



**Commission of Inquiry into
the Tasmanian Government's
Responses to Child Sexual
Abuse in Institutional Settings**

WITNESS STATEMENT OF WARREN STRANGE

I, Warren Strange of Level 20, 144 Edward Street, Brisbane, in the State of Queensland, Chief Executive Officer, [REDACTED], do solemnly and sincerely declare that:

- 1 I am authorised by knowmore Legal Service (**knowmore**) to make this statement on its behalf.
- 2 I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.

BACKGROUND AND QUALIFICATIONS

- 3 I have the following qualifications:
 - (a) Master of Laws, Queensland University of Technology, 1997
 - (b) Bachelor degrees in Law and Science (psychology major), University of New South Wales, 1987, and
 - (c) I completed the Practical Legal Training Course at the New South Wales College of Law in December 1987 and was admitted as a solicitor of the Supreme Court of New South Wales on 18 December 1987; the Supreme Court of Queensland on 22 February 1988; and entered on the Register of Practitioners for the High Court of Australia on 25 August 1988.
- 4 My current role is the Chief Executive Officer of knowmore, which I have held since mid-2015.
- 5 My previous roles have relevantly included:
 - (a) I acted as knowmore's Executive Officer (which is in effect the CEO role) from late 2014 until my appointment to that role in mid-2015
 - (b) between May 2013 and November 2014, I was the Principal Lawyer at knowmore
 - (c) between June 2010 and May 2013, I held the office of Assistant Commissioner, Misconduct, with the (then) Queensland Crime and

Misconduct Commission, where I led the Commission's police and public sector misconduct functions

- (d) between November 2004 and June 2011, I worked in a senior role within Legal Aid Queensland, where I led the Criminal Law section;
- (e) between August 1992 and November 2004 I worked in various legal roles with the (then) Criminal Justice Commission/Crime and Misconduct Commission, and
- (f) between 1988 and 1991, I was an employed lawyer in private practice, practising in a broad range of litigation matters.

- 6 I am a current member of the Queensland Sentencing Advisory Council. I was appointed to that role in November 2016.
- 7 I am a Current Member of the Queensland Law Society (I hold a principal's practicing certificate) and an Associate Member of the New South Wales Law Society
- 8 Attached to this statement and marked **WS-1** is a copy of my curriculum vitae.

KNOWMORE'S HISTORY

- 9 knowmore is a national, free and independent legal service providing legal information, advice, representation and referrals, education and systemic advocacy for victims and survivors of child abuse.
- 10 knowmore was established in 2013 to assist victims and survivors who were engaging with or considering engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse (**National Royal Commission**). At the time of the establishment of the National Royal Commission, the community legal sector in particular advocated for the provision of legal support for victims and survivors to enable them to access the National Royal Commission and to be supported and empowered to make informed decisions about engaging with the Commission. In early 2013 the Commonwealth Government funded the national peak body for community legal centres in Australia [then the National Association of Community Legal Centres (**NACLC**), now Community Legal Centres Australia), to establish the knowmore service

as a program of NACLCL. knowmore now operates as a national, community legal centre.

- 11 Between 2013 and 2018, during the National Royal Commission, knowmore supported approximately 9,000 victims and survivors. The majority of these clients were victims and survivors of institutional child sexual abuse. This support included advice and guidance on how to engage with the National Royal Commission and provision of assistance during that engagement; how to make complaints about government institutions; how to report experiences of child sexual abuse to the police; and how to access and amend records from their time in care. knowmore also offered victims and survivors advice on their redress options and how to obtain further advice about potential civil claims arising from circumstances of institutional abuse.
- 12 knowmore was involved in various outreach and community engagement activities, including many held in Tasmania, to raise local awareness about the services offered by knowmore and to provide information and support regarding the National Royal Commission.

VICTIM-SURVIVORS AND THE DIFFICULTY OF DEALING WITH INSTITUTIONS

- 13 Since knowmore was established, we have been mindful that victims and survivors are often required to deal with 'institutions', whether that is the National Royal Commission, this Commission of Inquiry or the National Redress Scheme, to address the harm caused to them in other institutions.
- 14 knowmore is primarily funded by federal government grants but operates independently as a community legal centre. knowmore observes all legal practice obligations relating to client confidentiality and respects our clients' concerns around the privacy of the information they provide to us.
- 15 Many of the victims and survivors knowmore represents are very alert to any perceived associations between services and institutions seen as being responsible for the historical ill-treatment of children, including government. As part of its service approach to clients, knowmore has always promoted its independence from government and institutions, in order to seek to address these legitimate concerns and any questions that arise about knowmore's independence.

