



# Tuart Place

Growing Strong Together

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5 August 2018

Senator Derryn Hinch  
Chair, Joint Standing Committee  
PO Box 33241  
Melbourne, VIC, 3004

Dear Senator Hinch,

Tuart Place welcomes this opportunity to contribute to the Joint Standing Committee's *Inquiry into the oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*. Please find our submission attached.

Tuart Place is the primary support service in Western Australia for Forgotten Australians, former child migrants, and members of the Stolen Generations and their descendants, known collectively as care leavers. We operate a participant-led, trauma informed service, maintaining contact with over 1,000 care leavers via our publications. Half the members of Tuart Place's Board of Governance – *Forgotten Australians Coming Together (FACT) Inc* – are people with lived experience of out-of-home care.

Last year, a total of 547 people received a direct service from Tuart Place, including counselling, therapeutic support groups; family tracing; supported access to records; and assistance with historic abuse complaints. Our staff previously operated the primary support service for the Redress WA Scheme, providing support to more than 800 applicants; and Tuart Place delivered over 946 occasions of service related to the Royal Commission into Institutional Responses to Child Sexual Abuse. Approximately 75% of current participants at Tuart Place have disclosed experiences of historical institutional child sexual abuse and almost 100% have disclosed physical abuse, emotional abuse and/or neglect.

The matters addressed in this submission are:

- 1) Eligibility issues
- 2) Impact of previous payments
- 3) Responding to claims submitted with insufficient detail
- 4) Clarifying definitions of 'Impact' and 'Extreme circumstances'
- 5) Informing applicants when a responsible entity opts in to the scheme
- 6) Private lawyers charging to prepare NRS applications
- 7) Extent to which the NRS is consistent with Royal Commission recommendations
- 8) The 'special case' of Western Australia and the unfinished business of Redress WA

We would be pleased to meet with the Committee to discuss these matters and any other issues raised by the Inquiry. The contact person for this submission is Tuart Place Director Philippa White, via email: [director@tuartplace.org](mailto:director@tuartplace.org)

Yours faithfully,

Dr Philippa White  
Director, Tuart Place

Mr Ron Love  
Chairperson, FACT Inc

## **Introduction**

Tuart Place's submission starts from the position that redress processes should, at the very least, do no further harm to the participants. Unfortunately, as the Royal Commission has found, survivors can and do suffer harm when elements of redress are poorly delivered or are otherwise mismanaged. The worst example in Australian history and, indeed, one of the worst in world history so far, has been the *Redress WA* scheme, through which thousands of care leavers suffered re-traumatisation and systemic re-abuse when a well-designed redress initiative turned sour.

We ask all members of the Committee – before you read this submission – to take 15 minutes to watch this video: <https://youtu.be/lufMOYiwjJU> and hear the voices of 23 Redress WA survivors.<sup>1</sup>

Hopefully we can learn from their experience as we embark on a national redress process that will be with us for the next ten years.

In this submission, we address some broad concerns affecting all survivors engaging with the National Redress Scheme (NRS), as well as matters specifically related to Western Australia's circumstances. The recommendations in this submission build on those made in our two previous submissions to the Senate Committee Inquiries into the Commonwealth and National Redress bills.

Over the last six months, Tuart Place has continued to receive a large volume of enquiries about the National Redress Scheme, with a further substantial increase since July 2018. Two of the major areas of concern continue to be eligibility and the impact of previous redress payments.

### **1) Eligibility issues**

In Western Australia, 5,302 care leavers received a payment under Redress WA – a comprehensively designed scheme that recognised all types of abuse and neglect in State-governed care.<sup>2</sup> Approximately half (46%) the people who participated in Redress WA are now ineligible to take part in the NRS because their institutional maltreatment did not include sexual abuse. This exclusion continues to be a source of distress and confusion to those affected, and is creating unhelpful divisions within established communities of Forgotten Australians, former child migrants and members of the Stolen Generations.

