



Baptist Churches
of NSW & ACT

Participation in the National Redress Scheme

**Information supplied to churches
in August 2018**



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Baptist Churches
of NSW & ACT



The National Redress Scheme for Survivors of Childhood Sexual Abuse in Institutional Settings

NSW & ACT Baptist Churches and 'Opting In'.

PUBLISHED 1 AUGUST 2018

Our mission as an Association of Baptist Churches in NSW & ACT is to *Advance the Gospel of Jesus in word, sign and deed, together*. Part of our gospel witness and our commitment to building healthy churches is to endeavour to ensure our churches are safe places, and also to ensure we respond appropriately when people have been harmed.

The National Redress Scheme is designed to give survivors of childhood sexual abuse within institutional contexts an opportunity to receive redress for wrongs perpetrated against them without needing to resort to legal action.

Background

What is Redress?

Redress is an action taken to correct, fix or remedy a situation. In the context of redress for abuse, it is important to note that it is distinct from compensation or restoration. What was 'stolen' from those who have been abused cannot be fully restored by money, however action can be taken to 're-dress' the wounds and help with what is often long term, ongoing healing.

Any redress schemes or processes should be survivor focussed, and assessed with appropriate regard to the needs of particularly vulnerable survivors.

What options does a survivor of abuse have available to them?

When a person has been abused there are various avenues of action they may wish to take:

- **A response.** They may want someone to hear what happened to them, to believe them, to offer an apology, and to take appropriate action.
- **Redress.** Whilst redress would include all elements of a response, it also includes monetary payment, and ongoing support. The standard of proof for Redress is 'reasonable likelihood'.
- **A Civil Claim.** A person can initiate civil litigation in courts. There is now no statute of limitations limiting civil action for historic sexual abuse. The standard of proof for civil action is 'balance of probabilities'.
- **Criminal prosecution of the abuser.** The police may bring criminal charges against the perpetrator. The standard of proof for criminal charges is 'beyond reasonable doubt.'

What is the National Redress Scheme?

Throughout the Royal Commission into Institutional Responses to Child Sexual Abuse, it became apparent that many survivors did speak up and report to the institutional abuser, but were sadly dismissed, ignored or mistreated. In 2015 the Royal Commission issued a '*Redress and Civil Litigation*' report which included recommendations for the establishment of a National Redress Scheme. The aim of the National Redress Scheme is to provide justice for victims:

"A process for redress must provide equal access and equal treatment for survivors – regardless of the location, operator, type, continued existence or assets of the institution in which they were abused – if it is to be regarded by survivors as being capable of delivering justice."

The Federal government has been empowered by the State governments to administer a National Redress Scheme (the scheme) to allow survivors of institutional child sexual abuse to seek redress. The scheme began on 1 July 2018, and will operate for 10 years. The Federal Government, State Governments, major denominations (Catholics, Anglicans, Salvation Army, Uniting Church) as well as other non-profit organisations such as YMCA and Scouts have all announced they are opting in to the scheme.

The 3 main strands of Redress available to applicants through the scheme will include:

1. Payment for counselling and psychological assistance for the survivor – up to \$5,000,
2. The opportunity for a Direct Personal Response (apology) from a senior representative of the institution in which the abuse took place, and
3. A monetary redress payment of between \$10,000 and \$150,000, depending on the severity of the abuse.

When a person accepts a payment as a result of a claim to the redress scheme, they are extinguishing their right to bring a civil claim against the institution in regard to the abuse in the future. The redress outcome provides a sense of closure of the matter (at a financial level) for both the survivor and the institution.

What does it mean to ‘opt-in’?

To ‘opt-in’ is to become a participant in the Scheme. This would enable survivors to make an application for redress through the National Redress Scheme. The Scheme will then assess the claim, liaising between the survivor and the institution to enable redress to occur.

A Baptist Response

The Royal Commission listed 40 individual people who told their stories of abuse in private sessions, making allegations about 30 Baptist entities across Australia. There is a strong expectation that the final number of claims for Redress may be anywhere between three and six times these numbers.

While preparing to engage with the National Redress Scheme may thus far not have occupied much of our attention in our local churches, significant thinking, discussion and interaction with government has already gone on about it in the state Association and national Baptist context. As we have reflected on the concept of the National Scheme, the model, our Baptist context and our societal context, the ABM National Council, at its meeting of 16 May agreed that Australian Baptists should opt in to the scheme. It resolved:

“That 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.”