- 16 This is done through an approach of being transparent about knowmore's source of funding, explaining to clients during their engagement with knowmore how our service operates as an independent community legal centre, and demonstrating independence in our client work, and in other activities, such as our law reform contributions.
- 17 In recognition of the complex trauma that impacts our client group as a result of their experiences of childhood abuse, knowmore strives to operate as a trauma-informed and culturally safe service for victims and survivors (see paragraphs 58 to 65).
- 18 In my experience, a significant part of gaining a client's trust in these matters involves listening to the client and discussing the outcomes they are seeking, while providing clear information about the options that exist for them (such as the available forms of redress) and also being clear as to what knowmore can and cannot assist them with, setting realistic expectations for all concerned. Many of our clients have previously told their story in other forums without any positive outcome; for example, to police or officials of a relevant institution, such as the Department of Education. It is important for knowmore to allow clients to make informed choices about their options, and to allow clients to set their own pace for their matter. It is also crucial for knowmore to build trust within local communities, and to respect the scepticism, and often difficulty of engaging, that many victims and survivors of child sexual abuse understandably have.

KNOWMORE'S SERVICES

- 19 From 2018 onwards, knowmore transitioned its primary focus to supporting victims and survivors of institutional child sexual abuse to access redress under the National Redress Scheme. This work is funded by grant funding, provided by the Commonwealth through the Attorney-General's Department **(AGD)**. The National Redress Scheme came into effect on 1 July 2018. Since the National Redress Scheme commenced, knowmore has helped over 10,000 victims and survivors.
- 20 knowmore also receives additional Commonwealth grant funding to provide the following services:

- (a) in 2019 knowmore received funding, through the Department of Social Services (**DSS**), to undertake capacity building activities such as developing and delivering training packages, related materials and resources, mentoring and providing ongoing support to Redress Support Services (These are other services funded to assist survivors engaging with the National Redress Scheme)
- (b) from 1 May 2021, knowmore has received funding through DSS to provide access to specialist financial counselling services to participants in the National Redress Scheme
- (c) from 23 December 2021, knowmore has received funding through the AGD to provide legal advice about the legal options for victims and survivors of child sexual abuse outside the institutional context; this will increase the number of individuals who are eligible to access knowmore's services. It will also expand support for knowmore's existing 'crossover' clients, who experienced child sexual abuse in both institutional and non-institutional settings, and
- (d) From 1 March 2022, knowmore has received funding through the National Indigenous Australians Agency to provide legal and financial counselling support services to people participating in the Territories Stolen Generations Redress Scheme.

knowmore's legal support

21 knowmore provides its clients with detailed advice about their potential avenues of redress. This includes the possibility of seeking redress through means other than the National Redress Scheme; for example, in a civil claim before the courts for damages. knowmore does not provide detailed legal advice regarding the prospects of success of a potential civil claim, but refers clients for such advice (see below). knowmore's focus is on the various avenues available to a potential client through the National Redress Scheme or other redress options, or by way of civil litigation through the courts, and supporting the client to make an informed decision about what action to take. knowmore supports and encourages clients to explore all potential options before accessing the National Redress Scheme pathway, and particularly to consider the option of a civil claim. This is important because accepting an

offer of redress under the National Redress Scheme requires a claimant to relinquish their civil rights against participating institutions and officials. Also, with the maximum redress payment under the National Redress Scheme capped at \$150,000, it is possible that some survivors may be able to obtain a much higher amount through an award of damages, if a civil claim can be successfully pursued.

