



Mark Speakman
Attorney General
Minister for the Prevention of Domestic Violence

MEDIA RELEASE

Sunday, 29 November 2020

NEW BILL TO ADDRESS UNFAIR CHILD ABUSE PAYOUTS

Many survivors of institutional child abuse would be able to pursue fairer compensation under proposed new laws even if they have already received a civil settlement.

Attorney General Mark Speakman said the draft Bill would give NSW courts the power to overturn certain settlement agreements for previous sexual, serious physical and other connected child abuse.

“The Royal Commission into Institutional Responses to Child Sexual Abuse revealed harrowing stories of survivors forced into unfair settlements with institutions due to legal technicalities preventing them from seeking the justice they deserved,” Mr Speakman said.

“These proposed reforms will allow these survivors to be properly compensated for the atrocious mistreatment and violence they suffered as children.”

In response to the 2015 Redress and Civil Litigation Report issued by the Royal Commission, the NSW Government introduced reforms in 2016 and 2018 removing barriers for survivors seeking civil justice.

“We’ve overhauled legal frameworks enabling this injustice – removing limitation periods for child abuse claims, joining the National Redress Scheme and abolishing the technical legal barriers that allowed some institutions to avoid civil liability,” Mr Speakman said.

“Prior to these reforms, many survivors, often suffering significant trauma, felt they had no choice but to accept unfair financial settlements under time pressures, without legal advice and without an opportunity for their claims to be assessed on their merits.

“This draft Bill would be an important step forward – allowing survivors to have unjust agreements set aside by the courts and instead seek fairer compensation to hold those responsible to account for their horrific abuse.”

Many survivors who entered into these agreements are barred from seeking further compensation because the agreements include clauses that release defendants from further liability. The draft bill will allow survivors who entered into settlements before the 2016 and 2018 reforms to have the same access to justice as those who brought a claim afterwards.

Earlier this year, the Department of Communities and Justice consulted stakeholders, survivors and their supporters on the proposed reforms. The draft Bill has been provided to these groups for feedback before reforms are introduced to Parliament early next year.