities**

The Board will have the following functions:

1. Discuss key issues relating to:
  - implementation and operational matters (including review and evaluation activities);
  - emerging policy, operational or communication issues; and
  - matters relating to participation in the Scheme.
2. Discuss and agree on proposed amendments to primary legislation, rules, policy guidelines and this Agreement.
3. Manage cost risks.

All Board members can bring forward proposals for amendments except those who have not declared participating government institutions.

The Board will not consider or influence decisions made in relation to individual applications.

In performing its functions, the Board must have regard to relevant analysis and advice. The Board, through the Commonwealth Minister, can seek the advice of the Roundtable to inform its decision-making.

The Commonwealth Department responsible for operating the Scheme (currently the Department of Social Services) will provide secretariat support to the Board.

The secretariat will be responsible for the provision of reports to the Board. This will include, for example, data about the number of applications, decisions, approved applications, and accepted offers of redress. Reports will also focus on redress outcomes including monetary and CPC payments made and/or the number of CPC services and direct personal responses delivered. The secretariat will also provide the Board with any relevant advice from the Roundtable, Redress Scheme Committee (RSC) and the Inter-jurisdictional Committee (IJC).

### **Meetings**

The Board will generally meet bi-annually each financial year. The Board may meet less frequently whether generally or in particular year, or more frequently urgent matters arise. The Board will be convened at the request of the Commonwealth Minister responsible for redress, who will take into consideration advice from the state and territory ministers.

The Chairperson, or a Board member nominated by the Chairperson, must preside at all meetings. If a Board member has not been nominated by the Chairperson to preside, the other Board members must appoint one of themselves to preside.

Half the number of members plus one must be in attendance for the meeting to begin, except in situations where an ad hoc meeting has been arranged to discuss an urgent matter.

The Board must keep a record of the outcomes of its meetings. The decisions of the Board will not be subject to evaluation.

### **Voting**

Board members will have voting rights on proposed amendments to primary legislation, the rules, policy guidelines, this Agreement and other matters as defined in this Terms of Reference.

The IJC should be consulted and provide advice on amendments before the Board votes on proposed amendments.

States that have referred their powers (or adopted the relevant version of the National Redress Scheme Act) but do not declare any participating government institutions will only have voting rights in relation to changes to primary legislation that specifically impact their referral and changes to the governance arrangements.

Matters requiring consideration by the Board will be subject to either a unanimous or a two-tier voting process.

Unanimity will be required for changes culminating in increased participation costs to states and territories and any major design decisions. For example:

- changes to the administrative charge
- changes to the maximum redress payment amount

- changes to the assessment framework, as set out in the Scheme legislation, which is used to work out the amount of redress payment and sharing of costs
- changes to the funder of last resort policy
- changes to the CPC model
- changes to the scope of redress covered by the Scheme

A two-tier voting process will be required for changes to key Scheme elements (unrelated to increased participation costs and any major design decisions), where the subject matter does not require unanimous vote. The following changes would require the two-tier vote:

- changes to primary legislation
- changes to the Rules
- changes to the governance arrangements, including this Agreement
- appointment of the Independent Decision Makers

Such changes will require the agreement of two-thirds of parties on the Board plus jurisdictions representing 75 per cent financial liability, according to the estimated liability table included below.

The Commonwealth will have two votes at the first tier of the two-tier voting process.

The 75 per cent of governmental liability required in this voting process will be calculated based on participating governments and exclude jurisdictions that have not opted in to the Scheme or have only referred powers (or adopted) to allow NGIs to opt in to the Scheme (unless the decision will impact their referral). Government liability will not be recalculated based on claims received by the Scheme.

The table below represents the estimated liability of each jurisdiction, derived from a report by Finity Consulting in September 2017, which will be used as the basis for calculating the 75 per cent liability outlined above:

Jurisdiction	No. of survivors	Percentage of liability
NSW	8,950	34.45%
VIC	5,290	20.36%
QLD	5,030	19.36%
WA	2,395	9.22%
SA	1,690	6.51%
TAS	1,115	4.29%
Cwlth	955	3.68%
NT	330	1.27%
ACT	225	0.87%
Total	25,890	100%

Each Party except for the Commonwealth will have one vote. If a Party is represented by more than one member of the Board, then only one vote for that Party is to be submitted. In the event that multiple votes are submitted by one Party, the vote of the lead member shall be treated as the vote of that Party.

Where a party on the Board abstains from voting on a matter, then they are taken not to be a party on the Board for the purposes of calculating that vote, unless otherwise specified throughout the Agreement.

