



National Redress Scheme for Institutional Child Sexual Abuse Direct Personal Response Framework 2018

I, Dan Tehan, Minister for Social Services, make the following declaration.

Dated 29 June 2018

Dan Tehan
Minister for Social Services

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Part 1—Preliminary

1 Name

This instrument is the *National Redress Scheme for Institutional Child Sexual Abuse Direct Personal Response Framework 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the commencement of the <i>National Redress Scheme for Institutional Child Sexual Abuse Act 2018</i> ; and (b) the start of the day after this instrument is registered.	1 July 2018 (paragraph (a) applies)

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 55 of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) acceptance document;
- (b) direct personal response;
- (c) participating institution;
- (d) survivor.

In this instrument:

Act means the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*.

Part 2—Direct personal responses

5 Requesting a direct personal response

If an acceptance document specifies a participating institution (the *responsible institution*) as an institution that a person (the *survivor*) wishes to receive a direct personal response from, the Operator must give the survivor a written notice:

- (a) setting out the contact details for the responsible institution; and
- (b) explaining that the survivor must contact the institution to commence the direct personal response process.

Note: Under paragraph 42(2)(g) of the Act, a person accepting an offer of redress who wishes to receive a direct personal response must specify, in the person's acceptance document, the participating institutions that the person wishes to receive a direct personal response from.

6 Arranging a direct personal response

- (1) If the survivor requests a direct personal response, the responsible institution must give the direct personal response as soon as practicable, taking into account the survivor's suitability and readiness for engagement in the direct personal response.
- (2) The direct personal response must be:
 - (a) of a kind, or kinds, agreed with the survivor; and
 - (b) engaged in by the method, or methods, agreed with the survivor.

Note: Under subsection 54(2) of the Act, a direct personal response from a participating institution to a person is any one or more of the following:

- (a) an apology or a statement of acknowledgement or regret;
- (b) an acknowledgement of the impact of the abuse on the person;
- (c) an assurance as to the steps the institution has taken, or will take, to prevent abuse occurring again;
- (d) an opportunity for the person to meet with a senior official of the institution.

7 Methods of engaging in a direct personal response

The direct personal response must be given by one or more of the following methods:

- (a) a face-to-face meeting, in which the survivor meets with a senior official of the responsible institution;
- (b) written engagement with the survivor;
- (c) any other method agreed with the survivor.

Note: The responsible institution must let the survivor know which methods the institution is able to use to engage in direct personal responses: see subparagraph 11(1)(a)(ii).

8 Face-to-face meetings

- (1) If the survivor requests the direct personal response to be given through a face-to-face meeting, the responsible institution must use its best efforts to give the direct personal response:
 - (a) at a time and place agreed with the survivor; and
 - (b) if unforeseen circumstances prevent the direct personal response being given at that time and place—as soon as practicable afterwards as agreed with the survivor.
- (2) The face-to-face meeting may include other survivors for whose abuse the Operator has determined the institution to be responsible, if:
 - (a) each survivor wishes the other survivors to be included; and
 - (b) the institution agrees to the other survivors being included.

9 Confirming arrangements

As soon as practicable after agreeing on arrangements for the direct personal response, the responsible institution must confirm those arrangements in writing given to the survivor.

10 Direct personal response given by representative

- (1) If the survivor agrees to a representative of the responsible institution giving the direct personal response in a face-to-face meeting on behalf of the institution, the institution must allow, where possible, the survivor to choose from representatives of different genders and cultural backgrounds, and who are differentiated by other relevant characteristics.
- (2) In considering a person as a possible representative, the institution must take into account each of the following:
 - (a) the person's position and seniority in the institution;
 - (b) whether the person has demonstrated empathy and engagement;
 - (c) whether the person has other traits and skills relevant to giving the direct personal response.

Note: The general principles guiding the provision of direct personal responses set out in section 56 of the Act include the requirement that direct personal responses be delivered by people who have received training about the nature and impact of child sexual abuse and the needs of survivors, including cultural awareness and sensitivity training where relevant.