The many survivors of Redress WA who were beaten, starved and/or denied an education during their time in state care, but were not abused sexually, are finding it hard to understand why their abuse is no longer recognised, as it was in the past.<sup>3</sup> For those who are still alive, exclusion from the new, highly-publicised national redress scheme with its own forthcoming apology from the Prime Minister is a bitter pill to swallow.

Care leavers in Queensland and Tasmania who participated in state-level comprehensive redress schemes will also be left wondering why their previously-recognised abuse is no longer acknowledged.

While it is now clear that the NRS is not going to recognise childhood neglect and other non-sexual forms of abuse – unless the person was sexually abused – the Federal Government can still provide guidance on this matter to the States and Territories.

**Recommendation 1:** The Prime Minister's forthcoming apology to sexual abuse survivors should be accompanied by an acknowledgement that people whose childhood abuse in Australian institutions did

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<sup>1</sup> *Make Redress Right* (2017). Available via the You Tube channel on the Tuart Place website, and on the *Find & Connect* website at: <https://www.findandconnect.gov.au/ref/wa/objects/WD0001045.htm>

<sup>2</sup> 5,917 care leavers applied to *Redress WA*; 10% were deemed ineligible.

<sup>3</sup> The abuse and neglect suffered by members of the Stolen Generations, the Forgotten Australians, and former child migrants has been confirmed by national Inquiries, and formally acknowledged via mechanisms such as apologies, and the categorisation of care leavers as a Diverse Needs Group in regard to aged care.

not include sexual abuse will not benefit from the NRS. The States and Territories should be encouraged to reiterate their previous public apologies to the three care leaver cohorts: Forgotten Australians, members of the Stolen Generations, and (where relevant) former child migrants. State-level apologies should coincide with the Prime Minister's apology to survivors of institutional child sexual abuse, and be accompanied by a statement of intent regarding each State's plans for providing redress to care leavers who are not eligible for the NRS.

## **2) Impact of previous payments**

Standing alongside the cohort of care leavers who will be excluded from the NRS by the nature of their childhood abuse is another substantial group of survivors who will also fail to benefit from the national scheme.

Survivors who received a prior redress payment of \$40,000 or above for sexual abuse in the 'contact' category will not qualify for payment under the NRS because the maximum allowance for 'contact' abuse is \$50,000, and upscaling for inflation will put them close to or over the limit.

As children, these care leavers may have suffered many years of being groped in their beds at night, stripped naked, fondled and masturbated – or forced to masturbate their carers – but will not receive payment under the NRS because, strictly speaking, their bodies were not 'penetrated'.

This problem will affect care leavers who received maximum payments in state-based schemes in Tasmania, Queensland and WA, and survivors across Australia who have received prior payments for non-penetrative sexual abuse through church-run programs such as *Towards Healing*.

Tasmanian care leavers who received the maximum payment of \$60,000 are already over the limit, while NRS upscaling for inflation will rule out care leavers in Queensland who received the maximum level of \$40,000.

It is a situation that is likely to be particularly galling for the survivors of *Redress WA*, because the maximum payment offered by this scheme was originally \$80,000, reduced to \$45,000 by an incoming government.

Concerningly, it appears that a proportion of NRS applicants (particularly those who submit their own forms) are likely to go through the painful process of detailing painful memories of childhood sexual abuse without realising that they are already 'over the limit'. For this group of people there is no point in submitting an NRS application because their sexual abuse – as terrible as it may have been – is insufficient to attract a payment under the new scheme.

This problem could be ameliorated by adjusting the NRS Assessment Framework to enable survivors of *Contact abuse* to claim the additional \$50,000 payment for *Extreme circumstances*, which is currently only available to survivors of *Penetrative abuse*. It is valid, reasonable and fair to make the *Extreme circumstances* payment available to applicants whose contact abuse was of the most offensive type and/or occurred over an extended period.

We understand that, as a Legislative Instrument, the NRS Assessment Framework can be amended at the discretion of the Minister, and that it was included in the Rules rather than in the Legislation to allow flexibility and responsiveness to emerging needs.

