

The Fairbridge class action, the PIC report and the absolute need for national redress

The resolution of a class action by around 150 former residents of the Fairbridge Farm School in regional NSW was a great win for survivors of child sexual abuse and a continuing reminder of the extraordinary hurdles they face when they go to court.

The \$24 million award to the claimants came after a six-year legal battle, 21 court hearings and 50,000 pages of historical documents. Many of the legal and delay tactics are familiar to survivors in the Catholic Church who have tried to take similar claims to Court.

The lawyer for the former residents said eight people who had originally been part of the claim had died before this week's announcement.

The Fairbridge Farm School is similar to the agriculture schools and orphanages run by the Christian Brothers in WA which were the subject of a Royal Commission public hearing at the end of last year.

The young children, many unattached migrants from the UK, endured sexual and physical abuse. They were beaten, forced to work in slave-like conditions and the ones who did speak up were not believed and punished further.

The lawyer for the former residents, Roop Sandhu, said of the time in court, not a single day was spent debating abuse.

"The Fairbridge class action did not go to trial. Litigation was concerned with technical legal arguments – raised by the defendants – about whether the case should proceed as a class action or proceed at all given the limitation period," he said.

While this is a great win, it once again highlights the clear and immediate need for a national, generous, independent redress scheme.

Abuse survivors should have a viable alternative to going through the long, drawn-out, painful and confronting court process these people endured. Abuse survivors need to be able to access redress quickly, with limited cost and involvement of lawyers and expect a fair and generous outcome.

This is not just the Catholic Church's view; it is shared by many survivor groups, advocates for the Fairbridge kids and some lawyers including Vivian Waller who spoke to Fran Kelly about the Fairbridge result on [Radio National breakfast this week](#).

Another compelling argument for the national redress scheme has also solidified over the past week with the release recently of the NSW Police Integrity report into the 'blind reporting' of historic child sex abuse to the police. I spoke about this last week.

What is now clear following this report is that if an abuse survivor wants to bring an historic claim of child sexual abuse to *Towards Healing*, some other part of the Catholic Church or any other organisation in NSW, regardless of their wish to remain anonymous, all the details of the abuse must go to the Police including their name.

This differs slightly from the current practice in some parts of the Church in NSW where all information, other than the survivor's name, is provided to the police, including the name of the perpetrator and any other details.

We know this is a problem for some survivors, who have never revealed the abuse to their families or others and want it to remain that way. Closing down 'blind reporting' may have the unwanted impact of stopping survivors coming forward. Obviously, this would be a bad development.

A national redress scheme, however, will achieve another avenue for survivors looking for redress.

Given a new redress scheme will be built from the ground up with its primary concern focused sharply on survivors, it will hopefully be able to put in place some sort of mechanism which protects their privacy while at the same time being able to meet all the legal requirements of reporting to the police.

Depending on the structure of the scheme it will hopefully provide the redress they are seeking, the ongoing counselling and other support, an acknowledgement of the abuse and an apology, within the privacy of a national independent redress scheme.

The survivors of Fairbridge waited a generation for people to listen to them, to believe them and to have their abuse acknowledged – as have many abuse survivors within the Catholic Church.

Child abuse claims should not be bitterly contested in courts for years, while survivors die, lose their homes and families, struggle to make a living and a contribution to society and, in many cases, ultimately receive very little, if anything at all.

Doing the maths on the Fairbridge award, it is unlikely that of the 150 people involved they will receive, on average, any more than \$150,000 each after legal costs are paid.

This, presumably by coincidence, is the mid-point in the range suggested by the Royal Commission as a cap on redress in a national scheme.

I'm sure if these survivors could have gone to a national redress scheme rather than spending six years going back and forward to court then they would have come away feeling like the system was on their side rather than trying to break them down.

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