

Royal Commission civil litigation recommendations  
Justice Strategy & Policy  
Department of Justice  
GPO Box 31  
Sydney NSW 2001

4 September 2017

## Submission regarding civil litigation recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission)

### Introduction

Community Legal Centres NSW (CLCNSW) is the peak body for community legal centres (CLCs) in New South Wales. This submission has been compiled in consultation with our members, several of whom have worked with survivors of institutional child sexual abuse.

CLCs are community organisations providing free legal help to people when they need it most. In particular we provide a safety net for marginalised and disadvantaged individuals, groups and communities, who would otherwise be denied access to justice.

In making this short submission, we refer the Department to the submission from **knowmore**. Established by the National Association of Community Legal Centres (NACLC) with funding from the Australian government, **knowmore** is a free, national service that since July 2013 has been providing legal help to people considering telling their stories or providing information to the Royal Commission.

CLCNSW is in full support of the detailed recommendations made by **knowmore** and refers the Department to their submission for detailed responses to specific questions within the Consultation Paper.

### Taking civil action against institutions

Currently within the law, the most straightforward and obvious solution for survivors of institutional child sexual abuse seeking redress is to sue the perpetrator directly. However, such individuals often lack the assets to provide appropriate compensation for the victim's purposes. This solution also fails to acknowledge the role that the institutions themselves can have in these matters, and the responsibility of institutions for the actions of members acting on their behalf.

While said institutions may potentially resist the implementation of these recommendations, CLCNSW urges the NSW Government put the interests and well-being of survivors first. If

implemented, these recommended reforms will provide access to justice for these survivors of sexual abuse and hopefully provide some level of healing for the trauma which has been inflicted upon them.

### **The Importance of Redress**

CLCNSW believes in equal access to the civil litigation system and that any legal reforms should be guided by the principles of equality, fairness and social justice. These principles are of major significance to survivors of institutional child abuse, as there can be hurdles for survivors in accessing appropriate services and pursuing personally significant outcomes.

While implementation of the recommended reforms by the Royal Commission will assist survivors who seek to establish civil claims against institutions and their officials, it has been noted that many survivors will not pursue claims in this way, for a variety of reasons. As such we recommend that the NSW Government opts in to the national redress scheme being established by the Commonwealth Government. In this way, more survivors will be able to achieve meaningful outcomes.

Given the significant number of survivors who are from NSW, we also recommend that the NSW government commit to ongoing support for trauma-informed and culturally appropriate legal help for survivors of institutional sexual abuse, either through dedicated funding for **knowmore**, or advocacy at a federal level for the service to continue.

### **The Recommendations**

CLCNSW recommends that all of the Royal Commission's recommendations be implemented by the NSW Government. These recommendations have been informed by years of work by the Commission, including public hearings, private sessions, numerous submission processes, and roundtables. In this way, the Royal Commission was able to make recommendations which balance the views of varying stakeholders.

As mentioned previously, we refer the Department to the **knowmore** submission for a more detailed response to the specific questions in the consultation paper.

### **Conclusion**

CLCNSW appreciates the steps taken by New South Wales government to consider the recommendations made by the Royal Commission. We welcome this opportunity to participate in the consultation process and thank you for taking the time to consider our submission.

Please do not hesitate to contact our Advocacy & Communications Coordinator, via [mark.riboldi@clcnsw.org.au](mailto:mark.riboldi@clcnsw.org.au), if you have any questions about our submission.

Regards,



Polly Porteous  
**Executive Director**  
Community Legal Centres NSW.