**Recommendation 2:** The existing NRS Assessment Framework should be amended to recognise the capacity for non-penetrative Contact abuse to occur in 'extreme circumstances', and the *Column 6* payment – currently only available to survivors of *Penetrative abuse* – should be made available to applicants whose claims involve very serious and/or prolonged *Contact abuse*.

### **3) Responding to claims submitted with insufficient detail**

The experience of Redress WA has taught us that a considerable proportion of survivors prepare and submit their own applications without seeking help from support agencies. Applicants will do this for a number of reasons, for example:

- they are too embarrassed to seek help from a stranger at a support agency;
- they do not wish to disclose their abuse to carers or family members and liaising with a redress support service would be difficult to explain;
- they are feeling retraumatised and triggered by the prospect of a redress process, and want to 'get it over and done with' as quickly as possible;
- they are not aware of how 'the system' works and the importance of submitting the strongest possible application in the first instance;
- they expect that the NRS will operate in the same way as the previous redress scheme in that someone will contact them to gather further information if their initial application is insufficient.

Many survivors are unaware that the assessment of NRS applications from Western Australia will not commence until after 1 January 2019 (at the earliest), and we have heard of WA care leavers submitting their own forms already. It is unlikely that these self-prepared forms represent the strongest possible claim for these applicants. While many survivors can describe incidents they recognise as childhood sexual abuse, they typically struggle to identify and document the impacts of the abuse in a way that is adequate for a redress process. People who complete their own applications, or perhaps get help from a friend or neighbour, are likely to be disadvantaged.

Appropriate mechanisms should be put in place for the NRS to assist claimants to provide further details of abuse/impacts *after* their applications have been received.

We have heard that NRS procedures are being revised in response to the emerging problem of insufficient detail in applications, however this news was relayed anecdotally and has not been officially confirmed.<sup>4</sup> We ask the Committee to seek formal clarification of this point during its Inquiry.

If the NRS is indeed developing protocols for gathering further information from survivors whose quality of application is poor, we ask that these approaches are made with advance warning and particular sensitivity. Over the years we have heard from many Redress WA survivors who felt retraumatised by receiving an unscheduled call from a Redress Officer asking for details of their childhood abuse. People describe being caught off-guard by an unexpected call while they were shopping at the supermarket, having a family lunch, or in another situation where they felt compromised and 'put on the spot'. Survivors did not feel confident to say it was an inconvenient time, or ask for a return call, for fear they might be penalised.

**Recommendation 3:** Formal, trauma-sensitive protocols should be implemented to enable the gathering of necessary details of sexual abuse/impacts in cases where applications containing insufficient detail are received.

### **4) Clarifying definitions of 'Impact' and 'Extreme circumstances'**

Tuart Place is seeking greater clarification of two factors in the Assessment Framework: *Impact* and *Extreme circumstances*.

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<sup>4</sup> While Tuart Place - the major support service for care leavers in WA - is inundated with requests for help with the NRS, it does not have access to the same information routinely provided to NRS support agencies.

The following information is currently available in the Minister's Explanatory Statement:

*'Extreme circumstances'*: The criteria for *Extreme circumstances* are that: the abuse was (a) penetrative; and (b) taking into account (i) whether the person was institutionally vulnerable; and (ii) whether there was related non-sexual abuse of the person. A further condition is that: "*it would be reasonable to conclude that the sexual abuse was so egregious, long term or disabling to the person as to be particularly severe*".

Greater clarity is needed on this further condition, as well as information about what documentary evidence, if any, needs to be provided to meet its requirements.

*'Impact'*: Further clarification is also needed on the assessment criteria that will be used to validate *Impact*. The Explanatory Statement provides that:

(b) the amount in column 3 of that item if the person's application to the Operator for redress indicates that the sexual abuse of the person had an impact on the person's wellbeing. It would be open to the Operator to rely on the information provided in the application as to whether the person's wellbeing was impacted by the sexual abuse, if the Operator believes that the person has provided sufficient information to make that decision

We do not know if applicants need to provide external evidence of the impact of their abuse for the "Operator to believe they have provided sufficient information to make that decision", or if it is sufficient to just circle some of the *Impacts* listed on page 27 of the application form.

