

POLICY ON PARTICIPATING IN THE NATIONAL REDRESS SCHEME FOR SURVIVORS OF INSTITUTIONAL CHILD SEXUAL ABUSE

BACKGROUND

Throughout the *Royal Commission into Institutional Responses to Child Sexual Abuse* it became apparent that a large number of people were abused within Australian institutions, including churches and many reports of abuse to institutions had been dismissed, ignored or otherwise mishandled, adding to the trauma suffered. In 2015 the Royal Commission recommended the establishment of a National Redress Scheme (the Scheme), with the aim of delivering justice for those who suffered abuse.

The Federal Government has been empowered by the State governments to administer the Scheme. The Scheme began on July 1, 2018 and will operate for ten years.

The Baptist Union of Victoria at its Delegates Assembly held on 19 October 2018 resolved that the BUV opt in to the Scheme and expects that all Victorian Baptist churches will join the BUV participating group.

POLICY BRIEF AND PURPOSE

- The Scheme accords with Biblical values of mercy and justice in that it provides a compassionate and fair process for people who have been abused to seek redress. It is less traumatic, complex and costly for all concerned than the alternative of engaging in the often adversarial legal system.
- Participation in the Scheme indicates a public willingness to take accounts of abuse seriously and to respond in love to those who have been abused.
- The Scheme provides for restitution and apology, which Christians understand to be important in responding to our wrongdoing.
- The payment of redress represents a willingness to take moral responsibility for abuse within our churches.
- The Scheme will provide an objective and independent assessment of abuse and enable a consistent response, removing the need for negotiation on a case-by-case basis.

The Scheme is recommended to local churches as a means of responding to past abuse with justice and love. It is anticipated that as an expression of commitment to our shared mission of advancing the Kingdom of God, all churches within the BUV will decide to participate in the Scheme. This Policy outlines the process on how we do this in keeping with our principle of autonomous churches in association and being better together.

FUNDING OF REDRESS PAYMENTS

The Scheme advises that the anticipated average payment on claims will be \$85,200. This includes redress payment, counselling, applicant legal costs and a Scheme administration charge.

There is no guaranteed insurance cover for Redress payments.

The BUV will establish a **Redress Support Fund** to provide some assistance to local churches in meeting Redress claims. The Fund would operate as follows:

- The BUV will contribute a significantly large sum from its Reserves to establish the Redress Support Fund.
- A contribution will be collected from every participating church each year across the 10 years of the Scheme. This annual contribution will be \$400 per church + 0.01% of the church's insured asset value. (For example, a church with insured property assets of \$2million, would contribute \$400 + \$200 = \$600 per year.)

Insured assets means buildings, not land or contents. Where a building is owned by an incorporated ministry associated with a church, that will not be included because incorporated ministries will not be part of the BUV group. Incorporated ministries associated with local churches are encouraged to opt into the Redress Scheme in their own right.

- Every 2 years, there will be a review of the funding model in the light of claims received to see if the contribution needs to be adjusted to support the Fund.
- When a Redress claim is received, the BUV will invoice the local church and discuss its capacity to fund the claim. If the church needs to apply for support from the Fund, the church will pay the first \$30,000 + a percentage of the next \$50,000 based on its capacity to pay as set out in the table below. The Fund would cover the rest of the payment. For example, if a church with an annual income of \$300,000 and property valued at over \$5million received a Redress claim of \$90,000; it would pay \$30,000 + (\$50,000 x 50%) = \$55,000 and the Fund would provide the remaining \$35,000. A church with an annual income of \$190,000 and property valued at \$1.5million that received a Redress claim of \$90,000; would pay \$30,000 + (\$50,000 x 30%) = \$45,000 and the Fund would provide the remaining \$45,000. The principle is that the cost is shared between the local church and the group based on capacity to pay.

	Annual Income		
	Under \$200K	\$201K-\$500K	Over \$501K
Property Value			
<\$2million	30%	40%	50%
\$2-\$5million	35%	45%	55%
>\$5million	40%	50%	60%

- Any church unable to immediately fund its share of a Redress payment could apply for a loan from Baptist Financial Services. If BFS cannot provide the loan due to the church not satisfying lending criteria, the BUV would assist by entering into a payment arrangement with the church.
- Churches that wish to access the Fund from the start must complete the opt-in declaration and pay the initial levy to the BUV **by 14 December 2018**. Churches that join the group after it is established, must wait for 12 months after the date of joining to access the Fund.
- The BUV will supply and keep updated with the National Redress Scheme Operator the list of churches covered by the Scheme. The list will include current constituent churches, faith communities and missional communities who have opted in and made contributions to the Fund.