Because the way forward is for each State and Territory Association to opt in to the scheme, this matter will need to be put before each state assembly.

What does ‘opting in’ look like for NSW & ACT Baptist Churches?

The matter of our involvement in the Redress Scheme has been under discussion by our Assembly Council for some time. The Assembly Council strongly supports the objective of finding a non-legal mechanism to provide redress for those who have been subject as children to sexual abuse historically in Baptist contexts. The Redress Scheme is not a perfect solution (even the government acknowledges this) and yet it is probably the best chance of providing measured redress in the most compassionate way possible.

The above resolution of Australian Baptist Ministries was considered by the Assembly Council at its meeting on 12 June and it unanimously resolved to “recommend to our Assembly that the NSW & ACT Baptist Association opt in to the National Redress Scheme.” A resolution will be presented for discussion and endorsement at our Assembly on 15 September 2018. The exact form of this motion is still being considered as we are continuing in discussions with the Commonwealth Government regarding some aspects of its operation in a Baptist context. We will circulate this to churches prior to assembly, as soon as it is available.

It is understood that if a motion is approved by Assembly, the NSW & ACT Baptist Association would then make an application to participate in the National Redress Scheme to form a participating group which would allow inclusion of Affiliated Churches, Fellowships, approved Newstart church plants and approved Simple Church Network churches. The Association would then become jointly liable with each local church to cover the cost of payments that would arise under the scheme from that local church. A mechanism will need to be put in place to share the burden of these costs across the churches and the Association.

This is one of those occasions where we will be drawing equally on two of our Foundational Values, those of

- i.** the autonomy of the local church and
- ii.** the place and importance of association. That is to say that we are committed to “being in this together”.

What does that mean for the local church?

We encourage every church leadership team to read this documentation and participate in the briefing and information sessions, either in person or online. We recognise the tightness of the timetable in the leadup to our September assembly, however it is important to see this in the context of all of our state Associations needing to process through whatever Assembly they have

between now and the end of the year, so that we may be able to respond in a timely way across our national movement. It is also fair to say that details of how the scheme would operate in a Baptist context are only now being able to be discussed with the Commonwealth government.

Should Assembly make the decision to 'opt in', the local church will be part of the Baptist Association of NSW & ACT group. Survivors will be able to see your church listed as a participant in the National Redress Scheme.

How will claims be funded?

The responsibility and liability for redress for abuse occurring in local churches does belong with the local church – both morally and financially. It is anticipated that payments will range from \$10,000 to \$150,000, plus scheme and administrative costs. The average payment, including oncosts, is estimated to be \$85,200. In most cases there is unlikely to be any insurance cover available to pay for redress claims.

It should be noted that these amounts are significantly lower than what would be expected under civil action claims for the same type of abuse, and without the legal costs involved in such claims.

A Redress Support Pool is being planned to assist local churches in each state and territory. The details of how the Pool will be administered are still being finalised, but much progress has been made and this Information Sheet and its Appendix outline what we know so far.

We believe that having a Redress Support Pool is an outworking of our Baptist values:

- **Mission and Witness:** for our response to be a gospel response that underlines God's love and grace; and the important of restitution and apology where we have wronged others.
- **Association and collaboration:** we are better when we work interdependently together in matters such as this which require a whole of movement response.
- **Autonomy of the local church:** empowering, enabling and supporting each local church to fulfil its responsibilities in a supportive and consistent way.

Contributions to the Redress Support Pool will be through a levy, payable annually over the 10 year life of the Scheme at the same time as church insurance renewals. The annual levy for each church will initially be a flat amount of \$400 + 0.01% of the church's insured asset value. The levy will be reassessed throughout the life of the Support Pool as the extent of claims becomes clearer.

In addition to the funds raised by the levies from churches, the Association is setting aside very significant funds to commit as needed to the support pool.

When a claim is accepted by the Redress Scheme and a payment made, the Association will be advised and an invoice sent. The local church will need to make an initial contribution based on the capacity of the church to pay, and will be a minimum payment of \$25,000. Once the church contribution has been calculated, any balance of the payment would then be made from the Support Pool.

Further details about the funding of claims and the operation of the pool is available in the Appendix attached to this Information Sheet.

Who makes the apology?

