

knowmore
free legal help for survivors
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Our Ref: MM:RN

14 April 2023

Mr Simon Scott
Committee Secretary
Legislative Council Government Administration Committee 'B'
Parliament House
HOBART TAS 7000

Via email: csjs@parliament.tas.gov.au

Dear Mr Scott

Submission to the Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters

Thank you for the opportunity to provide a submission to the Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters. Our comments below address Term of Reference 3, based on our experience providing legal assistance and support to victims and survivors of child sexual abuse in Tasmania's adult prison facilities.

About knowmore

Our service

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 aim 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.

From 2013 to 2018, our service assisted people who were engaging with or considering engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse (the

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.

knowmore Legal Service Limited | ABN 34 639 490 912 | ACN 639 490 912. knowmore is funded by the Commonwealth Government, represented by the Departments of Attorney-General and Social Services and the National Indigenous Australians Agency.

Royal Commission). From 1 July 2018, knowmore has delivered legal support services to assist survivors of institutional child sexual abuse to access their redress options, including under the National Redress Scheme (NRS). knowmore also delivers financial counselling services to people participating in the NRS, and works with other services in the NRS support network to support and build their capability. Since 2022, knowmore has also been assisting survivors who experienced child sexual abuse in non-institutional settings, and providing legal and financial counselling support to people engaging with the Territories Stolen Generations Redress Scheme (Territories Redress Scheme).

knowmore uses a multidisciplinary model to provide trauma-informed, client-centred and culturally safe legal assistance to clients. knowmore has offices in Sydney, Melbourne, Brisbane, Perth, Adelaide and Darwin. Our service model brings together lawyers, social workers and counsellors, Aboriginal and Torres Strait Islander engagement advisors and financial counsellors to provide coordinated support to clients.

Our clients

In our Royal Commission-related work, from July 2013 to the end of March 2018, knowmore assisted 8,954 individual clients. The majority of those clients were survivors of institutional child sexual abuse, and 24 per cent identified as Aboriginal and/or Torres Strait Islander peoples. During the Royal Commission, knowmore was involved in various outreach and community engagement activities in Tasmania, to raise local awareness about our services and to provide information and support to survivors seeking to engage with the Royal Commission.

Since the commencement of the NRS for survivors of institutional child sexual abuse on 1 July 2018 to 31 March 2023, knowmore has received 87,246 calls to its 1800 telephone line and has completed intake processes for, and has assisted or is currently assisting, 14,531 clients. More than a third (36%) of knowmore's clients identify as Aboriginal and/or Torres Strait Islander peoples. Just under a fifth (17%) 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.

Our clients in Tasmania

knowmore has a notable client base in Tasmania — 5 per cent of our clients reside in the state. We conduct regular outreach trips to Tasmania and have strong working relationships with several Tasmanian support services, who regularly refer clients to knowmore for legal advice and assistance. We therefore have a strong interest in issues impacting access to justice and support for survivors in Tasmania, including survivors in prison.

Comments on the provision of legal assistance and support to survivors in prison (addressing Term of Reference 3)

The need for greater support and protections for survivors in prison

The links between adverse childhood experiences such as child sexual abuse and criminal offending in adulthood are well-known. For example, during the Royal Commission, over 10 per cent of survivors who came forward to disclose their experiences of abuse were in prison at the time of their private session.¹

knowmore provides legal assistance and advice to survivors in several Tasmanian prisons. In our experience, prisons are often a site of further trauma for survivors and many survivors face significant barriers accessing the support they need to begin their healing journey and to access justice for what happened to them as children. Problems include:

- barriers in prison to disclosing an experience of child sexual abuse
- a lack of appropriate supports in prison for managing and healing from complex trauma, including barriers to external services accessing the prison environment to provide support and a lack of face-to-face counselling options
- a lack of trauma-informed practices in prison
- a lack of cultural awareness in prison regarding the experiences of Aboriginal and/or Torres Strait Islander survivors
- privacy and confidentiality concerns, including barriers in the prison environment to obtaining and confidentially storing records relating to experiences of child sexual abuse and concerns that telephone counselling sessions will be recorded
- legal and practical barriers in prison to pursuing compensation or redress for child sexual abuse²
- a lack of appropriate supports to assist survivors to manage the transition upon release from prison.³

To overcome these problems, knowmore strongly supports the increased availability and resourcing of trauma-informed and culturally safe support services for survivors in Tasmanian prisons. Survivors in prison should be able to access the same therapeutic treatment services and legal support as other survivors. These services should reflect the

¹ Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), *Final report: volume 5, private sessions*, 2017, p 10,

² For example, a person in gaol cannot apply to the National Redress Scheme, unless exceptional circumstances apply. See *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), section 20.

³ See also the discussion of survivors' concerns about support in prison in Royal Commission, *Final report: volume 5, private sessions*, pp 276–278 and Royal Commission, *Final report: volume 9, advocacy, support and therapeutic treatment services*, 2017, pp 129–132.