Timeframes for voting

A Board member not attending a meeting may reserve their vote by informing the Secretariat in writing before the date of the meeting that the member wishes to reserve their vote. The member may then cast a vote after the meeting within 14 days of the meeting (unless a different time limit has been set by the Board). If members do not cast their vote within the required timeframe, they are taken to have abstained from the vote.

Board members may be required to vote on a proposed amendment to legislation or rules outside of a formal meeting of the Board. Members will be required to cast a vote within 14 days (unless a different time limit has been set by the Board), and if members do not cast their vote within the required timeframe, they are taken to have abstained from the vote.

Consideration by the Board is not required for the following matters:

- minor or technical changes to the primary legislation and Rules (where there is no cost impact directly to participants or it relates only to Commonwealth exposure, for example the ability of the Commonwealth to waive debts or invoicing, and it is not a major design decision requiring either a unanimous or two-tier vote). The Commonwealth will notify and consult with participating state and territory government officials at the earliest opportunity on proposed minor or technical changes and will only make the proposed change if no jurisdiction provides written objection or indicates that further consultation is required within ten working days.
- policy documents (where it does not impact participation costs and or major Scheme design). The Commonwealth will notify and consult with participating state and territory government officials at the earliest opportunity on any proposed policy changes to policy documents. Officials will, within ten working days, respond with any concerns that they have and whether further consultation is required.
- service delivery and ICT changes
- changes to letters, application form and website
- communications campaign

Schedule B

SURVIVOR ROUNDTABLE AND REDRESS SCHEME COMMITTEE

## **Survivor Roundtable and Redress Scheme Committee Terms of Reference**

### **Survivor Roundtable**

#### **Role and Purpose**

The purpose of the Survivor Roundtable (the Roundtable) will be to advise the Commonwealth Minister responsible for redress (Minister) and the Board about the performance of the Scheme with respect to the Service Charter and key operational issues affecting the survivor's journey with the National Redress Scheme.

The Roundtable will be consultative and advisory in nature.

#### **Responsibilities**

The Minister will consult with participants at the Roundtable about the operations of the National Redress Scheme that significantly affects survivors of institutional child sexual abuse who are engaging with the Scheme. The advice brought forward from the Roundtable will be elevated through to the IJC to the Board.

The Roundtable will not consider or seek to influence decisions made in relation to individual applications.

#### **Participants**

The Roundtable will be chaired by the Minister, who may be supported by the responsible state or territory minister in the location where the roundtable is convened. Roundtable participants may vary from time to time and include representation from survivors and survivor groups. Participants will be selected by the Minister from across Australia and from specific survivor groups. The Minister will consider nominations provided by state and territory governments and survivor groups in selecting survivor and other participants.

Participants are expected to respect the confidentiality of discussions and declare and avoid conflicts of interest and conflict of roles.

#### **Meetings**

The Minister will generally convene the Roundtable meeting annually. Further Roundtable meetings may be convened at any time. The frequency of meetings may be reviewed at any time by the Minister. Participants attending meetings will have access to counselling support and be connected to further support following the meeting, if needed.

The Commonwealth Department responsible for operating the Scheme (currently the Department of Social Services) will be the secretariat for the Roundtable. An agenda and meeting papers will be provided to participants in advance of meetings. The secretariat may obtain participant's views prior to the meeting to inform the agenda. The secretariat will prepare a record of the outcomes of these meetings.

Some costs for attending the Roundtable may be met by the Commonwealth Department of Social Services.

### **Redress Scheme Committee**

#### **Role and Purpose**

The purpose of the Redress Scheme Committee (the RSC) will be to support the Scheme Operator, that is the Secretary of the Commonwealth Department responsible for operating the Scheme, in ensuring the integrity and ongoing viability of the National Redress Scheme (the Scheme) during its period of operation through the provision of advice about key operational and Scheme participation issues.

The RSC will be consultative and advisory in nature and will cease simultaneously with the Scheme, unless terminated earlier or extended as decided and notified in writing by the Scheme Operator.

#### **Responsibilities**

The Scheme Operator will consult with the RSC on decisions that significantly affect members, including:

- (a) key implementation and operational matters (e.g. input to the Post Implementation Review two years after Scheme commencement) and
- (b) Scheme participation matters (e.g. issues arising in relation to the operation of the Intergovernmental Agreement and the Memorandum of Understanding, including financial arrangements).

The Scheme Operator will keep the RSC informed of Scheme costs and tracking against estimated costs, with regular reporting.

The RSC will not consider or influence decisions made in relation to individual applications.

The Commonwealth Department responsible for operating the Scheme (currently the Department of Social Services) as the secretariat for the RSC, will elevate the advice brought forward by the RSC the Board.