We have sought further information about assessment criteria for the two factors mentioned above, however feedback via the NRS Helpline and other sources has been somewhat contradictory. We realise it is 'early days' and we're all 'learning as we go' to some degree, however it is essential that survivors have access to clear operational definitions for these elements *prior* to preparing applications.

One suggestion was that survivors should just put in their applications and 'see what happens', however this response is grossly inadequate and ignores the inevitable re-traumatisation of survivors during claims processes, which has particular implications for survivors who may receive a \$0 financial offer.

Survivors who have received prior redress payments need to know in advance what their claim is likely to be 'worth' so they do not participate in a traumatic process unnecessarily, and can explore other options such as civil litigation.

Claimants also need to know what documentary evidence, if any, is required to qualify for an *Impact* payment.

**Recommendation 4:** Further information should be made publicly available on the assessment criteria for *Impact* and *Extreme circumstances* payments.

### **5) Informing applicants when a responsible entity opts in to the scheme**

The NRS will be receiving applications from survivors for whom the responsible institution/s has not yet opted in (or has been able to opt in) to the scheme. We have been advised by Helpline operators that in such circumstances the application is assigned a reference number and is put on hold until (or if) the institution opts in. The onus is on the applicant to monitor the actions of the institution, and the applicant must re-contact the NRS to advise its staff to re-activate the application if and when the institution signs up.

This policy may seem reasonable in theory, however in practice it means that applicants will have no respite from the claims process during an anxious waiting period of up to two years. Alternatively, some survivors might think that assessment of their application will start automatically when a responsible institution joins the scheme, and may not take the necessary action to trigger the

assessment phase. It is insufficient for the NRS to simply tell people that this is not the case. A high level of compromised literacy skills and impaired self-confidence, combined with the inherent re-traumatisation of a claims process, means that some applicants are likely to wait for somebody to tell them what's happening. As Professor Ben Mathews points out: "in particular, the avoidance symptom of PTSD means that the survivor will persistently avoid all stimuli related to their experience",<sup>5</sup> which contradicts the notion that it is appropriate to expect applicants to (a) monitor the progress of responsible institutions, and (b) notify the NRS when institutions opt in.

It can be hard for those of us who have not walked in the shoes of a care leaver to understand the barriers to dealing with an 'official system' such as the NRS or the Royal Commission. For example, at the very outset of the Royal Commission, its Helpline did not have the capacity to relay messages to anyone, so all those early calls to the Commission from people bursting to tell their stories went nowhere. When we raised this with the Commission the response was that 'surely these people will just call back'. Many of them didn't. Instead they assumed that the Commission didn't believe them; didn't want to hear from them; or wasn't interested in what they had to say. They certainly weren't about to pick up the phone and risk a second 'slap in the face'.

It is not trauma-informed, reasonable, or fair, to expect survivors to proactively monitor the activity of 'their' institution, and to put the onus on survivors to re-active their NRS application when responsible institutions opt in.

**Recommendation 5:** The NRS should take responsibility for advising applicants when a relevant entity opts in to the scheme, and that assessment of their application can now proceed.

### **6) Private lawyers charging to prepare redress applications**

Tuart Place is aware of survivors being referred to private lawyers for NRS application assistance and we have seen costs agreements binding these survivors to pay legal costs "estimated between \$3,500 - \$5,500" plus GST, in addition to an unknown quantum of disbursements. The legal fees in these agreements are no-win-no-fee, however a typical example states that: "[d]isbursements will be payable regardless of whether your NRS claim is successful or not".<sup>6</sup>

This is of great concern, particularly for those survivors who are unaware that they may receive a \$0 financial offer from the NRS. Zero or very low payment offers are likely to occur for a number of reasons, for example, it is not uncommon for survivors to (a) be unaware that some previous payments are relevant to this new process; (b) forget they have received a payment; or (c) think they received a lower amount. A Towards Healing or Salvation Army settlement received 15 years ago may not be remembered, and therefore not disclosed at the point of application. The fact that an undisclosed previous payment may preclude payment under the NRS will not be discovered until the application is assessed, and after legal costs have been incurred.

