



## Submission to the Inquiry into justice responses to sexual violence

Please accept this submission on behalf of Parkerville Children and Youth Care (Parkerville CYC). We welcome the opportunity to respond to the ALRC Issues Paper, as it considers how to harmonise laws about sexual violence across Australia and how to promote just outcomes for people who have experienced sexual violence.

In our submission, we draw upon practice evidence developed through delivering our Multi-agency Investigation and Support Team (MIST), an integrated response to child sexual abuse. As such, we particularly focus on questions under the following themes in the Issues Paper: Reporting the experience of sexual violence safely, the trial process, cross-examination and the law of evidence, specialisation and training of judges and counsel, Restorative Justice, and Compensation Schemes.

We present two detailed case studies at the end of this submission, illustrating the MIST model in practice.

### Acknowledgement

Parkerville CYC acknowledges the lives and experiences of the children, young people and families who are affected by all forms of child abuse and sexual violence. We recognise their individual stories of courage, hope and resilience, and that of all victim-survivors.

Parkerville CYC respectfully acknowledges Aboriginal and Torres Strait Islander peoples as Traditional Owners of this land, and we pay our respect to their Elders past and present.

### Our holistic support to children, young people, and families

Parkerville CYC is a For Purpose organisation that supports children, young people, and their families to build skills and capacity, address the impacts of trauma and adverse childhood experiences, and develop capabilities that will enable them to be the best versions of themselves. We see a future where Western Australia is the safest place in the world and all children, young people, and their families feel safe to dream, to thrive, and to reach their fullest potential. We have been working alongside vulnerable children, young people, and their families for 120 years, and in 2022/23 our programs and services supported over 13,540 people across WA through our therapeutic, out-of-home care, youth, and education services. The future of those we serve depends on what we do in the present to support them to reach their potential.

## Our Values



### **Bold and Courageous**

We stand up for what is right and assist to amplify the voices of the children, young people, families and communities we support.



### **Curious and Humble**

We search out information and data that will help us remain at the forefront of all that we do.



### **Caring and Respectful**

We acknowledge and embrace the diversity and individuality of everyone we meet and all those we serve.



### **Hopeful**

We believe in the power of positivity and are optimistic about change, having faith that together we can overcome any challenge we may face.



### **Truthful and Accountable**

We are committed to being open, honest and taking responsibility for our actions.

## Our Purpose

Our purpose as an organisation is to support children, young people, and their families to build skills and capacity, address the impacts of trauma and adverse childhood experiences, and develop capabilities that will enable them to be the best versions of themselves.

## Parkerville CYC's services

### Therapeutic Services

- **Multi-agency Investigation and Support Team (MIST):** co-located, multi-disciplinary, trauma-informed model to reduce harmful impacts of trauma from abuse. It is WA's first truly integrated child sexual abuse (CSA) response, with Child Advocacy Centres in Armadale (2011) and Midland (2019). MIST's core principle is to reduce instances of children having to tell and re-tell their story, and coordinate services (including Police) to wrap around the child and family, through collaborative relationships and knowledge-sharing.
- **Therapeutic Services:**
  - CSATS:** We provide a Child Sexual Abuse Therapeutic Service (CSATS) in a regional area of WA.
  - PACTS:** We also provide a Parents and Children's Therapeutic Service (PACTS) in a northern Perth suburb. 84% of children and young people receiving a service had experienced child sexual abuse.

### Education Services

- **Child and Parent Centres (CPCs):** Parkerville runs two CPCs in Perth, servicing 12 primary schools in vulnerable communities.
- **Education Employment and Training Program (EET):** For young people at extreme educational risk due to trauma, mental health, family issues

### Youth Services

- **Support and Community Services (SACS):** service for families with children aged 4-14 that are experiencing homelessness, or at risk of homelessness and living in supported accommodation.
- **Moving Out, Moving On (MOMO):** service for young people aged 15-21 who are experiencing homelessness, or at significant risk of homelessness or transience.
- **Reconnect:** diversion and early intervention service for families with young people (12-18) at risk of homelessness or family breakdown.
- **Yong Women's Program:** medium-term accommodation and support for young women (including those with children) aged 16-25 experiencing or at risk of homelessness, or who need help to live independently.
- **Armadale Youth Accommodation Service (AYAS):** short-term crisis accommodation for young people experiencing/at risk of homelessness.