If a person has accessed the National Redress Scheme, after settlement, they can request a Direct Personal Response. A Survivor Liaison Officer will be appointed to work with the survivor, Association staff and, where appropriate, the local church, to facilitate an appropriate apology on behalf of the church. The apology is likely to be given on behalf of the local church through the Association. Specialist training will be required for both the Survivor Liaison Officer and the person representing the Association.

Who do I talk to?

If you have any questions in relation to the National Redress Scheme please email your enquiries to Jonathan Bradford, Ministry Standards Manager, at the Baptist Ministry Centre on jbradford@nswactbaptists.org.au



Baptist Churches
of NSW & ACT



The National Redress Scheme for Survivors of Childhood Sexual Abuse in Institutional Settings

**NSW & ACT Baptist Churches and Opting In
– Update and Information for Assembly on 15 September 2018**

PUBLISHED 22 AUGUST 2018

This update should be read in conjunction with the Information Sheet on the Redress Scheme that was circulated to churches on 1 August 2018. Unless noted in this update, the information contained in the original Information Sheet is still current.

Since the information sheet was produced on 1 August, clarity has been gained with the Commonwealth Government about how the scheme can operate for our Baptist movement.

Provided it is agreed at Assembly, the NSW & ACT Baptist Association will opt in to the scheme as the Representative of a Participating Group. The Participating Group will include the Association plus the churches, fellowships, church plants and simple churches who indicate their intention to opt in as part of the Group. Other associated entities may be included with the approval of the Association Assembly Council. The Association will also include as part of the group churches which are now closed.

The Commonwealth Government will accept a motion passed at the 15 September Assembly as evidence of our decision to opt in as a participating group, and the Assembly Council will finalise the list of participating churches subsequent to Assembly.

At its meeting on 14 August the Assembly Council unanimously resolved to recommend the following motions to our Assembly on 15 September:

1. *That the Baptist Union of NSW (currently known as the Baptist Association of NSW & ACT) together with participating churches, fellowships, church plants, simple churches, defunct institutions and other entities*
 - a. *agrees to participate in the National Redress Scheme for Institutional Child Sexual Abuse;*
 - b. *in a participating group with the affiliated churches, fellowships, Newstart church plants, simple churches, defunct institutions and other entities, as will be determined by the Assembly Council of the Union*
 - c. *with the Baptist Union of NSW as the representative for the group; and*
 - d. *declares that each member 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).*
2. *That the Assembly Council finalises the list of all the entities who will be opting in as part of the Baptist Union of NSW participating group. This list will comprise those churches, fellowships, Newstart church plants, simple churches, defunct institutions and other entities which have confirmed in writing their intention to be part of the group.*
3. *That a Redress Support Pool will be created and managed by the Assembly Council in line with the document presented to the Assembly.*

Provided the Assembly on 15 September agrees to opt in to the Redress Scheme, churches will receive an information document including an Opt In Declaration and notice of initial redress support pool contributions by approximately the end of September.

30 November 2018 is the deadline for Affiliated Churches, Fellowships, Newstart Church Plants and Simple Churches to return their Opt In Declaration and initial levy payment if they want to have access to the Redress Support Pool in the event of a claim. This 30 November deadline is required to enable our participating group to opt in by mid December.

The Declaration must be made by a person authorised to do so on behalf of the 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. We note that some churches have already scheduled a church members meeting sometime in October or November to consider this matter.

In early December Assembly Council will finalise the list of churches and other entities who have opted in as part of our Participating Group and the Association will prepare our application to opt in to the Scheme.

Churches who opt in to the Scheme and join the participating group with the Association may opt out of the group at any time. However they will still be liable for redress claims that were lodged with the Scheme up until the date of their opting out.

Churches who choose not to opt in by 30 November 2018 may opt in and become part of the Association's Participating Group at any time after this date. However they will not be eligible to access the Redress Support Pool in the event of a claim. They will not be charged the Redress Support Pool Levy.

The Appendix to this document contains further details about the operation of the Redress Support Pool and replaces the Appendix provided in the Information Sheet on 1 August.



