



**THE LAW SOCIETY  
OF SOUTH AUSTRALIA**

THE VOICE OF THE SOUTH AUSTRALIAN LEGAL PROFESSION

124 Waymouth Street, Adelaide, South Australia, 5000

GPO Box 2066, Adelaide, South Australia, 5001, DX 333

Phone 08 8229 0200 • Fax 08 8231 1929

Email [email@lawsociety.sa.asn.au](mailto:email@lawsociety.sa.asn.au) • [www.lawsociety.sa.asn.au](http://www.lawsociety.sa.asn.au)

4 November 2009

C62, 66.8  
RM;rp

The Honourable Iain Evans MP  
Parliament House  
North Terrace  
ADELAIDE SA 5000

Dear <sup>Iain</sup>Mr Evans

***Victims of Abuse in State Care (Compensation) Bill 2009***

Thank you for your letter of 14 July 2009, inviting the Society to consider the above Bill. The Bill was referred to a number of the Society's Committees. I am pleased to provide you with the comments of the Children and the Law Committee, which are attached.

I trust these comments are of assistance to you. Please do not hesitate to contact me, should you have any questions in relation to them.

Yours sincerely

Richard Mellows  
**PRESIDENT**



# THE LAW SOCIETY OF SOUTH AUSTRALIA

## ***Victims of Abuse in State Care (Compensation) Bill 2009***

Comments of the Children and the Law Committee

2 November 2009

---

The Children and Law Committee commends the work done by Members of Parliament in the recent past to remove the barrier to prosecution for sexual offences committed prior to 1982, and the work done by Commissioner Mullighan in the inquiry into the abuse of children in State care. A natural progression from this is compensation for these victims and the current Bill before Parliament that we have been invited to comment on.

Overall the general principle of the *Victims of Abuse in State Care (Compensation) Bill 2009*, to set up a separate system to facilitate compensation for victims of abuse whilst in state care should be supported. The Committee supports, in general, a scheme that will be an alternative to pursuing a claim through the court system, be more cost effective and result in an earlier settlement and thus reduce the impact on victims applying for compensation.

The Children and the Law Committee would also support a system for compensation for children aged under 18. The time limitation on eligibility in the proposed Bill ignores current and future victims of abuse, forcing them to pursue individual claims or a claim through the Victims of Crime fund.

The Bill is silent on an explanation of "significant and non significant physical and psychological injury" and how this will be determined. Therefore we would reserve any comments at this stage, except for the fact that we note that the Western Australian redress scheme has reported a large number, and more than expected number, of significant matters and has reduced its scheme cap from \$80,000 down to \$45,000.

In relation to the Government being able to recover from the victim if they receive compensation from another source, we would encourage the Government to exercise its discretion and not recover any payment it has made to the victim.

The Committee supports the provision of monies towards costs of obtaining legal advice where required and the provision for support from the Commissioner of Victim's rights to assist claimants. Other states have also included provision for counselling for applicants. This would be a beneficial addition to this Bill.

Finally, whilst no compensation will erase what has occurred to these victims, the amounts, up to \$7,000.00 and up to \$43,000.00, whilst not as generous as in other states, is a customarily accepted way to redress what has occurred to victims. Depending on the amount of applicants and the funds allocated to the scheme, the Committee would support any increase to the above mentioned levels.