#### **Members**

The Committee will be chaired by a Commonwealth representative and comprise senior officials of all participating governments and non-government institutions (NGIs). Participating governments and NGIs will at the time of opting in to the Scheme, nominate an appropriate senior individual (from their peak body where one exists), who will represent their government or, for NGIs, their institution/s, on the RSC. The Commonwealth agency responsible for the delivery of the Scheme (currently the Department of Social Services), will participate on the RSC as needed.

Members are expected to work cooperatively and focus on the policy intent of the Scheme, provide clear representation on the interests of their institution, respect the confidentiality of deliberations and declare and avoid conflicts of interest and conflicts of roles.

It is the responsibility of the participating institution to ensure the Scheme is provided with any changes to the nominated senior official and is kept up to date with contact details.

#### **Meetings**

The RSC will generally meet annually. Further meetings may be convened at any time. The frequency of meetings may be reviewed at any time by the RSC or Chair. The RSC may also conduct business out of session or by correspondence as appropriate.

The Chairperson of the RSC, or a delegate nominated by the Chairperson, will preside at all meetings and direct the business of the RSC. If the Chairperson has nominated a delegate Chairperson to preside, the other Board members must appoint one of themselves to preside.

Only participating governments, NGIs with high estimated exposure under the Scheme (likely to be faith-based institutions), and some non-faith based institutions will be invited to attend meetings to ensure there is a cross section of NGIs represented in meetings.

The secretariat will provide all other participating NGIs (with low estimated exposure) with agenda papers and a record of outcomes from the meeting. The secretariat will also obtain their views prior to and after the meeting to ensure that the RSC and/or the Scheme Operator can consider the views of the wider networks of NGIs in making their decisions.

An NGI is able to bring forward a request to the secretariat to attend an RSC meeting if they are not a standard invitee.

The RSC must keep a record of the outcomes of its meetings. The secretariat will provide reports relating to the operation of the Scheme.

The RSC will not be required to produce advisory reports or conduct evaluations.



## Schedule C

# NATIONAL SERVICE STANDARDS FOR THE PROVISION OF STATE AND/OR TERRITORY BASED COUNSELLING AND PSYCHOLOGICAL CARE (CPC)

In electing to deliver counselling and psychological care (CPC) services a jurisdiction will be required to commit to service standards consistent with guiding principles for service systems outlined in the Royal Commission's Final Report. These include for services to be collaborative, available, accessible, high quality and inclusive of Aboriginal and Torres Strait Islander healing approaches.

Based on these principles, the jurisdiction will be required to commit to the following service standards in the delivery of CPC to survivors.

1. Make the first point of contact with referred survivors by providing them with information about their services (i.e. how to access the services and what is available etc.)
2. Do not require referred survivors to complete a new application form disclosing their experience to access services.
3. Provide a minimum of 20 hours of CPC to survivors, at their election, over the course of the survivor's lifetime.
4. Provide access to CPC for all survivors entitled to redress under the Scheme, including rural, regional and remote areas.
5. The preferences of the survivor will be taken into account when developing a plan for their care.
6. Providers will be qualified and appropriately skilled in working with survivors with complex trauma, have an understanding of the effects of institutional child sexual abuse and be registered with a relevant professional association.
7. Maintain appropriate oversight, monitoring and review of CPC service delivery and ensure survivors have access to a complaints mechanism for the CPC services, including referrals to relevant professional organisations.
8. Provide a range of delivery options to meet the needs of different survivors (for example, face to face, phone, online video chat, mobile apps and group therapy).
9. Support survivors with complex and additional needs with referrals to other providers with specialist expertise.
10. Be culturally appropriate and consider the diversity of the survivor such as needs related to disability, gender, sexuality and language.
11. Provide culturally appropriate CPC for Aboriginal and Torres Strait Islander survivors.
12. The Scheme should provide survivors with clear and accessible information on the availability of CPC, which should be made in a non-intrusive, compassionate and helpful manner.
13. Use best efforts to provide to the Scheme Operator data on the usage of services by survivors, including information regarding the number of referrals made to funded agencies by survivors entitled to redress, and information on complaints.

14. Any evaluation and monitoring of the redress scheme should extend to the provision of CPC services.
15. It is acknowledged that in some circumstances it may be impractical or impossible for the jurisdiction to comply with some or all of these standards. These circumstances may include where the survivor (a) cannot be contacted despite the jurisdiction's best efforts; (b) has moved interstate or overseas; (c) is detained in a correctional or other secure facility; or (d) is otherwise incapacitated.