

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

- **Gravcar and Jane Wangmann** whereas the Court process is slow and many potential claimants are not long enough to see the matter resolved.

Important features of redress schemes

Any redress scheme must be designed to address the needs of survivors for harm caused to survivors of child sexual abuse in institutions. We believe that survivor designed redress schemes offer an effective way of providing healing as well as providing wider benefits. The Grandview Agreement offers some insight into how a process of restitution and reparation could work if survivors are placed at the centre of the design.

The 'Grandview Agreement' was born out of a survivors' group (the Group) that was formed after two women went public with their experiences of institutional child sexual abuse. The Group collectively formulate what they wanted in terms of a response to their experiences. For several months negotiations were undertaken with the Government and after ten months the 'Grandview Agreement' was signed. The Government adopted interim measures such as counselling access and funding to the Group.

The 'Grandview Agreement' settled the individual claims of many women seriously abused while in institutions. It provided a range of remedies, many which would not have been possible through traditional forms of litigation. All the remedies that were available to those directly affected by abuse included financial compensation, education and training, therapy and an individual apology. Gravcar and Jane Wangmann note for example that the receipt of financial compensation while they were at Grandview was 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 framework.

The unique approach of the 'Grandview Agreement' was to allow the survivors themselves to shape a largely restorative 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 imposed by the Government alone.

An explicit objective outlined in the Grandview Agreement was the need for healing and recognition of self-fulfilment for its beneficiaries. As a result the forms of redress it contained did not consist of those remedies that could have been imposed by a Court.

The Law Commission of Canada identified the need for recognition of the harm done and accountability for that harm, and many other measures, such as an apology, access to specialist education and the

³ The Agreement was signed in 1998. It provided for the settlement of claims for physical abuse at the Grandview Trauma Centre for Indigenous and non-Indigenous girls aged between 12 and 18 who were abused in the 1960s and 1970s.

⁴ Ibid, p14.

⁵ **Gravcar and Jane Wangmann** 'Redress Packages for Institutional Child Abuse: Exploring the Grandview Agreement as a case study in restorative justice' (2007) 18(1) *Journal of Restorative Justice* 1-10. July 2007 at www.restorativejustice.org

memories, including their experiences, as well as a commitment to raising public awareness of institutional child abuse and preventing its recurrence. We agree with the Commission of Canada that

- respect, engage and provide information to survivors; institutions about the progress, while ensuring the privacy of former residents;
- provide survivors with financial and other support services throughout the process;
- be managed by those trained to understand the particular circumstances of survivors;
- help survivors uncover facts necessary to support their claims;
- have the authority to hold people and organizations accountable for their actions;
- be fair to survivors and all other parties affected by it, for example, by having a process for determining the weight of available evidence;
- provide for acknowledgment, 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 who are unable to participate in the scheme;
- contribute to public awareness.

We believe that State and Federal governments should engage with survivors and survivor groups to design redress schemes that are fair and equitable. Such schemes should be funded to allow them to engage, if necessary.

We believe that all those forced to live in institutions who were harmed by abuse, especially those who were harmed by sexual abuse, should have access to redress schemes to address their needs. Equally, those who were harmed by other forms of abuse should have access to redress schemes to address their needs.

A national redress scheme?

We believe that any new scheme/s should be based on the needs of survivors and survivor groups. However, it's our view that an advantage of a national redress scheme would be that victims across states and territories would have access to a single scheme, rather than the currently options offered by victims in each state and territory. This would be to the disadvantage of a national scheme that would be based on the needs of particular institutions and support services.

⁶ Law Commission of Canada (2000) *Restoring Dignity, Responding to Child Abuse in Canadian Institutions*. McGill-Queen's University Press.

⁷ Ibid, p 3-4.

Any redress scheme should be independent and have the appearance of being independent of the 'abuse' which would include steering the scheme should be funded by organisations that provide care for children. The amount of 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 complaints reported that government organisations found that one of the reasons that many survivors of child abuse did not respond to complaints was that they were not independent of the organisation.

A lack of real and/or perceived independence is a common reason for survivors feeling dissatisfied with the process. Therefore, redress schemes should be managed, and/or survivors, included under an existing scheme, to an external oversight body.

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

Yours Sincerely,
KINGSFORD LEE



Emma Golledge
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Kellie McDonald

⁸ Victorian Government, Family and Community Development Committee, "Inquiry into the Handling of Child Abuse by Religious and Other Non Government Organisations" (November 2013) p 393.