

Appendix 3 - Research Summary: Stolen Generations Reparations and Child Abuse in Institutions Redress Schemes

Stolen Generations Reparations - Overview

Three jurisdictions in Australia have run Stolen Generations Reparations Schemes following the recommendations of the 1997 Bringing Them Home Report.

The Tasmania Stolen Generations Reparations Scheme was the first Reparations package offered to Stolen Generations in Australia. The Tasmanian package offered financial reparations to Stolen Generations and their children and was open for one year in 2007.

The South Australian Stolen Generations Reparations Scheme was the second Reparations package offered to Stolen Generations in Australia. This package offered financial reparations, oral history recordings and access to a Healing Fund, it was open for one and half years between 2016 and 2017.

The most recent Stolen Generations Scheme to open was the New South Wales Stolen Generations Reparations Scheme which will run for five years from 2017 to 2022. This was established in response to the New South Wales (NSW) Unfinished Business Report, the result of an inquiry into Reparations for Stolen Generations in NSW. This package offers financial reparations, including a funeral assistance fund, an apology, a collective healing fund and improved access to housing and other services.

Stolen Generations Reparations - Financial Reparations and Applicants Summary

Scheme	Eligible Applicants	Total Compensation Fund	Amount per Applicant
Tasmanian Stolen Generations Reparations	106	\$ 5 Million	\$58,333 – Stolen Generations \$22,000 – Descendants
South Australian Stolen Generations Reparations Scheme	343	\$ 6 Million	\$30,000
NSW Stolen Generations Reparations Scheme	330 [as of July 2018]	-	\$75,000

Stolen Generations Reparations - Eligibility Components

The Tasmanian, South Australian and New South Wales Stolen Generations Reparations Schemes all included Stolen Generations who were removed into foster care, mission dormitories, government and non-government institutions, by adoption, and other removals where there was evidence of state government involvement. South Australia and Tasmania did not include all adoptees who applied they did however include some where evidence was located of state government involvement in the removal.

The South Australian and Tasmanian Stolen Generations Reparations Schemes established removals up until 1975 as an end date for eligibility based on the Racial Discrimination Act 1975 and the Tasmanian Aboriginal Heritage Act 1975. The New South Wales Stolen Generations Reparations Scheme uses removal up until 2 June 1969 as an end date for eligibility based on the closure of the NSW 'Aboriginal Welfare Board'. However, this has been criticised by the NSW Stolen Generations Advisory Committee as excluding too many people

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(160 as at July 2018) who were removed after this time under discriminatory practices that continued beyond the closure of the Welfare Board in 1969.

The Tasmanian, South Australian and New South Wales Stolen Generations Reparations Schemes have all included Stolen Generations born in other states but removed within another jurisdiction. The overarching principle has been that if the jurisdiction operating the Reparations Scheme was involved in the removal of an Aboriginal child, that person would be eligible for Reparations regardless of their state of birth.

Criminal history was considered in the assessment process for South Australia and Tasmania's Stolen Generations Reparations, NSW Reparations did not consider this.

The Tasmanian Stolen Generations Reparations Scheme was the only Reparations package that was offered to children of Stolen Generations and 22 were found eligible. It was also only package to consider the length of time children were separated from family, those who had been removed for over 12 months were eligible.

Stolen Generations Reparations – Interim Payments

The New South Wales and South Australian Stolen Generations Stolen Generations Reparations Schemes both provided interim payments to Stolen Generations applicants.

Prior to the NSW Stolen Generations Reparations commencement, a fast-tracked application process was undertaken for Stolen Generations survivors removed into the care of the Aborigines Welfare Board who had received settlements in a Stolen Generations legal action (referred to as the Group Action). These applicants had already provided sufficient documentation of their removal under the legal process. By the end of June 2017, 118 Stolen Generations had received Reparations Payments through this fast-tracked process.

Under the South Australian Stolen Generations process 53 priority applicants, for reasons of illness or age, were fast-tracked and the Minister granted an interim payment of \$5,000 and were later paid the full Reparations payment after assessment was complete.

Child Abuse in Institutions Redress - Overview

Five jurisdictions in Australia have run Redress Schemes for those who experienced abuse in institutions or state care, some of these have been available to Stolen Generations.

Tasmania again was the first state to run a Redress package for abuse in state care in response to a 2004 Tasmania Ombudsman Report. The Tasmania Claims of Abuse in State Care Program ran between 2003 and 2013 and offered financial redress, an apology, access to counselling and departmental records.

In response to the recommendations of the Commission of Inquiry into Abuse of Children in Queensland Institutions (also known as the Forde Inquiry), Queensland established the Forde Redress Scheme. This Redress Scheme for child abuse in institutions operated between 2007 and 2008 offering financial redress and an apology.

Western Australia ran a Redress Scheme for child abuse in institutions and state care between 2008 and 2009, offering financial redress, an apology, access to counselling and departmental records, memorials and referrals of past perpetrators to the police where relevant. This was established in response to the national inquiries at the time providing evidence about the abuse of children in state care across all Australian jurisdictions.

South Australia established an ex-gratia payment policy in response to the 2008 Children in State Care Commission of Inquiry (also known as the Mullighan Inquiry). This package was established in 2010 and offers financial payments under a victims of crime process for those who experienced sexual abuse in state care, it appears this is still operational.