### Our Way Home (Out of Home Care)

- Parkerville CYC cares for 126 children and young people across foster care and family group homes, and an intensive residential program for young people aged 12-17 currently under the care of the Department of Communities. We are implementing an innovative new model (Our Way Home) – radically personalised shared care: focusing on the needs and desires of each child, and deliberately seeking to establish, maintain and deepen connections between children and their families.

## Parkerville CYC's response to the Issues raised in the ALRC Paper

### 1. Reporting the experience of sexual violence safely

#### **Question 3: How can accessing the justice system and reporting be made easier for victim survivors? What would make the process of seeking information and help, and reporting, better?**

As the National Office for Child Safety (First Nations Collective Consulting and Impact Co., 2024<sup>1</sup>) found in its consultation to inform the design and delivery of the national point of referral, many victim-survivors report poor experiences seeking help for child sexual abuse (CSA), including not being believed, being blamed, a lack of empathy from professionals, being rejected from services, or speaking with someone with limited understanding of CSA. Having an advocate to navigate the system and manage associated difficulties, and being able to build trust with this advocate as a single point of support, was found to be helpful. We highlight Parkerville CYC's Multi-Agency Investigation and Support Team (MIST) as a key example of how to facilitate this – critically, in both a trauma-informed and specialist manner, delivered in partnership with Police.

#### **1. Multi-agency Investigation and Support Team (MIST): highly-specialist and trauma-informed aptrnership approach to facilitate access to justice and holistic support**

Parkerville CYC's **MIST** program is a co-located, multi-disciplinary, trauma-informed model to reduce harmful impacts of trauma from abuse. It is WA's first truly integrated child sexual abuse (CSA) response, with Child Advocacy Centres in Armadale (2011) and Midland (2019).

MIST is a place-based and co-located model of best practice that provides services to children, young people and their families following disclosure of sexual abuse or significant physical abuse. The model incorporates a multi-disciplinary team and specialist therapeutic response to enable an efficient and effective model of care and treatment. MIST operates within purpose-built Child, Youth and Family Centres and includes WA Police (WAPOL) Child Abuse Squad Investigating Officers, WAPOL Child Abuse Squad Specialist Child Interviewers, Parkerville CYC Child and Family Advocates, and our teams of mental health specialists, including Psychologists, Children's Counsellors, Family Therapists and Family and Domestic Violence Specialists. Co-location allows for active collaboration and a swift response to the needs of children.

MIST is unique within the Australian context. It has been recognised as best practice, and has demonstrated that the service meets the required clinical, forensic, and child protection outcomes (Bromfield & Herbert, 2017).<sup>2</sup>

In terms of justice system access and reporting, MIST supports victim/survivors through design, delivery, and partnership. Rather than the child, young person and family having to engage with multiple agencies in multiple locations post-disclosure, the MIST partnership (Parkerville and WAPOL) works closely with health and other support services, the Attorney-General's Victim Support and Child Witness Service, and

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<sup>1</sup> First Nations Collective Consulting and Impact Co. (2024). *National Office for Child Safety Community Consultations*

<sup>2</sup> Bromfield, L., & Herbert, J. (2017). Multiagency Investigation & Support Team (MIST) pilot: evaluation report. Adelaide: Australian Centre for Child Protection.

other WAPOL Child Abuse Squad teams; with the Child and Family Advocate acting as central support, holding the child and family through any investigative, child protection and criminal justice processes that ensue.

In process terms, this is achieved at several key stages:

**1. Immediate trauma-informed response to support children and families through assessment and interview.**

- a. **Referral process:** MIST receives a referral, consults with WAPOL, a Police interview is booked, the case is allocated to a Child and Family Advocate, and an initial assessment of risk and need is conducted.
- b. **Interview stage:** Advocate provides pre-interview support and psychoeducation to child and family, support to the family whilst the child or young person is in the interview with the Police, and follow-up support immediately after the interview.
- c. **Duration of immediate response period:** Where required, Parkerville Clinical Psychologists provide acute response, assessment, and treatment.

Critically, this works to create safety for a child or young person post-disclosure [\[Question 4\]](#) to formally report their experience in a manner that meets criminal justice requirements, but is trauma-informed and wraps holistic and highly-informed and specialist professional support around victim-survivors. We also see that the Police response [\[Question 7\]](#) in this initial and immediate disclosure/reporting stage is much more informed by specialist knowledge and skills, and by a shared understanding of the impact of trauma on victim-survivors (and particularly on children and young people).

