

onto the law firm. Our client said that they “felt used and taken advantage of” by these lawyers and felt that the lawyers “were out to make money from [their] pain”.

- One client received an unsolicited letter from a survivor advocacy business while they were in prison. The client had never previously heard of the business, and they do not know how the business obtained their details. The client expressed to knowmore how worrying it was to receive this letter, raising their experience of child sexual abuse, “out of the blue” while in prison and without any support.
- A Queensland client was approached while attending court by someone from a survivor advocacy business. Our client was subsequently called by this person multiple times, which led the survivor to feel harassed and forced them to screen their calls. Our client described this business as “overbearing and pushy.”
- A client received harassing phone calls and correspondence from a Queensland-based law firm with links to a survivor advocacy business, for more than 12 months despite not having signed a costs agreement with them. The client said the law firm had a lot of information about them that they didn’t know how they had obtained. The law firm’s actions caused our client a significant amount of distress.
- One client was aggressively pursued to sign a costs agreement by a law firm with links to a survivor advocacy business, some months after submitting an application to the NRS (with knowmore’s assistance). The client told knowmore that the law firm was contacting them and sending them paperwork, and “coming on pretty heavy about it.”

The client ultimately received an offer from the NRS. At that time, the law firm again contacted our client, pressuring them to reject the NRS offer and sign a costs agreement. The client accepted the NRS offer.

- One client came into contact with a survivor advocacy business while in prison. Someone from the business took a statement from the client about their experiences of institutional child sexual abuse, “which brought up very difficult feelings” for them. The client was then contacted by a law firm and asked to sign a large number of documents, which the client instructs they did not understand. When the client contacted knowmore about six months later, they said that they still did not understand what work the law firm was meant to be doing for them.
- One client had signed a costs agreement with a law firm who they were put into contact with by a survivor advocacy business. The client contacted knowmore because they were confused about their current legal situation and wanted to withdraw from the costs agreement, saying, “They don’t tell me anything, I don’t know what’s going on”.
- One client was referred to a law firm by a survivor advocacy business while in a Queensland prison. The client said that they found the process “highly distressing and insensitive” and felt like “it was all about the money for them”.
- One client told knowmore that they had been contacted by a law firm, but they didn’t know how the firm had obtained their number.

These and other negative experiences have left a number of clients feeling traumatised and that survivor advocacy businesses and the law firms they work with care more about money than survivors.

Targeting of the most vulnerable survivors

As a number of the above examples highlight, claim farmers are targeting survivors and also specific settings of particular circumstances of vulnerability. We are especially aware of, and deeply concerned about, the significant claim farming activity in Queensland prisons. Again, we expect this is driven by the large number of survivors in these settings — during the Royal Commission, knowmore assisted 936 clients who were detained in Queensland prisons — and the connections and networks of key staff from some survivor advocacy businesses.

Survivor advocacy businesses are known to regularly send unsolicited mail to survivors in prison. knowmore has seen letters sent to survivors in prison by three different businesses. These all follow a similar model of asking the survivor to provide some initial details to take up the business's offer of assistance and start their claim. The tone of the letters is such that many of our clients have been confused about who the letters were from and what they should do with them. The documents sent by some of these businesses are particularly forceful in:

- Asking survivors to contact the business “with the details required for your claim”.
- Stating that the business requires an attached “new client intake form to be filled out and sent back to [the business's] office [with] identification documents to start your claim”.
- Instructing survivors that “for your claim to be settled within a timely manner, you must participate in the process by providing all the information and documentation to [the business] and your nominated law firm as soon as practicable”.

One client who was approached by someone from one business while in prison highlighted the susceptibility of survivors in prison to these types of cold calling tactics, reflecting that perhaps they shouldn't have agreed to meet with the business's representative, but “it just gets so lonely in prison”.

It is also suspected that people in prison are being identified as survivors by other prisoners, who are reported to receive benefits in exchange for providing names to the survivor advocacy businesses. For example, one RSS reported that one survivor advocacy business was depositing cash into prisoners' prison accounts for every referral they received. This conduct had been reported by a number of prisoners across multiple correctional centres.

Significant claim farming activity is also believed to be occurring in Queensland's regional and remote communities, particularly Aboriginal communities. Survivor advocacy businesses (and some law firms) are known to travel to these communities, and there have been reports of survivors in these communities being targeted by aggressive marketing and ‘recruitment’ strategies.