- Churches that join the participating group with the BUV may opt out of the group at any time. However, the church will still be liable for redress claims that were lodged with the Scheme up until the date of their opting out.
- Churches that are still existing but no longer affiliated with the BUV will not be included in the list supplied to the National Redress Scheme Operator and thus will not have access to the Fund, even if the abuse took place at a time when they were previously affiliated with the BUV.
- In cases of redress payments for abuse in churches that were previously affiliated but now no longer exist, the BUV will fund the church contribution. However, where the assets of a defunct church have been transferred to another BUV church, the recipient church will be responsible for the church portion of redress.
- The Fund is not available for other organisations that may be associated with Baptist churches but are separately incorporated – for example: schools, childcare centres, sports centres, care organisations, and other legally separate entities. The Fund is for our churches only.
- The BUV will fully fund any claims made against itself directly.
- The Scheme will operate for 10 years from 1 July 2018. Once the Scheme has closed and all liabilities are finalised, if the Fund still has funds remaining in it (apart from funds from the BUV) these will be returned to the churches that have not received assistance from the Fund in proportion to their contributions to the Fund.

Appendix 1

BAPTISTS AND THE SCHEME

Australian Baptist Ministries National Council, at its meeting on May 16, 2018, resolved that “(for Baptists) *the model for the National Redress Scheme be that each state, territory and affiliated agency opt in individually. The National Council urges each state, territory and affiliated agency to undertake all steps necessary through their own governance processes to opt in the National Redress Scheme.*”

With the approval of Assembly, the BUV applied to opt into the Scheme as a ‘participating group’, with the inclusion of affiliated churches, faith communities and missional communities. The BUV would serve as Representative of the group, with all participating churches being listed publicly by the Scheme. Each local church must decide to be included in the group. Unincorporated institutions are unable to opt into the Scheme in their own right, but can be included in a participating group. **Churches that are not up-to-date in paying their BUV Ministry Contribution will not be eligible to join the group.**

The participating group would not include Baptist agencies, which will need to opt in separately.

The Commonwealth Government will accept a motion passed at the Assembly (scheduled for October 19, 2018) as evidence of our decision to opt in as a participating group, and the Union Council will finalise the list of participating churches after Assembly. The motion is provided at the end of this paper.

Churches who do not opt in by 14 December 2018 may join the BUV’s participating group at any time after that date. However, such churches will not be eligible to access the group’s Redress Support Fund until 12 months after the date they are accepted into the group. Therefore, it is best for churches to join the group from its start.

Churches existing prior to 1 July 2018, who affiliate with the BUV after that date, will not be able to join the BUV participating group.

Under the participating group model, the BUV would become jointly liable with each participating local church to cover the cost of redress that arises under the Scheme from that local church. Each participating local church will be responsible for any Redress debts incurred for claims made in relation to their local church only. No local church will be responsible for the debts of other local churches.

As Representative of the group, the BUV would carry most of the administrative load of engaging with the Scheme.

Appendix 2

HOW DO LOCAL CHURCHES JOIN THE REDRESS SCHEME?

Churches will receive by approximately the middle of November 2018 an Opt-In Declaration and notice of initial Fund contributions. A sample of the Declaration's wording is provided below. The document will also include a commitment by the church to pay Redress claims and contribute to the Fund as set out in this policy.

14 December 2018 is the deadline for churches, faith communities and missional communities to return their Declaration and pay the initial Fund contribution payment if they want to have immediate access to the Fund in the event of a claim. **This deadline is required to enable Union Council to finalize the list of churches who have opted in as part of our participating group so that the group can apply to enter the Scheme at the start of 2019.**

The Declaration must be made by a person authorised to do so on behalf of the local church. Churches are strongly encouraged to engage whatever internal governance processes are appropriate for them to be able to decide to opt in to the Scheme and sign the Declaration.

Non-government institution to participate in the National Redress Scheme for Institutional Child Sexual Abuse in a participating group

Party: *[Name of institution]* ('the participating institution')

The participating institution:

- (a) agrees to participate in the National Redress Scheme for Institutional Child Sexual Abuse (the Scheme);
- (b) agrees to being a member of the participating group proposed by the Baptist Union of Victoria, and each other institution being a member of the participating group;
- (c) agrees to the Baptist Union of Victoria being the representative for the participating group; and
- (d) declares that it is willing to and capable of discharging any obligation to provide a direct personal response to a person who accepts an offer of redress (otherwise these obligations will be discharged by the representative identified above).