APPENDIX

Funding Redress claims and the operation of the Redress Support Pool

UPDATED 22 AUGUST 2018

1. An annual levy of \$400 per church + 0.01% of church's insured asset value, each year over the 10 years of the scheme. At the 18 - 24 month mark there will be a review of the funding model in the light of the claims received to date, to see if any adjustment needs to be made (either upwards or downwards) to the levy.
2. When a claim arises for a church:
 - a. In the first instance an attempt is made to secure insurance coverage. (This would usually only be available for claims of abuse after 1990, and even for more recent abuse claims access to insurance coverage for redress claims is unlikely).
 - b. The church is invited to cover as much of the cost as it can, or else apply to the Redress Support Pool. If it applies to the pool, it would pay the first \$25,000 of the claim, plus an amount related to its 'capacity to pay'. The total church contribution would be as per the following table:

INSURED ASSET VALUE	ANNUAL INCOME		
	Less than \$200K	\$200K-\$500K	Over \$500K
Less than \$2m	\$25,000	\$30,000	\$35,000
\$2m-\$5m	\$30,000	\$35,000	\$40,000
Over \$5m	\$35,000	\$40,000	\$45,000

The Redress Support Pool will then cover the rest of the payment.

3. Any church unable to immediately fund its share of the redress payment could be provided with a loan from Baptist Financial Services. If BFS cannot provide the loan due to the church not satisfying lending criteria, the Association would assist by entering into a payment arrangement with the church.
4. Churches existing prior to 1 July 2018 who affiliate with the Association after 1 July 2018 will not be eligible to access the Support Pool. They will not be charged the redress levy and will not be included in the list of churches that are part of the Association's group with the National Redress Scheme.
5. The Association will supply and keep updated with the National Redress Scheme Operator the list of churches covered by the scheme. The list will

include currently affiliated churches, churches proceeding to affiliation and approved fellowships who have opted in by making contributions to the Redress Support Pool. Approved Newstart church plants will also be included, but will not be charged the levy until they take responsibility for their own insurance premiums. Approved Simple Church Network churches will not be charged the levy.

6. Churches who are still existing but no longer affiliated with the Association will not be included in the list supplied to the National Redress Scheme Operator and thus will not have access to the pool, even if the abuse took place at a time when they were previously affiliated.
7. The Association will fund the church contribution (as calculated in point 2 above) in cases of redress payments for abuse in churches that were previously affiliated but now no longer exist. However, where the assets of the closed church have since been transferred to another affiliated church, the recipient church will be responsible for this contribution.
8. The Redress Support Pool 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 pool is designed for access by our churches only.
9. The NSWACT Association will fully fund any claims made against itself directly.
10. Churches who wish to be part of the Support Pool must complete the relevant written Declaration and have paid the initial levy to the Association by 30 November 2018.
11. The Association is setting aside very significant funds to commit as needed to the support pool.
12. The Redress Scheme will operate for 10 years from 1 July 2018. Once the Scheme has closed and all liabilities are finalised, if the Support Pool stills has funds remaining in it (not including funds from the Association) these will be returned to the churches in proportion to their levy contributions to the Pool.

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Participation in the National Redress Scheme Frequently Asked Questions

PUBLISHED 23 AUGUST 2018

- 1. 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 Pool.**

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 buildings on church owned land. For churches with no property the expected contribution would only be \$400/year. Whereas some churches with significant property assets will be asked to contribute each year \$400 plus \$100 for every million in insured assets. For example, if a church has insured assets of \$3 million they would commit to contribute \$400 + \$300 each year.

- 2. Can churches who don't use BIS access the Redress Support Pool?**

Nearly all of our churches insure with Baptist Insurance Services (BIS) because of the high levels of customer service offered by them and premiums that are generally cheaper.

However, there are a small number of churches who don't insure with BIS. Being part of the Baptist Association of NSW & ACT Participating Group in

the National Redress Scheme is not restricted to churches who use BIS. Churches who participate and pay the levy can access the Redress Support Pool regardless of who they insure with.

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 Association in order to calculate the appropriate level of church contributions.

3. Given that participation in the redress scheme opens the possibility of the church having to fund an initial contribution of between \$25,000 to \$45,000 if a Redress Claim is made against the church, should churches set aside this money through their budget processes?

None of us can know with any certainty which local congregations might face one, or perhaps more redress claims. However, it would be wise financial management to recognise this potential liability, and to at least think through a plan as to how this could be funded if the need arose. If local church leaders are already aware of potential historic incidents that may give rise to a redress claim, then this would be prudent to actually budget for this possibility.

4. Can a Baptist church choose to opt in to the National Redress Scheme separately without being part of the participating group formed by NSW & ACT Baptist Churches?

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 an Incorporated Association then they may choose to opt in as a lone institution however they would then not have access to the benefits of the Redress Support Pool and the support resources offered by the Baptist Association of NSW & ACT in the event of a claim being made against the church.

