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Royal Commission into Institutional Responses to Child Sexual Abuse

GPO Box 5283

SYDNEY NSW 2001

Dear Commissioners

Re: Issues Paper 6: Redress Schemes

CREATE Foundation welcomes the opportunity to make a submission to the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) in response to *Issues Paper 6: Redress Schemes*.

CREATE Foundation is the national consumer body advocating for children and young people with a care experience. CREATE seeks to provide opportunities for children and young people to have a voice and be heard.

CREATE acknowledges and commends the Royal Commission's efforts to highlight that sexual abuse of children in institutions is occurring now, and that institutions are still failing children and young people in their responses as shown in evidence presented to the Royal Commission at public hearings.

CREATE has not sought feedback and input from children and young people about Issues Paper 6 due to time and resource constraints, however, through this submission, CREATE Policy and advocacy seeks to advocate for the interests of children and young people in out-of-home care and to highlight the barriers to children and young people seeking redress for sexual abuse experienced whilst in care.

In 2012, there were nearly 40,000 children and young people in out-of-home care in Australia and that number has been increasing for some years (AIHW, 2013). Australians who have a care experience remain one of the most disadvantaged groups in Australia. This restricts their ability when they become an adult to seek redress for harm done to them whilst in the care of institutions. If they have limited financial means then pursuing civil litigation is prohibitive due to cost. Australian state government inquiries into abuse of children and young people in institutional care have highlighted that there are a range of accountabilities that redress involves,

including financial compensation, access to support services and institutions and their representatives acknowledging and apologising for their failure to provide protection.

The age of children and young people in care at the time of being sexually abused will impact on their ability to seek redress, either at the time or later depending on circumstances. CREATE proposes that systemic changes are required to ensure that children and young people in care are informed about and properly supported to pursue redress opportunities and have timely access to their personal information to help verify their claims.

It must also be noted that children and young people who are in care are vulnerable to further abuse depending on a number of factors including the abuse or neglect they have already suffered and the safety and stability offered by their placement and carers.

It is important that state and territory departments record and report the number of children who report re-abuse in care, and the number of substantiated cases of re-abuse in care. This is important as responsible agencies need to understand the systemic nature of any abuse occurring in care and to respond quickly. This also highlights the need for maintenance and sharing of information between jurisdictions when children and young people move to another state or territory.

Ensuring accurate record keeping for children and young people in care is critical to their ability to pursue redress and justice, particularly if redress criteria requires verification of events. Depending when the abuse occurred, children and young people may not be aware of what happened to them; and could subsequently grow up living with the consequences (physical and or emotional) of something they were too young to rationalise, understand, protect themselves from or remember.

CREATE believes consideration of redress must include addressing accessibility of information as well as opportunity and accountability. Without proper record keeping of their experience in care and timely access to information that has been compiled about them, children and young people that experience sexual abuse in care may be substantially hindered in their ability to seek and access redress for the harm done to them. For some, records may only provide verification of what they already know; however for others, the records may hold answers to problems they have or are experiencing even though they are unable to recall the event that may have contributed to or caused their problems in the first place.

CREATE believes external oversight mechanisms would help inform any national approach to record keeping on abuse whilst in care and help hold agencies accountable to review and reform practice and procedures regularly to continuously endeavour to provide safe and supportive environments where children live and thrive.

As institutions for the care of children in Australia are generally the responsibility of state and territory governments, CREATE submits that a nationally benchmarked redress scheme for all people with a care experience who were sexually abused while in care needs to be established.

Clear and consistent policies and processes across jurisdictions are needed to ensure that individuals are able to access personal records detailing any abuse that occurred whilst in care and any actions taken as a result.

Importantly, CREATE is of the view that time limits for seeking redress or compensation serve as a deterrent to victims being able to seek redress and further enables abusers and institutions protection from taking responsibility for their actions or inactions.

When children and young people are discharged from care, no matter what age, they or their parent/guardian need to know whether they may have a case in the future for redress for harm committed against them while in care.

CREATE believes access to free legal advice as part of such a scheme would negate financial capacity as a barrier to seeking redress. Such a scheme would also need to include: support to enable timely access to institutional records detailing the abuse, an open-ended timeframe for seeking redress, and victim input to their specific redress needs or requests including financial compensation, an apology or acknowledgement by an individual or institution of the harm experienced by individuals and the impact on their lives. Additionally claimants would also require access to counselling support to address any duress that may be instigated or compounded by participation in the process itself.

If you would like further information about the content of this submission, please call the CREATE Manager of Policy and Advocacy on 07 32553145.

Yours sincerely



Ms Jacqui Reed
Chief Executive Officer

Australian Institute of Health and Welfare (AIHW) 2013 *Child protection Australia 2011-12*,
Canberra: AIHW.