The above discussion highlights the tendency of claim farmers to target places where large numbers of victims and survivors of institutional child abuse are likely to be present. In this regard, we note that the provisions in new section 71 of the PIPA will not prevent

advertisements or promotions to groups of people. The provisions in new section 71B relating to cold calling also require that a person is “specifically” contacted. We raise for the Committee’s consideration whether these provisions are adequate to prevent survivor advocacy businesses and/or law firms from engaging in claim farming practices targeted at groups of survivors (for example, bulk mailing of letters of the nature described above to prisoners, residents of a small community or former students of a particular school).

Possible fraudulent claims

We note that, in introducing the Bill, the Attorney-General referred to “the potential for unmeritorious claims and fraudulent behaviour in relation to personal injury... claims”.⁷ Consistent with this, concerns have been raised with us that the activities of survivor advocacy businesses and their associated law firms — particularly the payment of referral fees — may foster fraudulent claims of abuse.

Undesirable billing practices

knowmore strongly supports the provisions in amended section 347 of the *Legal Profession Act 2007* (Qld), as per Clause 16, which will ensure that “additional amounts” — including fees for the services of survivor advocacy businesses in obtaining instructions and preparing statements — will be treated in the same way as legal costs when determining the maximum amount a law firm may charge for speculative personal injury claims.

knowmore has seen evidence of the kinds of undesirable billing practices referred to in the Explanatory Notes and the Attorney-General’s introductory speech. We are particularly concerned about:

- Law firms classifying fees payable to survivor advocacy businesses as disbursements, thus increasing the total amount that may be charged to the survivor.
- Fees payable to survivor advocacy businesses and other disbursements initially being paid for by third party litigation/disbursement funders, who charge additional fees and interest at rates of up to 23 per cent for the life of the client’s matter.

As noted in the Explanatory Notes, such practices may not only disguise claim farming arrangements, but “prevent successful claimants from receiving a fair and equitable share of judgment or settlement funds”.⁸ We therefore consider that the provisions in Clause 16 of the Bill (and the supporting provisions in Clauses 35 and 51)⁹ are necessary and appropriate to help curb claim farming and stop survivors of institutional child abuse from having the compensation they are entitled to severely eroded by fees and charges.

7 Queensland Legislative Assembly (Hon. SM Fentiman), *Record of Proceedings (Hansard): First Session of the Fifty-Seventh Parliament*, Introduction of the Personal Injuries Proceedings and Other Legislation Amendment Bill 2022, 31 March 2022, p. 841.

8 Explanatory Notes to the Personal Injuries Proceedings and Other Legislation Amendment Bill 2022, p. 2, <documents.parliament.qld.gov.au/tp/2022/5722T477-1BE3.pdf>.

9 New section 788 of the Legal Profession Act and new section 71E of the PIPA.

Conclusion

As outlined above, knowmore strongly supports the Bill's objectives to stop claim farming and prevent undesirable billing practices for personal injury claims. We know that many survivors of institutional child abuse are being exploited, intimidated and harassed in the context of considering their compensation options, as highlighted in the experiences of our clients that we have shared here. In our view, the Bill is essential for protecting survivors from this type of conduct, and we commend the Queensland Government for its strong leadership in this area.

We have noted that the amendments in the Bill will not be successful in stamping out the predatory behaviour of some law firms and survivor advocacy businesses unless the legislation operates effectively in practice. To achieve the outcomes intended by the Bill, we recommend that particular consideration needs to be given to ensuring that the monitoring and enforcement mechanisms put in place to uphold compliance with the legislation are workable and effective. Other stakeholders with direct experience of the operation of the legislative amendments enacted in 2019 to successfully address claim farming conduct for compulsory third party claims are better placed than us to provide specific comment on these aspects. However, knowmore would encourage the Queensland Government to consider these matters as a priority in anticipation of the Bill being passed. In our view, the practical success of the legislation is also critical to ensuring that the reforms being progressed in Queensland provide a valuable model for reform across the country, ensuring all survivors of institutional child abuse are better protected from exploitation, intimidation and harassment when pursuing their legal rights compensation and redress.

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Original artwork by Dean Bell depicts knowmore's connection to the towns, cities, missions and settlements within Australia.

knowmore acknowledges the Traditional Owners of the lands and waters across Australia upon which we live and work. We pay our deep respects to Elders past and present for their ongoing leadership and advocacy.

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