**2. Interventions and specialist support, including targeted longer-term specialised therapeutic response alongside police investigation and court processes:**

- a. **Child and Family Advocate** undertakes specialist one-to-one sessions, needs assessments, psychoeducational and emotional support for the length of intervention:
  - i. This might be a matter of weeks or months if the family has sufficient psychosocial resources and needs only targeted support from MIST;
  - ii. It might be extended specialist and/or holistic support through the investigation and criminal justice processes (including Protective Behaviours; supportive counselling, liaison with and trusted warm referral to other agencies; support to access housing, financial support and emergency relief; court support and child witness support). This aims to prevent the escalation of problems, or address the immediate reduction of individual or family stressors.
- b. **MIST Family Therapy:** The program takes a family systems approach, recognising that CSA, and specifically disclosure and the post-disclosure period, can precipitate extreme stressors on and breakdown of the family unit (particularly for the families we support with existing complexity, including socio-economic disadvantage, intergenerational trauma and family and domestic violence, for example). MIST includes Family Therapy provision to work intensively with families to bolster functioning and help repair the family system.
- c. **MIST Psychological Services and other counselling services:** Where more intensive psychological and/or counselling support is required, MIST Clinical Psychologists and/or Children's Counsellors provide ongoing individualised specialist treatment for the child or young person, and carer sessions to build knowledge and capacity about how to respond in a trauma-informed manner.

No single service model can address all the factors that influence the outcome of child sexual abuse disclosure. However, wrap-around, specialist supports and early intervention can mitigate harmful impacts in the short, medium, and longer-term. MIST's holistic approach is critical to building trust and a sense of safety, and enabling good outcomes for children, young people, and families. It ensures a safe and healing environment from the first encounter, empowering families with coping skills, and guiding them through interviews, court processes, and therapeutic healing: promoting lasting positive outcomes.

## **2. Benefits of Advocacy model: safe, reliable, accessible, and specialist**

The MIST model gives children, young people, and families the support of an Advocate from the first engagement - generally disclosure and Police interview. This addresses many of the challenges commonly identified as barriers to access, including accessibility, system complexity, and reliability of information. Advocates bring together specialist knowledge, and a trauma-informed approach that prioritises trust and rapport, holding a non-judgemental space for child and family, facilitating provision of immediate psycho/social/practical support, and navigation through criminal, judicial, therapeutic, child protection, health and any other service systems that are required.

This has a critical positive impact for victim-survivors as they move from the initial point of service access and on to other service supports:

- It creates as supportive and trauma-informed an environment around disclosure and initial help-seeking as possible. This builds a foundation of trust and sense of safety, which in turn scaffolds the child and young person to begin their engagement with the criminal justice system (i.e., the Police Interview).
- And by so doing, it reduces post-disclosure stressors for the child and their family, i.e., supporting the carer/parent to support their child through disclosure and recovery, in what may be highly complex circumstances.

## **3. MIST: Importance of dedicated physical space**

In further response to Question 3, we emphasise the significance of space in creating trust, safety, and an effective service response. Our WA Child, Youth and Family Centres go further than simply providing dedicated spaces: in their architecture, design, furnishing, and operation, our Centres are specifically tailored to create a child-friendly, trauma-informed, welcoming, and highly functional space that takes children, young people and families through disclosure, engagement with WAPOL Child Abuse Squad Detectives and Specialist Child Interviewers, Advocacy support, and specialist intervention.

Through intentional design and a child safe ethos at heart, our Centres work to enhance children's and young people's autonomy and sense of control, and promote healing and empowerment – from first engagement, through to departure. Therefore, the role of the physical space supports and scaffolds what our Advocacy does with and for those accessing our services: supporting an immediate trauma-informed response to justice system access, and enabling healing from trauma and enhanced overall wellbeing.

We have included some images of our Armadale and Midland Centres below, to demonstrate the ways in which we have used space to support a feeling of welcome, safety, and accessibility.