11 Obligations of responsible institution

- (1) In preparing for and giving the direct personal response, the responsible institution has the following obligations:
 - (a) to provide clear and consistent information to the survivor about the following:
 - (i) the institution's process for arranging direct personal responses;
 - (ii) the methods the institution is able to use to engage in direct personal responses;

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- (b) to ensure the institution is able to engage successfully in each direct personal response given by the institution;
 - (c) to ensure the survivor's needs, expectations and preferences dictate the way the direct personal response is given;
 - (d) to pay the costs associated with engaging in the direct personal response;
 - (e) to seek to avoid further harming the survivor;
 - (f) subject to subsection (2), to protect the confidentiality of all information relating to the direct personal response to the extent that disclosure is not required by a law of the Commonwealth, a State or Territory;
 - (g) to demonstrate that the survivor's testimony has been listened to or heeded;
 - (h) not to question the survivor's testimony.
- (2) Every aspect of the direct personal response is confidential unless:
- (a) all participants agree otherwise; or
 - (b) an actual or potential threat to human life, health or safety is revealed in the course of giving the direct personal response.
- (3) If paragraph (2)(a) or (b) applies, the institution must ensure that any disclosure of information relating to the direct personal response is within the limits agreed by the participants, or proportionate to the threat, as the case requires.

12 Delaying or ceasing direct personal response

- (1) Participation in a direct personal response is voluntary for the survivor.
- (2) The survivor may delay or withdraw from a direct personal response at any time.
- (3) Any other person involved in the direct personal response process may delay or cease the process at any time if the person reasonably believes that continuing the process would jeopardise the health or safety of:
 - (a) the survivor; or
 - (b) a representative of the institution giving, or who is to give, a direct personal response in a face-to-face meeting on behalf of the institution.
- (4) If the survivor delays or withdraws from a direct personal response, or fails to attend a direct personal response or related meeting, the responsible institution must attempt to reschedule or renegotiate arrangements for a direct personal response for the survivor as often as is reasonable.
- (5) If a direct personal response process is delayed or ceased by another person, the responsible institution must offer to resume the direct personal response process or seek to provide an alternative kind or method of direct personal response for the survivor if the institution reasonably believes that it can do so without jeopardising the health or safety of the survivor.

Part 3—When direct personal response is not required

13 Direct personal response not required in certain circumstances

- (1) A participating institution is not required to give a direct personal response if:
 - (a) the survivor does not, in the survivor's acceptance document, specify the institution as an institution that the survivor wishes to receive a direct personal response from; or
 - (b) the survivor does not contact the institution to request a direct personal response before the scheme sunset day; or
 - (c) the survivor has not, before the scheme sunset day, responded to reasonable attempts to arrange a direct personal response; or
 - (d) the survivor, after requesting a direct personal response, notifies the institution that the survivor wishes to withdraw from the direct personal response; or
 - (e) the survivor has already received a direct personal response from the institution under the scheme.

Note: The *scheme sunset day* is the tenth anniversary of the scheme, or any day before that anniversary prescribed by the rules: see subsection 193(1) of the Act.

- (2) Subsection (1) does not prevent the institution from giving a direct personal response.

Note: Direct personal redress under the scheme is available only to a person whose application for redress has been approved: see Part 2-3 of the Act.

14 Special rules for defunct institutions

- (1) A participating government institution providing redress as the funder of last resort for a non-participating defunct non-government institution is not required to provide a direct personal response on behalf of the defunct non-government institution.
- (2) If a participating institution is acting as the funder of last resort for a defunct institution and has been identified as equally responsible, it will only be required to offer a direct personal response on its own behalf.
- (3) If a participating defunct institution has a representative, the representative must engage in any requested direct personal response for the institution on behalf of the institution.

Note: If a defunct institution does not have a representative, it will not be participating in the scheme.

Part 4—Review and reporting obligations of participating institutions

15 Review obligations

- (1) After giving a direct personal response, the responsible institution must:
 - (a) ask the survivor for feedback on the direct personal response; and
 - (b) give the survivor details of avenues for providing the feedback.
- (2) The survivor is not obliged to give feedback on the direct personal response.
- (3) The institution must make reasonable efforts to consider, and be responsive to, feedback given.

16 Complaints

- (1) A participating institution must have a process for managing complaints relating to direct personal responses.
- (2) The process:
 - (a) must be communicated to survivors who have requested a direct personal response from the institution; and
 - (b) be available to survivors, including after any initial feedback is provided on the direct personal response.
- (3) The institution must make reasonable efforts to consider, and be responsive to, complaints.

17 Reporting obligations

As soon as practicable after the end of each financial year, each participating institution must give the Operator, in the approved form, the following information:

- (a) the number of requests for direct personal responses made to the institution during the year;
- (b) the number of direct personal responses given by the institution during the year;
- (c) the types of direct personal responses requested of the institution during the year;
- (d) the types of direct personal responses given by the institution during the year;
- (d) the time between each request made to the institution for a direct personal response and the giving of the direct personal response.