Signed for and on behalf of *[name of institution]*

Appendix 3

FREQUENTLY ASKED QUESTIONS

What is Redress?

Redress is a response of justice, acting to correct or offer remedy for a wrongdoing. Under the Scheme, the redress available to applicants includes:

- Payment for counselling and psychological assistance (up to \$5,000);
- Receipt of a Direct Personal Response (apology) from a senior representative of the institution in which the abuse took place;
- A monetary payment of between \$10,000 and \$150,000 depending on the severity of the abuse.

If an eligible person accepts an offer of redress, the responsible institution(s), its officials (other than an official who is an abuser of the person) and its associates will be discharged from all civil liability for abuse of the person that is within the scope of the Scheme.

Who can apply for Redress?

The Scheme applies to those who experienced sexual abuse as a child (under 18 years) before 1 July 2018, and where a participating institution was responsible for bringing them into contact with the person who abused them. They must be Australian citizens or permanent residents born before 30 June 2010.

How does the Scheme work?

- A person who fits the criteria in Q2 makes an application to the Scheme;
- The Scheme will advise BUV of the application;
- BUV will advise the relevant local church and assist it in providing requested information to the Scheme;
- The Scheme will appoint an Independent Decision Maker to make the decision about whether a Redress claim meets the burden of proof at “reasonable likelihood” and will therefore be accepted. The Scheme has developed detailed policy to guide the Independent Decision Maker in this process.
- BUV will be notified of the outcome, including the amount of any Redress payment, and make this known to the relevant church;
- Once the outcome has been settled, the applicant can request a Direct Personal Response (apology).

If a redress claim is received, are the relevant institution and the individual accused of the offence notified of the accusations?

When a redress claim is first received, the relevant institution is notified of the redress claim and given an opportunity to respond with relevant details. The individual accused of the offence is not notified by the Scheme. The institution will be advised of relevant information so that they can consider whether risk management responses are required. The Redress Scheme Operator may also make a report to the Police. The individual accused of the offence will only be notified if the institution is required to consider implementing risk management measures, or if the Police choose to investigate. In both of these cases, the individual accused will be given an opportunity

to respond to the allegations and will not be considered to have committed the alleged offences unless a formal process of investigation substantiates the allegations.

Who provides an apology?

If the applicant requests a Direct Personal Response, a Survivor Liaison Officer will work with the applicant, BUV and the local church to facilitate an appropriate apology on behalf of the church. Specialist training will be required for the person making the apology. Therefore, it is likely that the apology will be given by a trained BUV representative on behalf of the local church. However, it may also include a representative of the local church in some way.

What is the likelihood of false allegations or vexatious claims?

There is some potential for false allegations to be made and the Scheme Operator has a number of steps in the Redress application process to confirm the veracity of claims they receive. It is also important to note that the experience of other denominations who have administered their own internal redress schemes for some years, as well as experts who work in this field, is that in the past the number of false allegations has been very low.

The redress document indicates that a church is likely to need to contribute \$400 plus 0.01% of insured assets each year for ten years to the Redress Support Fund. How much would a typical church need to contribute?

The required contribution will be affected by whether the church owns property and the value of that property. For churches with no property, the expected contribution would only be \$400 per year. Whereas churches with property assets will be asked to contribute \$400 plus \$100 for every \$million in insured assets. For example, if a church has insured assets of \$2 million they would commit to contribute \$400 + \$200 each year (total of \$600 per year).

Can churches who do not insure with Baptist Insurance Services access the Redress Support Fund?

Nearly all of our churches insure with Baptist Insurance Services (BIS) because of their high levels of customer service and competitive premiums. However, being part of the BUV participating group in the Scheme is not restricted to churches who use BIS. Churches who participate and pay the contribution can access the Fund regardless of with whom they are insured. Churches who are not with BIS will have the same expected contributions and benefits provided as those who do use BIS, though they would need to supply some financial information to the BUV in order to calculate the appropriate level of church contributions.

Given that participation in the Scheme opens the possibility of the church having to fund part of a Redress Claim that is made against the church, should churches set aside funds for this through their budget processes?

None of us can know with any certainty which local churches might face one, or perhaps more, redress claims. However, it would be wise financial management to think through a plan as to how this could be funded if the need arose.