George Jones Child, Youth and Family Centre (Armadale)



The Stan and Jean Perron Child, Youth and Family Centre (Midland)



The Stan and Jean Perron Child, Youth and Family Centre (Midland)



## 2. Prosecution responses

The most significant challenges faced by the children and families that we support through the justice system, in terms of engagement with legal practitioners, are related to cross-examination (and therefore, defence counsel). However, it is certainly true that there is scope to improve the Prosecution response, particularly as it relates to children. As a Prosecutor, engaging with children in a trauma-informed and developmentally appropriate manner is not only right in itself; it is the best way to navigate a child through the legal process, facilitate accurate testimony, and support them through cross-examination and beyond. Specialist training is certainly a way to build this capacity within the ODPP, including to help create fundamental culture change in how child victim-survivors should be supported and safeguarded through the justice system. This requires not only a sound understanding of trauma and child development: it necessitates an inter-personal approach that creates trust for a child being asked to re-count their trauma and faced with an unfamiliar, highly formal, confusing, and likely intimidating environment (and people).

We would also add the value of consistency: we have seen in practice that it can be destabilising for a child (particularly those who have experienced significant trauma, and find trust and a sense of safety harder to build and maintain), having built trust (or at least, familiarity) with a Prosecutor, to then start from scratch with another, and sometimes multiple, Prosecutors. Efforts to minimise this kind of change would be of great benefit to child complainants.

The below case study illustrates how much is asked of trauma-affected children at the earlier stages of ODPP engagement, as the providers of evidence in chief.

**Case Study redacted**

### 3. The trial process

Parkerville's MIST Child and Family Advocates frequently provide support to children, young people and families throughout the trial process; not least because families can find it highly challenging to navigate the system – understanding the different court appearances, the transfer from lower to higher court, and the different professionals (such as the ODPP/individual prosecutors and Child Witness Service workers) with whom they interact, and when.

We find that these different intersection points can create confusion and anxiety for families, as they try to navigate through a complex system at a time of heightened distress. Our Advocates therefore play a critical role in pulling together and clarifying their questions, and walking alongside them as a point of consistency across their whole criminal justice journey, from Police Interview through to trial and sentencing.

**Question 12: Do you have views about the measures listed above? Have the measures reduced the trauma of giving evidence? Could they be improved? Have things changed? What is working well? What is not working well?**

#### **Trial process as fundamentally re-traumatising**

We note that whilst the 'special measures' go some way to reducing the trauma of giving evidence, they are in no way sufficient to mitigate the broader, embedded, even systemic and systematic, trauma that the trial process inflicts on children and young people. Whilst the most egregious expression of this can be seen in the cross-examination process, it is nevertheless fundamentally traumatising for a child – at times a very young child – to sit away from parents or caregivers, and be asked to re-count and re-live profoundly painful experiences on camera and in front of adults whom they do not know (or may have met only once or twice), whose presentation is highly formal, and in a physical space that is unfamiliar and at best likely does not feel comforting, and at worst, scary.

We see the excellent work of the Child Witness Service through the Commissioner for Victims of Crime WA in providing child-centred, family-focused and trauma-informed care; working hard to make the system more humane for children, to reduce the impact of a traumatising environment and experience, including by working collaboratively with MIST Child and Family Advocates in the best interests of children. However, even with the mitigation of a Child Witness Service worker or another approved support person (and MIST Child and Family Advocates are asked to fulfil this role by some clients), the process of giving evidence requires the child or young person to sit in their discomfort and trauma, with no recourse to comfort or support until after a break or end is called. This would be highly challenging for most adults – and yet, we expect children and young people to cope and conform to this process.

We commend the use of facility dogs in court as a support and comfort to child witnesses, and in the WA context, the particular work of EverAbility in this regard (and point to their forthcoming research demonstrating the clear positive impact on outcomes for children involved in trial processes).

#### **Impact of delay between disclosure and trial**

The Issues Paper suggests that pre-recording evidence is intended to minimise complainant trauma, by reducing the number of times they need to re-tell their experience, reducing the impact of delay upon complainants associated with lengthy trial lists.

We wish to convey in the strongest terms how little we find this to be true. Children find reserves of courage to disclose sexual abuse and sit in a strange environment with Police to answer questions about profoundly traumatic experiences. Having done so, rather than reassuring them that the hardest part is over, we must prepare children and their families for what is more often than not **years** of waiting, of delay, of uncertainty, before their case comes to trial and they pre-record their evidence. As the Issues paper acknowledges, there is no doubt that delay can have a negative impact on a complainant's capacity to recover from trauma, and the impact of delay is amplified for younger complainants. For the children that MIST supports, our Advocates and mental health professionals can hold the families through the therapeutic relationship. But it must be stressed: this is *all* that we can do. We hold them in all their distress, all their trauma symptomology, for 2 or more years, unable to help them process their trauma through interventions like eye movement desensitisation and reprocessing (EMDR), all to avoid the potential for impacting upon a cross-examination that is likely years away, and – as we often find – subject to repeated delay initiated by defence counsel.