Royal Commission’s vision for a responsive service system (see text box below),⁴ and action should be taken to ensure that barriers to support services accessing Tasmania’s prisons are greatly reduced. We also strongly support survivors having increased access to pre- and post-release programs, including programs focused on addressing survivors’ housing, financial and mental and physical health needs, to help reduce recidivism and support survivors’ healing.⁵

A responsive service system

To improve the healing and support available to survivors, the Royal Commission outlined its vision for a responsive service system — a cohesive system that:

- addresses all aspects of survivors’ wellbeing in a holistic way
- is based on the principles of:
 - trauma-informed practice and an understanding of child sexual abuse
 - collaboration (services work together to help survivors find the right service at the right time)
 - availability (services are available to survivors at the right place and time, throughout their lives and for as long as they need)
 - accessibility (services are affordable or free and accessible to all survivors)
 - acceptability (services consider the diversity of survivors and respond to their lived, social and cultural contexts)
 - high quality (services are based on evidence about what works, delivered by trained and informed workers and regularly evaluated)
- is inclusive of Aboriginal and Torres Strait Islander healing approaches.

In order for community legal centres like knowmore to provide our critical services to survivors in prison, it is essential that there are strong legislative protections in place to protect prisoners’ rights, including their right to confidentiality in relation to receiving legal advice and assistance. Our service delivery staff who support survivors in Tasmanian prisons are concerned about the lack of legislative protections and procedures currently in place to protect a survivor’s confidentiality while receiving legal advice and assistance in prison, and to prevent prison staff from opening legal correspondence addressed to survivors. We ask

⁴ Royal Commission, *Final report: volume 9, advocacy, support and therapeutic treatment services*.

⁵ See further discussion of support for survivors in prison in knowmore, [Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse on issues paper 10: advocacy and support and therapeutic treatment services \[PDF 367KB\]](#), 30 November 2015, pp 18–20.

that the Committee consider this issue, and whether the protections that exist in other jurisdictions may provide a suitable model for adopting in Tasmania.⁶

The risk of claim farming and the need for legislative reform to reduce exploitative practices

knowmore has received numerous reports about ‘claim farming’ and related practices across Australia, including in Tasmania. These practices are being engaged in by a number of law firms and ‘survivor advocacy’ businesses — businesses that purport to offer a range of support services to victims and survivors of institutional abuse, but are principally focused on seeking out survivors and gathering preliminary information from them to pass on to associated law firms to pursue compensation claims. Client costs agreements seen by knowmore indicate that claim farmers are effectively paid referral fees by law firms for introducing survivor clients and passing on initial information. Claim farmers may also provide law firms with services such as preparing statements and gathering documents, which are often very limited and come at a significant cost, which is ultimately borne by the survivor.

We continue to receive regular reports of these practices from our clients and other support services. We are particularly concerned by reports of:

- survivors having distressing experiences of being cold called, being subjected to harassment, intimidation and high-pressure tactics, and being asked to sign legal documents they do not understand
- survivors not being informed about the availability of free legal support and being charged excessive fees for services that, in some instances, are not of an acceptable professional standard and are not delivered in a trauma-informed or culturally safe manner
- claim farmers and some private law firms targeting survivors experiencing heightened marginalisation, including Aboriginal and/or Torres Strait Islander survivors living in regional, rural and remote communities and survivors with low literacy skills
- claim farmers and some private law firms seemingly becoming more active in institutional settings such as prisons, where survivors experience increased circumstances of vulnerability.

knowmore is aware of survivors in Tasmanian prisons being impacted by these exploitative practices. For example, we are aware of survivors in Tasmanian prisons who have received unsolicited letters encouraging them to pursue compensation claims. This can be distressing

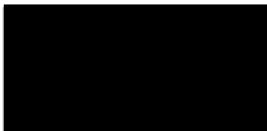
⁶ See, for example, regulation 113 and subregulation 115(4) of the Crimes (Administration of Sentences) Regulation 2014 (NSW), subparagraph 47(1)(m)(iii) of the *Corrections Act 1986* (Vic), and paragraph 17(1)(v) of the Corrective Services Regulation 2017 (Qld).

for survivors, who are often unaware of how claim farmers or private law firms have come to know about their deeply personal history of abuse. We are also concerned that survivors in prison have limited access to independent information and advice about their legal options, as well as limited access to support and therapeutic healing services to manage the impacts of legal processes, which can often be re-traumatising for survivors.

knowmore has widely advocated to protect survivors across Australia from these types of exploitative practices, including in our advocacy to the Tasmanian Commission of Inquiry.⁷ We strongly support legislative reforms to stop claim farming that were enacted last year in Queensland,⁸ and we urge the Committee to consider recommending that the Tasmanian Government progress legislative reforms consistent with Queensland's as a matter of priority. We consider this essential for ensuring that Tasmania does not become a further target for those engaging in exploitative practices, and that survivors in Tasmania, including survivors in prison, are given equal protection under the law.

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

Yours sincerely,

A solid black rectangular box redacting the signature of Rachel Neil.

RACHEL NEIL

Acting Principal Lawyer

⁷ Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, [Witness statement of Warren Strange](#), 28 April 2022, pp 27–28.

⁸ See the *Personal Injuries Proceedings and Other Legislation Amendment Act 2022* (Qld) and Hon S Fentiman, [Personal injury claims farming now banned in Queensland](#) [media release], 22 June 2022. See also knowmore, [Submission on the Personal Injuries Proceedings and Other Legislation Amendment Bill \[PDF 1,102KB\]](#), 22 April 2022.