

## Kingsford Legal Centre

KLC is a community legal centre which has been providing legal advice and advocacy to people in need of legal assistance in the Randwick and Botany Local Government Areas since 1981. KLC provides general advice on a wide range of legal issues, including child sexual abuse, and undertakes casework for many clients who, without our assistance, would be unable to afford a lawyer.

KLC also has a specialist employment law service, a specialist discrimination law service (NSW wide) and an Aboriginal Access Program. KLC undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

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the Stolen Generations' case of  
Joy Williams.



- **Self Directed Redress** whereas the Court process is slow and may take too long enough to see the matter resolved.

### **Important features of redress schemes**

Any redress scheme must be designed to address the needs of survivors of child sex abuse in institutions. We believe that survivor designed redress schemes offer an effective way of providing healing as well as providing wider benefits.<sup>3</sup> This offers some insight into how a process of restitution and reparation could work if survivors are placed at the centre of the scheme's design.

The 'Grandview Agreement' was born out of a survivor group (the Group) that was formed after two women went public with their stories. The women collectively formulated what they wanted in terms of a response to their experience. Formal negotiations were used to reach an agreement between the women and the Canadian Government. The Canadian Parliament passed the Grandview Agreement Act in 1997. The Canadian Government adopted interim measures such as counselling access and funding to the Group.

The 'Grandview Agreement' settled the individual cases of many women seriously abused while in institutions. It provided a wide range of remedies, many which would not have been possible through traditional forms of litigation. All the remedies that the women wanted were provided by the women themselves and the women were involved in directing these. Remedies available to those directly affected by abuse included financial compensation, education and training, therapy and an individual apology. Gravcar and Jane Wandmann note, for example, that the range of damages received while they were at Grandview for the women and formed a key part of the scheme but would not have formed part of a traditional compensation package awarded by a Court or imposed by a government facilitated scheme.

The unique approach of the 'Grandview Agreement' was to allow the survivors themselves to shape a truly legal unstructured process and to determine the manner in which their voices were heard. In allowing the survivors to create the potential outcomes, there were clearly both symbolic and practical outcomes that would not have been contemplated by a compensation scheme or by the Canadian Government alone.

An explicit objective outlined in the 'Grandview Agreement' was the need for healing and recognition of self-fulfilment for its beneficiaries.<sup>4</sup> As a result the forms of redress it contained did not conform to those required by law, which would have been a model.

The Law Commission of Canada identified a range of measures to support the development of the harm done and accountability for that harm and may include a range of measures, such as an apology, access to specialist education and therapeutic services.

<sup>3</sup> The Agreement was signed in 1995 by the Canadian Government and the Grandview Trauma Centre, which provided physical abuse at the Grandview Trauma Centre. Indigenous and non-Indigenous girls aged between 12 and 18 years old were sexually abused in the 1960s and 1970s.

<sup>4</sup> Ibid, p14.

<sup>5</sup> Paul Gravcar and Jane Wandmann 'Redress Packages for Institutional child abuse: Exploring the Grandview Agreement as a case study in restorative justice' July 2007

memorializing their experiences, as well as a commitment to raising public awareness of institutional child abuse and preventing its recurrence.<sup>6</sup> We agree with the Law Commission of Canada that survivors should have a say in how their stories are told.

- respect, engage and provide information to survivors about institutions about the progress, while ensuring the privacy of former residents;
- provide survivors with support services throughout the process;
- be managed by those trained to understand the particular circumstances of survivors;
- help survivors uncover facts necessary to support and advance their claims;
- have the authority to hold people and organizations accountable for them;
- be fair to survivors and all other parties involved by, for example, by having proof that recognises the weight of available evidence;
- provide for acknowledgement, apology and reconciliation where the abuse has occurred;
- offer a wide range of benefits to address the needs of survivors, including compensation, counselling and community services outside the scheme;
- meet the needs of survivors;
- contribute to public awareness.

We believe that State and Federal governments should engage with survivors and survivor groups to design redress schemes that reflect their needs. Government should also seek feedback to allow them to change, if necessary.

#### Survivors' rights

We believe that all those forced to live in institutions where they experienced abuse, neglect and should have access to redress schemes to address their needs. Equally, those abused or were harmed as children should have access to support services to meet their needs.

#### A national redress scheme?

We believe that any new scheme/s should be based on the principles of a national redress scheme. However, it's our view that an advantage of a national redress scheme is that victim's across states and territories would have access to a range of options currently options offered by victim support services. The disadvantage of a national redress scheme is that it may not be able to meet the particular needs of individual institutions and support services.

<sup>6</sup> Law Commission of Canada (2010) Restoring Dignity, Responding to Child Abuse in Canadian Institutions. Ministry of Justice, Government Works and Public Services.

<sup>7</sup> Ibid, p 3-4.

Any redress scheme should be independent and have the appearance of being of the highest standard, which would include the scheme should be funded by organisations that provide compensation. The contribution should be relative to the size of the organisation.

### **Independence and oversight of institutional redress schemes**

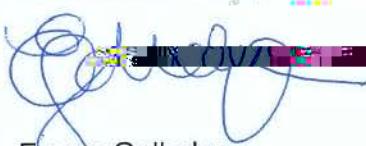
The Victorian Inquiry into the Handling of Child Abuse by Religious and Other Non Government Organisations found that one of the reasons that many survivors were dissatisfied with their organisations' responses was that they felt the responding to complaints was not independent of the organisation.<sup>8</sup>

A lack of real authority perceived independence of an external body can leave survivors feeling dissatisfied because they feel that the religious organisations' response to their complaints is not genuine. Therefore, redress should be managed, and/or survivors included under an existing scheme or referred to an external oversight body.

KLC remains at the disposal of the Commission to discuss any part of this submission. We thank the Commission for its ongoing invaluable work and wish you every success in your future investigations.

Yours Sincerely,

KINGSTON LEGAL

  
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Principal Solicitor

  
Kellie McDonald

<sup>8</sup> Victorian Government, Family and Community Development Committee, "Inquiry into the Handling of Child Abuse by Religious and Other Non Government Organisations" (November 2015) p 335.