#### 4. Cross-examination and the law of evidence

##### Impact of cross-examination on children and young people

**Question 23: Are the legislative provisions adequate to protect complainants during cross-examination? If not, how could they be improved? Should they be harmonised?**

We commend the extensive research evidence about the flaws of the adversarial system as it applies to child witnesses, not least that cross-examination can cause children to give unreliable evidence: they have particular difficulties remembering what happened a long time after the event, may not realise they have misunderstood a question or seek to clarify complex or confusing questions (Bowden *et al*, 2014).<sup>3</sup> This is exacerbated by defence tactics that seem intended to confuse, manipulate and take advantage of these characteristics. As Cossins notes, mental abuse, intimidation, humiliation, and accusations of lying by defence lawyers are relatively common occurrences in child sexual assault trials in Australia, cross-examination questions have been shown to produce inaccurate testimony from a majority of children who had previously given accurate testimony, and defence counsel deliberately use complex and leading questions that are developmentally inappropriate and repetitive to produce inaccuracies and inconsistencies in children's testimony: "The belief that a cross-examiner has uncovered a dishonest and inconsistent witness could, in the case of a child witness, actually mean that cross-examination has produced a confused and/or psychologically stressed child who has succumbed to the effects of complex, misleading, or aggressive questioning even when he or she was originally telling the truth" (Cossins, 2009).<sup>4</sup> We see this profound harm for the children and young people that we support through MIST:

- **During cross-examination:** Time and again, our Advocates and mental health specialists report that any progress that a child or young person has been able to make towards healing and coping skills can be undone as a direct consequence of cross-examination: of being accused of lying, triggered or goaded to an emotional reaction that destabilises their equilibrium and undermines

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<sup>3</sup> Bowden, P., Henning, T., and Plater, D. (2014). "Balancing Fairness to Victims, Society and Defendants in the Cross-Examination of Vulnerable Witnesses: An Impossible Triangulation?" *Melbourne University Law Review*, Vol. 37

<sup>4</sup> Cossins, A. (2009). "Cross-Examination in Child Sexual Assault Trials: Evidentiary Safeguard or an Opportunity to Confuse?" *Melbourne University Law Review* 33:1

their testimony, or subject to insinuation about their behaviour and motives. As the ALRC itself reported in the 2005 *Uniform Evidence Law Report*, child witnesses, particularly in child sexual assault cases, are often berated and harassed to the point of breakdown during cross-examination. Quite simply, children cannot match the cognitive and linguistic abilities of defence counsel, nor the way that the latter exploit this: it is a fundamentally mis-matched and unequal dynamic. This is particularly insidious for the significant proportion of our clients who come from families with complex need and multiple disadvantage, including poverty and inter-generational trauma.

- **After cross-examination:** MIST Child and Family Advocates, Psychologists, and other MIST mental health specialists frequently hold children in the fallout from cross-examination, with many left with lasting impacts from the re-traumatisation of this experience during their pre-recording.

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Until there is resounding consensus that subjecting children to this manner of judicially-sanctioned treatment is unacceptable – first and foremost, as a profound harm to the child, but also in evidentiary terms – no legislative provision will be sufficient to protect child complainants. Cross-examination in an adversarial system is unsafe for child victim-survivors of sexual abuse, and is ineffective in producing reliable testimony.

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Below, we present some case snapshots of recent children and young people that our MIST service has supported through to trial:

#### MIST Advocacy support

##### Case Study redacted

#### MIST Psychology support

MIST Psychologists report numerous cases of supporting children over multiple years whilst they wait for trial; during which they cannot meaningfully support their clients to process trauma from abuse, and cannot ethically discharge them given the frequent decline in mental health and escalating behaviours from unprocessed trauma.

In particular, children and young people are unable to commence eye movement desensitisation and reprocessing (EMDR) until after trial. EMDR therapy is based on the idea that traumatic experiences can cause disruptions in the brain's information processing system, and that by using bilateral stimulation, such as eye movements or taps, these disruptions can be processed and resolved. It is a well-supported and effective treatment for children who have experienced trauma.