Can a Baptist church choose to opt in to the Scheme separately without being part of the participating group formed by the BUV?

The Commonwealth Government has advised that non-incorporated institutions cannot opt in to the National Redress Scheme alone, and must do so as part of a participating group. If a church

is incorporated, then they may choose to opt in as a lone institution. However, they would then not have access to the benefits of the Fund and the support services offered by the BUV in the event of a claim being made against the church.

If the Fund does not provide sufficient funds to fund all of the redress claims received across Victorian Baptist Churches, will local church congregations have to make up a funding shortfall for any redress claims they receive?

The BUV will be setting aside very substantial funds from its own resources to add to the Fund as required, so the expected number of claims can be funded. None of us knows for sure how many redress claims we will be faced with across Victorian Baptist churches. Therefore, there is a possibility that the annual contributions from churches may be adjusted either up or down as required over the ten-year duration of the Scheme.

What happens to the money contributed to the Fund after ten years if there is any surplus?

The annual levy to the Fund may be adjusted over time to minimise the likelihood of surplus funds remaining at the end of the ten-year Scheme. If there are surplus funds in the Fund once all Redress liabilities have been paid and the Scheme has closed, these funds (not including funds contributed by the BUV) will be returned to the participating churches, who have not received assistance from the Fund, in proportion to the contributions they have made.

What date will we officially join the Scheme?

Given that the various requirements of the application process will take some time, we expect that it will be likely that we will not formally be accepted into the Scheme until sometime in the first half of 2019.

If a local church does not join the BUV group by 14 December 2018 can they change their mind in future?

Yes, they may be able to opt in to the group at a later date. However, they will not have access to the benefits of the Fund until 12 months after being accepted into the group. It is best for churches to be part of the group from the start. Churches will not be able to join after June 30, 2020.

Are Baptist counselling centres or childcare centres able to opt in to the BUV participating group and access the Fund?

The BUV's group is designed for local churches – both incorporated and unincorporated. Incorporated organisations can choose to opt into the Scheme as separate entities if they wish to do so. Those that are separately incorporated would not become part of the BUV participating group and would not have access to the Fund. If they are not separately incorporated and exist only as part of a local church, they would be included if the local church joins the group. However, the Fund is only for claims made against local Baptist congregations.

If a local church receives multiple redress claims how is the church contribution calculated?

If a local church receives multiple redress claims then they would be expected to pay the same minimum contribution for each redress claim received.

Why would we join the Redress Scheme?

Institutions have joined the Scheme for many reasons. Most institutions see joining the Scheme as a means of addressing the mistakes of the past and demonstrating a commitment to future

child safety. Many institutions have also seen the benefit of planning for the future, with some awareness of the amount of resources they will have to outlay to cover child sexual abuse claims.

Can we still join the Redress Scheme if we do not have any claims made against us?

Yes, many other institutions have contacted the Scheme without any claims made against them and in the belief that they will not receive any in the future.

Can we dispute a claim?

There is no opportunity for an external merits review. An institution cannot challenge or seek a review of the decisions.

How do you (the Scheme) check the veracity of an application?

Applications go through a variety of checks, including; requiring applicants to sign a legally binding statutory declaration; a rigorous proof of identity process; and comments are sought from the responsible institutions about information in applications. There are penalties for providing false information and the Scheme is subject to a civil and criminal penalty regime, to deter fraudulent claims. If a redress payment is made based on the applicant providing false or misleading information, then the Commonwealth can seek to recover these amounts. Furthermore, the key assessment document used in determining a redress decision (the assessment framework) is not publically available in order to minimise the risk of fraudulent claims and maintain the integrity of the Scheme.

What if abuse happened in more than one institution?

Where two or more participating institutions share responsibility for the same instance of abuse they will pay redress according to their deemed level of shared responsibility. Where there is abuse in more than one institution, the responsible participating institutions will pay a proportionate share of redress.

What if the person has already received a payment related to the abuse?

Where a person has received an earlier payment related to the abuse, for example, payments from other redress, victims of crimes schemes and out of court settlements, this will be deducted from the redress payment at today's value, using an annual inflation rate of 1.9%.

FURTHER INFORMATION

The Scheme's website provides information on the operation of the Scheme. www.nationalredress.gov.au

The BUV Office Contact for this proposal is Rev David Devine, Head of Church Health & Capacity Building, email: david.devine@buv.com.au; phone 03 9880 6118.