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To whom it may concern,

Submission on a new ACNC governance standard relating to the National Redress Scheme

Thank you for the opportunity to comment on the draft legislative instrument and explanatory materials for the introduction of a new governance standard in the Australian Charities and Not-for-profits Commission Regulation 2013, requiring relevant charities to take all reasonable steps to participate in the National Redress Scheme (the NRS). As a legal service dedicated to helping victims and survivors of institutional child sexual abuse access redress under the Scheme, knowmore strongly supports the proposed new governance standard.

About knowmore

knowmore legal service (knowmore) is a nation-wide, free and independent community legal centre providing legal information, advice, representation and referrals, education and systemic advocacy for victims and survivors of child abuse. Our vision is a community that is accountable to survivors and free of child abuse. Our mission is to facilitate access to justice for victims and survivors of child abuse and to work with survivors and their supporters to stop child abuse.

Our service was established in 2013 to assist people who were engaging with or considering engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). From 1 July 2018, knowmore has been funded to deliver legal support

services to assist survivors of institutional child sexual abuse to access their redress options, including under the NRS.

Since the commencement of the NRS on 1 July 2018 to 30 November 2020, knowmore has received 39,627 calls to its 1800 telephone line and has completed intake processes for, and has assisted or is currently assisting, 7,502 clients. Thirty per cent of knowmore's clients identify as Aboriginal and/or Torres Strait Islander peoples. Just over a fifth (22%) of clients are classified as priority clients due to advanced age and/or immediate and serious health concerns including terminal cancer or other life-limiting illness.

knowmore's comments on the new governance standard

Overall support for the new governance standard

knowmore strongly supports the introduction of a new governance standard in the Australian Charities and Not-for-profits Commission Regulation 2013 (the Regulation) to require registered charities to take reasonable steps to become a participating institution in the NRS if the charity is, or is likely to be, identified as being involved in the abuse of a person in the context of the Scheme. We consider it appropriate and more than reasonable for charitable institutions to be required to demonstrate their accountability for past child sexual abuse in this way.

In our view, it is important to recognise that joining the NRS does not automatically equate to an institution being liable to provide redress; rather, it demonstrates an institution's openness to scrutiny and commitment to being accountable for any abuse within the scope of the Scheme that they are ultimately found to have been responsible for. We therefore hope that the new governance standard will encourage all relevant charities to prioritise their participation in the NRS.

Where it does not, we consider it appropriate for any charity that does not take all reasonable steps to join the Scheme to have its charitable status revoked and thus be ineligible to receive a range of government funding, exemptions, concessions and benefits. This is something knowmore has called for since 2018,¹ and we know our clients strongly agree that "generous support from the Commonwealth by way of charitable benefits and

¹ See, for example, our August 2018 submission to the former Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission (available at <knowmore.org.au/wp-content/uploads/2020/11/submission-implementation-of-redress-related-recommendations-of-the-royal-commission-cth.pdf>; see p. 12), and our comments to the current Joint Select Committee on Implementation of the NRS at a public hearing on 6 April 2020 (transcript available at <[www.aph.gov.au/Parliamentary Business/Committees/Joint/National Redress Scheme/NationalRedressScheme/Public Hearings](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Redress_Scheme/NationalRedressScheme/Public_Hearings)>; see p. 38).

concessions should not be provided to ... institutions who fail to join the Redress Scheme".² Implementation of the new governance standard also gives effect to the recommendation of the former Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission, that the government considers mechanisms and their efficacy, to penalise all relevant institutions that fail to join the Scheme, including the suspension of all tax concessions for, and for the suspension of charitable status of, any institution that:

- could reasonably be expected to participate in the Scheme (including those named in the Royal Commission or in a redress application);
- has had reasonable opportunity to join the Scheme; and
- has not been declared as a participating institution in the Scheme.³

Support for the broad application of the new governance standard

Having reviewed the Exposure Draft and associated materials, knowmore supports the intended broad application of the new governance standard. We note, for example, that charities will be required to comply with the standard if they have been identified in an application for redress, regardless of the validity of the application⁴ or when it was made. We are pleased to see that charities will also be required to comply with the standard even if they have not yet been identified in an application for redress, but where it is considered likely that they will be. We support this including institutions that have been involved in civil claims and institutions named in the Royal Commission, as outlined in the FAQs. We suggest that many other institutions must also be well aware of their potential to be named in applications for redress despite not being specifically named in the Royal Commission, noting that the Royal Commission reviewed allegations of sexual abuse in more than 4,000 institutions.⁵ Overall, we support as many charities as possible being required to take steps

² As per the rationale for the new governance standard on page 3 of the FAQs. We note similar comments made by the Assistant Treasurer in his second reading speech on the Treasury Laws Amendment (2020 Measures No. 6) Bill 2020.

³ Joint Select Committee on oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, *Getting the National Redress Scheme Right: An Overdue Step Towards Justice*, April 2019, Recommendation 3, <www.aph.gov.au/Parliamentary_Business/Committees/Joint/Royal_Commission_into_Institutional_Responses_to_Child_Sexual_Abuse/RoyalCommissionChildAbuse/Report>.

⁴ Under section 19(2) of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

⁵ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Preface and Executive Summary*, 2017, p. 8, <www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-preface_and_executive_summary.pdf>.

to join the Scheme now, to ensure that survivors who make future redress applications naming these institutions will not face uncertainty and unnecessary delays in having their applications assessed.

Ensuring effective administration of the new governance standard

knowmore is eager to see the new governance standard administered effectively once it is in force. Ongoing information sharing between the NRS and the Australian Charities and Not-for-profits Commission (ACNC) will be fundamental to this. We note that the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth) currently includes a number of provisions that limit the use and disclosure of ‘protected information’,⁶ but we expect that any barriers to NRS officers sharing relevant information with the ACNC will be eliminated by proposed provisions to authorise the disclosure of protected information about a non-participating institution for the purpose of encouraging the institution to participate in the Scheme.⁷

Effectively administering the new governance standard with respect to charities that have not yet been named in an application for redress may depend on information from sources other than the NRS. To assist with this, we suggest that the requirements of the new standard should be widely communicated to survivors, advocacy groups and other stakeholders, and people should be encouraged to report any concerns about non-compliance by charities that may not have come to the NRS’s attention. The ACNC’s online reporting facility⁸ will be invaluable in this regard.

Thank you again for the opportunity to provide these comments. We have no concerns about our submission being published.

Yours faithfully,



WARREN STRANGE
Chief Executive Officer

⁶ Part 4-3, Division 2, *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

⁷ See Item 49 of the National Redress Scheme for Institutional Child Sexual Abuse Amendment (Technical Amendments) Bill 2020 (Cth), new subsection 95(1A) of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth). The Bill was introduced on 8 October 2020 and is currently before the House of Representatives.

⁸ ‘How to raise a concern’, <www.acnc.gov.au/raise-concern/concerns-about-charities/how-raise-concern>.