However, it is alleged that the treatment's impact on altering how traumatic memories are stored 'contaminates' complainant testimony, by 'tampering' with memory. Whilst it may be the case that EMDR can result in a witness being less emotive when giving testimony or during cross-examination, 'an important result of EMDR therapy can be a more coherent witness compared to the survivor who floods

with emotion when testifying' (Terrell, 2019).<sup>5</sup> Requiring children to delay effective trauma processing treatment due to inaccurate beliefs about its impact on memory compounds the harm already perpetrated, and plays into a pernicious perception of unreliability and falsehood in children's disclosures of sexual abuse.

**Case Study redacted**

## 5. Specialisation and training of judges and counsel

Research has shown that despite both legislation and the common law empowering courts with discretionary power to control and limit cross-examination, there is reluctance to intervene in regard to vulnerable witnesses. This may be fear about jeopardising the defendant's right to a fair trial or risk of an appeal (Bowden *et al*, 2014), or because many judicial officers are appointed with a defence background, so do not see a problem with the process (Cossins, 2009). However, given evidence from research, and what we see to be true in practice through MIST, that cross-examination of children risks unreliable evidence and profound re-traumatisation, there must be a fundamental re-think of child witness treatment, including through specialisation and training.

**Question 33: Do you have views about the creation of specialist courts, sections, or lists? Do you support specialised training for judges who conduct sexual offence cases? What issues should that training address? Do you support some form of special accreditation for lawyers who appear in sexual offence cases?**

Given the scope of evidence that we have drawn from or presented above, we are strongly in favour of specialised training and special accreditation of judicial officers and lawyers (both prosecution and defence); and/or, drawing upon specialist expertise during trial. This would have multiple clear benefits in terms of child sexual abuse cases; strengthening understanding about:

- The impact of CSA, including impact on and interplay of child development
- Intersectionality and culture, particularly when considering the needs and responses of children and young people during trial, and particularly cross-examination
- How children respond to questioning - younger children particularly tend to assume that if the same question is repeated, the original answer must have been incorrect and therefore may change their answers, particularly because children tend to defer to what they perceive to be the adult's beliefs (Keay, 2013)<sup>6</sup>

With these foundations more firmly in place, a wholesale culture change could more effectively embed; one that (although we question both the ethics and logic of cross-examining child victim-survivors of sexual abuse) holds psychological safety as a non-negotiable feature of cross-examination and enables children to share the truth of their experience, by:

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<sup>5</sup> Terrell, A. (2019). "Considerations when Targeting Rape with EMDR", *EMDR and Beyond*. Accessed 23 May 2024, [CONSIDERATIONS WHEN TARGETING RAPE WITH EMDR - Blog - EMDR & Beyond \(emdrandbeyond.com\)](https://emdrandbeyond.com/)

<sup>6</sup> Keay, N. (2013). *Competence of Children to give evidence in Criminal Proceedings & Cross-Examination of Child Witnesses*, CriminalCPD. Accessed at [Cross Examining Children - Nerissa Keay \(criminalcpd.net.au\)](https://criminalcpd.net.au/)

- Creating stronger guidance to lawyers about developing and delivering lines of questioning (the questions themselves, and the manner of delivery) that first and foremost, do not seek to trigger an emotional response, and ultimately, actively seek to mitigate the risk of this, founded in a commitment to preventing re-traumatisation of vulnerable witnesses.
- Creating space in the trial condition for a child or young person to take a breath, and have the space to respond in as measured a way as possible; recognising that a child re-counting the circumstances of their trauma will likely experience anxiety, emotional reactivity, and speak from a position of fear.

## 6. Appellate proceedings

### In response to Questions 43 and 44

We acknowledge that appeals processes seek to prevent miscarriages of justice and correct 'excessive (or inadequate) sentences, and welcome the acknowledgement in the Issues Paper that the appeals process can be traumatic for victim-survivors for a variety of reasons. As with the other issues that form the Inquiry's mandate, we ask that particular consideration is given to how this can be experienced by children who, having gone through the journey of disclosure, pre-recording, cross-examination and sentencing, must make sense of an additional process that likely continues to delay their trauma recovery – and may call on them to give pre-recorded evidence again, which as we noted above, can be overwhelming and re-traumatising. The following case study illustrates some of the complexity faced by the children and families that MIST supports in relation to the appeals process.