5. It appears that the church contributions may not provide sufficient funds to fully fund all of the redress claims that we expect we will receive across NSW & ACT Baptist Churches. Will local church congregations have to make up a funding shortfall for any redress claims they receive?

The Baptist Association of NSW & ACT is committed to ensuring that the redress support pool will have adequate funds to fully cover any liability above the \$25k-\$45k initial contribution if needed. No participating church will

be faced with a shortfall if they request the support of the Pool, but will only be required to pay the initial contribution requested (between \$25k-\$45k).

The Association will be setting aside very substantial funds from its own resources to add to the support pool as required, so the expected number of claims can be funded.

None of us know with clarity how many redress claims we will be faced with across NSW & ACT Baptist Churches. Therefore, there is a possibility that the contributions from churches can be adjusted either up or down as required over the ten year duration of the scheme.

6. What happens to the money contributed to the Redress Support Pool after 10 years if there is any surplus?

The annual levy to the Redress Support Pool may be adjusted over time to minimise the likelihood of surplus funds remaining at the end of the 10 year scheme. If there are surplus funds in the Redress Support Pool once all Redress liabilities have been paid and the Scheme has closed, these funds will be returned to the participating churches in proportion to the contributions they have made.

7. Who will manage the Direct Personal Response to survivors?

The Redress Operator will communicate with staff at the Baptist Association of NSW & ACT who will then liaise with local church leaders in the relevant congregation.

8. How will local churches communicate to the Association that they intend to opt in to the redress scheme?

If the proposed motion for the Association to opt in to the redress scheme is passed at the Assembly meeting on 15 September then each local church will be asked to complete an Opt In declaration indicating that they wish to opt in to the redress scheme, and to pay the initial redress support pool contribution. The declaration and initial financial contribution will need to be returned to the Baptist Ministry Centre by 30 November 2018.

9. What date will we officially join the National Redress Scheme?

Given that the various requirements of the opting in process will take some time, we expect that it will be likely that we won't formally be included in the National Redress Scheme until early 2019.



10. If a local church chooses not to opt in by 30 November 2018 can they change their mind in future?

Yes, they may be able to opt in as part of our Participating Group at a later date. However they will not have access to the benefits of the Redress Support Pool.

11. I understand that if a church who has opted in to our redress support pool receives a redress claim then they are required to pay an initial contribution according to their capacity to pay. Who makes the determination about this capacity to pay amount?

There will be a minimum contribution required of between \$25,000 and \$45,000 (see the Appendix to the Information Update document which explains how this works). Then if your church determines they can pay more they are free to do so, however the remainder of the financial liability will be picked up by the Redress Support Pool.

12. Are Baptist schools or child care centres able to opt in to the Baptist Association participating group and Redress Support Pool?

The Association's participating Group is designed for local churches – both incorporated and unincorporated. Incorporated organisations such as schools, child care centres, OOSH centres, and any historic children's homes/orphanages can choose to opt into the redress scheme as separate entities if they wish to do so. If they are not separately incorporated and exist only as part of the local church then they would be included if the local church chooses to opt in. Those that are separately incorporated would not become part of the participating group of NSW & ACT Baptist Churches and would not have access to the redress support pool. The Redress Support Pool is only for claims made against local Baptist congregations.

13. Who decides if a Redress claim should be accepted and the amount of redress payment?

One of the significant benefits of the National Redress Scheme is that the Commonwealth Government Redress Scheme Operator 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 National Redress Scheme has developed detailed policy to guide the Independent Decision Maker in this process.

14. What is the likelihood for 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.

15. If a local church receives multiple redress claims how is the initial minimum church contribution calculated?

If a local church receives multiple redress claims then they would be expected to pay the same minimum initial contribution (between \$25000 and \$45000) for each redress claim received.

16. 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. After a redress claim determination has been made then the relevant 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 to consider possible criminal charges. 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.

Some additional FAQ provided by the Commonwealth Government

PUBLISHED 23 AUGUST 2018

Q. Why would we join the Redress Scheme?

A. Institutions have joined the Redress 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.

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

A. 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.

Q. Who decides a claim?

A. Independent Decision Makers are employed by the Scheme to make eligibility, monetary payment and counselling entitlement decisions. Applications must meet the test of reasonable likelihood. The Scheme seeks appropriate relevant information from the institution to verify the application.

Q. Can we dispute a claim?

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

Q. What if abuse happened in more than one institution?

A. 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.



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