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In response to the Royal Commission into Institutional Responses to Child Sexual Abuse (2012-2017), the Commonwealth Government established the National Redress Scheme. This Scheme provides redress for sexual abuse in government and non-government institutions across Australia. It commenced in 2018 and will continue to run until 2027, offering financial redress, an apology, access to counselling, and referrals of past perpetrators to the police where relevant.

Child Abuse in Institutions Redress - Financial Redress and Applicants Summary

Scheme	Eligible Claimants	Maximum Payment	Minimum Payment
Tasmanian Claims of Abuse in State Care Program	1,848	\$60,000	\$35,000
Queensland Forde Redress Scheme	7,400	\$40,000	\$7,000
Western Australian Redress Scheme	5,212	\$45,000	\$5,000
South Australia Ex-Gratia Payment	85 [as at 2014]	\$50,000	\$30,000
National Redress Scheme	5,927 [as of 26 March 2021]	\$150,000	-

In Victoria 2015 the 'Betrayal of Trust Report' was released following an inquiry into the 'handling of child abuse by religious and other non-government organisations'. Although Redress was recommended at this time no scheme was not established.

Child Abuse in Institutions Redress – Interim Payments

The Western Australia Redress process provided interim payments of up to \$10 000 to applicants with terminal or serious life threatening illnesses, Aboriginal applicants 63 years and over and non-Aboriginal applicants 80 years and over. These claimants were then the first to receive the balance of their payment after assessment was complete. A total of \$1 797 500 was paid as interim payments to 220 applicants.

International Reparations - Overview

The international package with the most similarity to Stolen Generations Reparations is the Indian Residential Schools Settlement Agreement which ran between 2007 and 2016 across Canada. This package was offered to Canadian Indian people who as children were removed from family to Residential Schools across Canada between the 1870s and the 1970s. It provided a financial payment, an apology, a collective healing fund (held by the Canadian Aboriginal Healing Foundation), access to counselling, improved access to education and health services, memorial events and the establishment of the Truth and Reconciliation Commission.

As of 2016, the Indian Residential Schools Settlement Agreement had spent \$1,622,422,106 in financial reparations, \$57 million in personal education credits, \$125 million to the Aboriginal Healing Foundation and \$72 million to the Truth and Reconciliation Commission.

Redress and Reparations - Operational Components

The consistent operational components of a Redress or Reparations Scheme are the engagement process, application, assessment and payment policy and procedure. Former staff of Reparations and Redress packages stated the most complex components of

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operations were developing agreements in order to access records for assessment and procedures to assist with paying applicants who pass away during the assessment period. All Reparations and Redress Schemes summarised above implemented legislation so that social security payments were not impacted by the lump sum Redress or Reparations payments.

Additionally operational components must integrate cultural capability into policy and procedure. For example the provision of specialised services to support Aboriginal and Torres Strait Islander applicants through the process [National Redress Scheme], adjusting the application process to consider the identification requirements of Aboriginal and Torres Strait Islander people [Western Australia Redress], and consideration of Aboriginality in the assessment process [all Stolen Generations Reparations Schemes].

The following tables outline the operational specifics of each Reparations and Redress Scheme noted above.

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Reparations	NSW Stolen Generations Reparations Scheme	SA Stolen Generations Reparations Scheme	TAS Stolen Generations Reparations Scheme	Indian Residential Schools Agreement
Legislation/Policy under which payment/reparations made	NSW Stolen Generations Reparations Scheme Guidelines [Administrative]	Internal Procedure [Administrative]	Stolen Generations of Aboriginal Children Act 2006 [Legislative]	Indian Residential Schools Settlement Agreement [Legislative]
Application period	5 years	1 year	6 months	5 years
Appeal process	Yes	No	No	Yes
Payment accompanied by legal agreement precluding further civil action against the state	No	Yes	No	Unknown
Legal advice offered	Yes	Yes	No	Yes
Independent assessment	Yes	Yes	Yes	Yes
External service funded to assist with applications	Yes	Yes	No	Yes
Past Compensation/Civil Litigation payments impacted amounts	No	Yes	No	Unknown
Interim Payments	Yes	Yes	No	Yes

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Redress	Tasmanian Claims of Abuse in State Care Program	Queensland Forde Redress Scheme	Western Australian Redress Scheme	South Australia Ex-Gratia Payment	National Redress Scheme
Legislation/Policy under which payment/reparations made	Ex-Gratia Payment Policy [Administrative]	Ex-Gratia Payment Policy [Administrative]	Redress Western Australia Guidelines [Administrative]	Victims of Crime Act 2001 [Legislative]	National Redress Scheme for Institutional Child Sexual Abuse Act 2018 [Legislative]
Application period	10 years	1 year	1 year	10+ years [No end date]	10 years
Appeal process	Yes	Yes	Yes	No	Yes
Payment accompanied by legal agreement precluding further civil action against the state	Unknown	Yes	No	Yes	Yes
Legal advice offered	Yes	Yes	No	Yes	Yes
Independent assessment	Yes	Yes [Complex assessments only]	Yes [Complex assessments only]	No	Yes
Fast tracked payment option for elderly/ill applicants	Unknown	Unknown	Yes	No	Yes
External service funded to assist with applications	No	Yes	Yes	Yes	Yes
Past Compensation/Civil Litigation payments impacted amounts	No	Unknown	Yes	Yes	Yes
Interim Payments	No	Partial [Complex assessments only]	Yes	No	No

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Source Documents

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