### Case Study redacted

## 7. Restorative Justice

### Question 47: What are your ideas for implementing restorative justice as a way of responding to sexual violence?

As an organisation named in the Royal Commission into Institutional Responses to Child Sexual Abuse and part of the National Redress Scheme, we have seen the power of symbolic reparation from our experience of responding to historical CSA claims against Parkerville itself: letters, being present and listening with compassion, and acknowledging that the abuse occurred can be profoundly important in aiding people's healing. By pursuing compensation, victims/survivors may be looking for understanding and compassion, acceptance of responsibility, and some means of restitution, compensation, and action to ensure that such abuse does not happen to others (Cashmore & Shackel, 2013<sup>7</sup>).

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<sup>7</sup> Cashmore, J., and Shackel, R. (2013). "Responding to child sexual abuse", *Australian Review of Public Affairs*, May. Retrieved at: [ARPA: Responding to child sexual abuse \(australianreview.net\)](http://arpa.ans.net.au/child-sexual-abuse)

Parkerville has undertaken several core actions to respond proactively and sensitively to historical claims, including placing a full Apology on our website; and employing Historical Claims staff to manage the investigation and resolution of claims, and to ensure that former residents receive the necessary support and attention to their individual cases as part of their journey to restitution.

Scaffolding all of this, however, is our **social, restorative justice approach**, led by Parkerville's CEO: offering former residents a validating interaction by taking institutional accountability, responding flexibly, bearing witness to their experience, giving and holding space for their negative feelings and pain. This includes responding to former residents as quickly as possible, ensuring that they are offered engagement with us as and when required (for example, before and after mediation). We find that most civil claimants have accepted the offer to talk directly with Parkerville's CEO.

We have never gone to court, and do not wish to go to court: we do not want to put applicants through a likely re-traumatising experience. Throughout our history, children have come into Parkerville's care because they have experienced significant trauma, and where there has been abuse in our care, it has compounded that pre-existing trauma. We do not wish to trigger this further, and that is our primary, guiding aim in our response to and management of historical claims.

We are strongly in favour of effective and meaningful efforts to support survivors of child sexual abuse who are seeking justice. We see from our experience as an organisation that restorative justice approaches can have meaning and impact for victim-survivors, if underpinned by strong governance mechanisms and a trauma-informed ethos.

## 8. Compensation Schemes

In our response below, we draw upon our submission to The Treasury's 2023 consultation, *Access to offenders' superannuation for victims and survivors of child sexual abuse*.

### **In response to Questions 52 and 53**

For the children and families that we support through MIST, disclosing abuse and going through the Specialist Investigative interview may be the first step in a lengthy investigative process to bring the case to trial, and include potential involvement with multiple additional services and concurrent processes (legal, health, social care, community) – all in the context of responding to and attempting to heal from highly traumatic experiences.

Making an application for compensation calls for engagement with another complex process, shortly after a likely challenging, painful, and protracted criminal justice process. We have found that system navigation support is required by most families that we support to pursue compensation: from the first steps of where to find the correct information and initiate a claim, to making the first phone calls to what may not be a trauma-informed service. Even for those families with cognitive and emotional capacity and a stable environment and support system, where knowledge of, and interest in undertaking, compensation claims do exist, it can be highly challenging to navigate the process when they are within a trauma space.

The following issues should also be noted:

### Interplay of multiple disadvantage/complex needs within the family system

Difficulty navigating the system is particularly true for the families we support with more complex needs and experiencing multiple disadvantages, for whom contextual antecedent factors (e.g., family and domestic violence, poverty, mental health, intergenerational trauma and/or parental CSA history), mediating factors (e.g., developmental delays, dissociation) and post-disclosure stressors shape a family's post-disclosure response and recovery. Their priorities – and therefore the focus of Parkerville's Child and Family Advocates (CFA) in their support - are likely to be security and stability, and making it through the investigative and judicial processes. For families in a state of priority management, then navigating the compensation process (and doing so within required timeframes) may represent too high a burden.

- Our CFAs support clients as far as possible with access to legal support and required documentation such as Victim Impact Statements and independent psychological assessments, but the resources (whether financial, or cognitive/emotional) required can act as deterrent. We support families to engage with Legal Aid, but service requirements (support is provided at the lawyer's discretion, and strict booking procedures are in place) create access barriers for families with complex needs and/or are transient, and for young people without networks of support.
  - Our CFAs also support a number of young people who have no family support, are homeless or at risk from homelessness. Creating immediate (and more sustainable) stability in their environment and navigating the judicial process are the overwhelming priorities for the young person and team around them. Again, navigating an additional legal/bureaucratic process in this context, with few material and psychosocial resources, is highly challenging.