During Redress WA, some survivors ended up owing more in legal fees than they received under the scheme. This occurred in Redress WA because the payment levels were halved after the application period had closed and there was no provision for free legal advice; whereas with the NRS it is more likely to result from confusion over prior payments.

However, even in cases where an NRS applicant is eligible for the maximum NRS payment, his or her settlement should not be garnished by law firms charging for services that are available free of charge.

**Recommendation 6:** Information about the free legal advice and application assistance available from knowmore Legal Service should be promoted more prominently to NRS applicants, and applicants

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<sup>5</sup> Mathews, B. (2018). "New international frontiers in child sexual abuse: Theory, problems and progress". Dordrecht, Springer (in press, accepted 27 June, 2018).

<sup>6</sup> XXX Pty Ltd, "Terms of Retainer (National Redress Scheme Claim)", July 2018. (p.3).



should be specifically advised that it is unnecessary to incur any legal fees during the NRS process. The re-opening of knowmore's office in Perth should be expedited and, in the interim, it should provide other options for NRS applicants to receive free face-to-face legal services.

### **7) Extent to which the NRS model is consistent with Royal Commission recommendations**

Tuart Place and many other submitters to the Senate Committees on redress have identified significant areas of divergence between the model recommended by the Royal Commission and the framework established for the national scheme. Key issues include the exclusion of non-residents, the lower maximum payment, absence of a minimum payment, and the criminal exclusion policies.

Recent publication of the NRS Assessment Framework has revealed substantial differences between this instrument and the assessment matrix recommended by the Royal Commission.

In our view, the most concerning discrepancy is the reduced value assigned to the 'additional elements' factor proposed by the Royal Commission. Additional elements, which include recognition of related non-sexual abuse and abuse in closed institutions, attracted a 20% loading in the Commission's Matrix, but are assigned only 6% in the NRS Assessment Framework. This reduction in the value of 'additional elements' will primarily affect care leaver applicants, whose childhood abuse in closed institutional settings was often accompanied by other forms of serious abuse and neglect.

As Professor Kathy Daly has observed, even the 20% allowance for additional elements in the Royal Commission's model was insufficient to accommodate the totally different circumstances in which the childhood abuse of care leavers and non-care leavers occurred.<sup>7</sup>

This problem could be addressed by adjusting the Assessment Framework to give more weight to 'additional elements', and by making the difference in levels of payment less extreme. For example, the \$70,000 amount for *Penetrative abuse* is dramatically higher than the \$30,000 value assigned to *Contact abuse*, and is out of proportion to the reported experience of many survivors. Additionally, the \$50,000 loading for *Extreme circumstances* in cases of penetrative abuse means there is a huge jump in the level of payment, that again seems mismatched to the reported experiences of survivors (especially as the specified payments are 'all or nothing', so there is no capacity to accommodate variations in degree of severity or degree of impact).

**Recommendation 7:** The structure of payment levels in the Assessment Framework should be reassessed with a view to providing greater recognition of the context in which care leavers' childhood abuse occurred, and less extreme variance in the payment levels for *Penetrative* and *Contact abuse*, and the *Extreme circumstances* payment.

### **8) The 'special case' of Western Australia and the unfinished business of Redress WA**

The final matter addressed in this submission arises from the unique history of redress in Western Australia, where nine years ago approximately five and a half thousand care leavers experienced secondary harm during a state-run redress scheme.

If you have any doubt about the fact that these care leavers were re-abused by the system, please listen to what the 23 Redress WA survivors have to say in the 15-minute video, *Make Redress Right*: <https://youtu.be/lufMOYiwjJU> These individuals are representative of a much wider group of Redress WA survivors who still feel bitterly hurt and angry about what was done to them by the WA State Government.

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<sup>7</sup> Daly, K. (2018). "Inequalities of Redress: Australia's National Redress Scheme for Institutional Abuse of Children", *Journal of Australian Studies*. (p.216).