### Re-traumatisation risks

Recounting sexual abuse can be a highly traumatic experience for children and young people. Parkerville's multi-disciplinary approach seeks to mitigate this through holistic and trauma-informed care: in particular, as part of the Specialist Investigative interview, a trauma-informed model ensures a child-friendly environment in how the room is set up, and enables the child to feel more safe and regulated through the involvement of and support from their Advocate. In-house psychological services can provide an acute response on the day of interview, alongside subsequent priority referrals for assessment and treatment. This model, in design and practice, recognises that repeating details of their story to different professionals, at different times, in different environments, is challenging and likely re-traumatising.

A desire to avoid recounting and reliving trauma is therefore a key barrier to seeking compensation, with additional interactions with more professionals, investigations, and assessments – likely not in a trauma-informed, or indeed child-friendly, environment - to meet the burden of proof for financial redress. Again, this is particularly pertinent for families with complex needs and multiple disadvantage.

### Child sexual abuse: determining 'injury'

Researchers have made the case for CSA's 'exceptionalism' in the framework of victims' compensation schemes: a child does not have the capacity to consent to sexual activity; it is a violation of the child's bodily integrity by whatever means that violation is achieved; the resultant harm may take a great variety of forms, and may emerge immediately or at a later time, or in different ways in different times, entangled with other contextual traumatic factors; the offence may be better characterised not in terms of isolated incidents, but rather as continuous experiences within the context of an ongoing relationship (e.g.,

familial) with the perpetrator, and without corroborating witnesses (Forster and Parkinson, 2000<sup>8</sup>; Mathews, 2016<sup>9</sup>).

As Mathews (2016) has highlighted, trauma symptoms inherently compromise a person's capacity to initiate a compensation claim: they will avoid trauma-related stimuli, including revisiting the events and obtaining evidence of injury caused by the abuse. And yet, the compensation process requires children and young people to undergo assessment with an independent psychologist with whom they have no existing therapeutic relationship, in which they are asked to provide as much detail about their experiences - their trauma - as possible. This is not conducive to, or in line with, trauma-informed care, and given what we know about risk of re-traumatisation and/or avoidance of trauma-related stimuli, likely to present a very real barrier to children and young people following the compensation process through to completion.

#### **MIST model in practice: Case Study 1**

**Case study redacted**

#### **MIST model in practice: Case Study 2**

**Case study redacted**

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<sup>8</sup> Forster, C. and Parkinson, P. (2000). "Compensating child sexual assault victims within statutory schemes: imagining a more effective compensatory framework", *University of New South Wales Law Journal* 23:2, 172-195

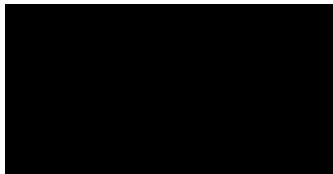
<sup>9</sup> Mathews, B. (2016). "Child sexual abuse and access to justice for civil claims: reform of statutes of limitation in Canada, the USA and Australia", *ISPCAN Calgary*. Retrieved at: [Microsoft PowerPoint - Mathews%20LAA%20ISPCAN%20August%202016.pptx \[Read-Only\] \(qut.edu.au\)](#)

## Summary

In our work supporting vulnerable children, young people, and families, we are continually awed by the resilience they display in managing the impacts of abuse, trauma and/or other, often overlapping, challenges. Trauma-informed, person-centred care is at the heart of Parkerville's work, and we endeavour to circumnavigate seemingly implacable systemic barriers by working with agility and flexibility, leveraging relationships and finding workarounds to access services.

As things stand, the trial process in particular is failing to meet a fundamental duty of care to children and young people, particularly by delaying the ability of children and young people to process their trauma as they wait years for trial, and (implicitly or not) condoning traumatising cross-examination practices. We strongly support efforts to promote just outcomes for victim/survivors of sexual violence. Children and young people who have been highly disadvantaged by abuse, trauma, and other adverse childhood experiences, whose often complex and multiple needs repeatedly fail to be accommodated, require, and deserve, a system that supports them at the point of need, reduces system complexity and secondary victimisation, and affords them dignity and care as they demonstrate immense bravery to engage with the justice system.

Yours sincerely,



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May 2024