If you need further evidence of the systemic re-abuse of Redress WA applicants, please refer to Hansard records of the day, and read the speeches made by the many parliamentarians who condemned the Redress WA payment cuts, and who pleaded with the then-State Government to reinstate the original payment levels in this scheme. Between 11 August 2009 and 15 August 2012, WA Labor Members in particular fought hard for reversal of the payment cuts, condemning the decision as ‘heartless’, ‘brutal’, ‘cruel’ and ‘disgraceful’ in debates in the WA Parliament. See, for example, the Hansard of Legislative Assembly proceedings on 22 September 2010.<sup>8</sup>

Those parliamentarians who spoke most vehemently against the payment cuts are now in Government and hold the key positions of WA State Treasurer, Attorney-General and Premier, while others are now Ministers and Cabinet members in the current State Government. Excerpts of their impassioned speeches are cited in Appendix I of our previous submission.<sup>9</sup>

Since November 2017, Redress WA survivors have been formally calling on the current State Government to issue an apology and reinstate the original payment levels promised under the scheme. Delegations of survivors and their advocates have had a series of meetings with Government and continue to convey their message in the clearest of terms.

The WA Government has acknowledged that its participation in the NRS will assist only some of the survivors of Redress WA, and that others will be left out. As mentioned in Item 1 of this submission, 46% of Redress WA applicants (if still alive today) would be ineligible for the NRS because their institutional maltreatment did not include sexual abuse. Another substantial cohort – those who received a \$45,000 payment under Redress WA for ‘contact’ sexual abuse – cannot receive payment under the NRS because its maximum payment for non-penetrative abuse is \$50,000, and upscaling for inflation puts this group over the limit. So almost half won’t be eligible, and another large proportion will be excluded by their Redress WA payment.

The barriers to justice faced by Redress WA survivors are exacerbated by their inability to make civil claims for historical physical abuse. Whereas states such as NSW and Victoria have removed limitation periods for both physical and sexual abuse, in WA (and Queensland) legislative reforms only removed the limitation period for sexual abuse.

Care leavers are an elderly cohort of very disadvantaged people, and a considerable number have died over the last nine years. Those who are still living are pleading for the unfinished business of Redress WA to be ‘made right’.

We ask the members of the Committee to demonstrate their understanding and compassion for care leavers harmed by Redress WA by acknowledging their situation in the Committee’s Report, and by making a formal recommendation for restorative and reconciliatory action by the WA Government.

**Recommendation 8:** The Joint Standing Committee should recommend that the Western Australian Government provides a formal apology to the victims and survivors of Redress WA, and compensates the survivors financially for the loss they experienced as a result of the unjustified reduction in payment levels.

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<sup>8</sup> WA. Parliamentary Debates. Legislative Assembly. 22 September 2010. [http://parliament.wa.gov.au/Hansard/hansard.nsf/0/d6fcde5f8675bb5482577a8002e918d/\\$FILE/A38+S1+20100922+p7139b-7158a.pdf](http://parliament.wa.gov.au/Hansard/hansard.nsf/0/d6fcde5f8675bb5482577a8002e918d/$FILE/A38+S1+20100922+p7139b-7158a.pdf) , accessed 23-5-18.

<sup>9</sup> Tuart Place submission on NRS bill (2018). (pp.18-19). <https://www.aph.gov.au/DocumentStore.ashx?id=1de51e07-3aa4-4760-bdd7-4cdd682ca9e3&subId=566518>



## Conclusion

Seven of the eight recommendations in the Tuart Place submission involve issues that will widely affect NRS applicants and care leavers across Australia. The eighth and final recommendation is specific to Western Australia, reflecting the inglorious history of redress in this State.

In this submission we have identified several proposed amendments to the NRS Assessment Framework that would result in greater equity and fairness for applicants. These changes need to be adopted quickly, before too many payments have been made. Similarly, measures should be put in place at the earliest possible opportunity to formalise processes for gathering information from survivors whose application forms arrive with insufficient detail. Further explanation of factors in the Assessment Framework should also be provided as soon as possible, so that survivors can make informed decisions about their options, and do not go through an application process unnecessarily.

We are grateful to the governments and organisations that have had the courage to investigate historic institutional child abuse and have implemented mechanisms of redress. We acknowledge and commend the work of the Australian Royal Commission into Institutional Responses to Child Sexual Abuse, and the important national inquiries that preceded it – particularly the Human Rights and Equal Opportunity Commission's *Bringing them Home* Inquiry, and the Australian Senate's *Lost Innocents* and *Forgotten Australians* Inquiries.

All redress initiatives set out with an intention to bring a measure of healing to survivors. Unfortunately, bureaucracies are poorly equipped to deal with human emotions, and redress schemes are easily derailed by competing political and financial imperatives.

In concluding this submission, we quote the words of WA Attorney-General John Quigley, spoken in 2010, as he implored the then-Premier Colin Barnett to reconsider a decision to almost halve the maximum level of payment offered to survivors of child abuse Western Australian institutions:

*The test and measure of any society is not how wealthy or prosperous it is; the moral worth of any society is to be measured against the yardstick of how it treats the most vulnerable and weak members of that society.*<sup>10</sup>

As we embark on this next era of redress, we encourage our leaders and the decision-makers involved in the NRS to continually return to the higher values informing this scheme, which are moral – not financial – and prioritise those values that will make us proud of Australia's national scheme.

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[http://parliament.wa.gov.au/Hansard/hansard.nsf/0/d6fcde5f8675bb5482577a8002e918d/\\$FILE/A38+S1+20100922+p7139b-7158a.pdf](http://parliament.wa.gov.au/Hansard/hansard.nsf/0/d6fcde5f8675bb5482577a8002e918d/$FILE/A38+S1+20100922+p7139b-7158a.pdf)

## Tuart Place Recommendations

### **Recommendation 1:**

The Prime Minister's forthcoming apology to sexual abuse survivors should be accompanied by an acknowledgement that people whose childhood abuse in Australian institutions did not include sexual abuse will not benefit from the NRS. The States and Territories should be encouraged to reiterate their previous public apologies to the three care leaver cohorts: Forgotten Australians, members of the Stolen Generations, and (where relevant) former child migrants. State-level apologies should coincide with the Prime Minister's apology to survivors of institutional child sexual abuse, and be accompanied by a statement of intent regarding each State's plans for providing redress to care leavers who are not eligible for the NRS.

### **Recommendation 2:**

The existing NRS Assessment Framework should be amended to recognise the capacity for non-penetrative Contact abuse to occur in 'extreme circumstances', and the *Column 6* payment – currently only available to survivors of *Penetrative abuse* – should be made available to applicants whose claims involve very serious and/or prolonged *Contact abuse*.

### **Recommendation 3:**

Formal, trauma-sensitive protocols should be implemented to enable the gathering of necessary details of sexual abuse/impacts in cases where applications containing insufficient detail are received.

### **Recommendation 4:**

Further information should be made publicly available on the assessment criteria for *Impact* and *Extreme circumstances* payments.

### **Recommendation 5:**

The NRS should take responsibility for advising applicants when a relevant entity opts in to the scheme, and that assessment of their application can now proceed.

### **Recommendation 6:**

Information about the free legal advice and application assistance available from knowmore Legal Service should be promoted more prominently to NRS applicants, and applicants should be specifically advised that it is unnecessary to incur any legal fees during the NRS process. The re-opening of knowmore's office in Perth should be expedited and, in the interim, it should provide other options for NRS applicants to receive free face-to-face legal services.

### **Recommendation 7:**

The structure of payment levels in the Assessment Framework should be reassessed with a view to providing greater recognition of the context in which care leavers' childhood abuse occurred, and less extreme variance in the payment levels for *Penetrative* and *Contact abuse*, and the *Extreme circumstances* payment.

### **Recommendation 8:**

The Joint Standing Committee should recommend that the Western Australian Government provides a formal apology to the victims and survivors of Redress WA, and compensates the survivors financially for the loss they experienced as a result of the unjustified reduction in payment levels.