- 22 knowmore assists its clients by identifying the comparative pros and cons of seeking redress through the National Redress Scheme compared to pursuing civil litigation which includes:
- (a) the different standards of proof and evidentiary requirements
 - (b) how the National Redress Scheme is a paper based process which does not require an appearance in person or cross examination
 - (c) the comparative potential outcomes where a claim is successful, importantly the impact of the \$150,000 cap on any successful claim under the National Redress Scheme
 - (d) the relative timeframes for a determination; the National Redress Scheme was established to be a quicker alternative scheme to litigation but there are still some lengthy delays with processing times reported to be around 12 months last year, this is contrasted to civil litigation which could take up to 2 years or more
 - (e) the anonymity and privacy around a National Redress Scheme claim compared to the potentially public nature of court proceedings, and
 - (f) the status of the responsible institutions, and whether they can be sued (for example, whether they still exist and/or have assets to meet any judgment).
- 23 This is consistent with the overall objective of enabling the client to make an informed choice about their chosen form of redress.
- 24 By way of illustration, civil litigation tends to be a longer and more complex process when compared to the National Redress Scheme process, and therefore may not be appealing to some survivors, particularly those that are elderly and/or in poor health. Approximately 20% of knowmore's clients are identified as 'priority' clients where they are of advanced age, and/or have

identified immediate and serious health concerns such as a diagnosis of terminal cancer or other life-threatening illnesses. However, for some clients, civil litigation may offer the opportunity to access greater financial recompense than under the National Redress Scheme which, as noted above, is capped at \$150,000 for a successful claim. Further, for some of our clients, the anonymity of making a claim through the National Redress Scheme, compared to the public nature of court proceedings, is a primary and determinative factor.

- 25 At present knowmore is looking to grow its physical presence in Tasmania to improve opportunities for service delivery through outreach to a broader cross-section of the Tasmanian population. Following the easing of restrictions arising from the COVID-19 pandemic, and also an appreciable shift in attitude of local services towards receiving visitors from other jurisdictions, in March 2022 knowmore recommenced its program of regular outreach to Tasmania. These trips involve multidisciplinary teams travelling to centres in Tasmania to meet with clients and partner services. A further trip is scheduled for late April 2022 and thereafter knowmore is planning to conduct such visits on a regular two monthly cycle.

External legal advice

- 26 knowmore has a referral panel of private law firms. This panel is used for referrals of clients who wish to obtain detailed advice about the prospects of success of any potential civil claim, and sometimes in cases where knowmore has a conflict and cannot provide a client with advice and/or act for them in an application to the National Redress Scheme,
- 27 The panel law firms need to have an established practice and experience in undertaking compensation claims on behalf of sexual abuse survivors; must be able to demonstrate experience and commitment to trauma-informed practice; and must act on a genuine no-win, no-fee basis (including meeting any necessary disbursements) to give clients detailed advice and litigation support in respect of child sexual abuse claims, where a client opts to seek recourse through civil litigation. As explained above, knowmore does not itself provide detailed advice on the merits of a client's potential civil claim; its assistance is generally limited to giving clients information about the avenues of redress available to them.

- 28 knowmore engages its panel law firms through a memorandum of understanding (**MOU**). The purposes of this memorandum are to ensure:
- (a) clear and effective communication between knowmore and the law firm as referrals are made from knowmore to the law firm
 - (b) clients receive the best possible advice and, if appropriate, representation in relation to compensation claims for institutional child abuse
 - (c) transparent processes are in place in relation to referrals back to knowmore for redress applications to be completed for clients, and
 - (d) arrangements are in place to deal with conflict situations which may arise from time to time within knowmore.
- 29 The MOU contains mutual obligations which include:
- (a) The law firm must declare any association or working relationship with a survivor advocacy group or other support groups who are assisting survivors to apply to the National Redress Scheme, another redress scheme or in relation to a civil action. This includes a declaration of any financial relationship between the law firm and such groups.
 - (b) The law firm must also advise of any association with an institution (including past or current representation), which may give rise to an actual or perceived conflict of interest in respect of the referral of clients from knowmore.
 - (c) The law firm must indicate a willingness to engage support services in the process of providing assistance to clients, and to make appropriate referrals for counselling needs.
 - (d) The law firm must demonstrate capacity to brief counsel who are able to provide representation in a trauma-informed way.
 - (e) The law firm is expected to be fair and reasonable in charging their fees.
 - (f) Where the law firm advises the best course of action is for the client is to make an application under the National Redress Scheme, or the

client decides this would be their preferred choice, the client must be advised that:

- (i) knowmore can make the application on their behalf at no cost, and
 - (ii) the client can complete the application themselves or with a Redress Support Service at no cost.
- (g) In circumstances where the law firm intends to offer to complete the application to the National Redress Scheme, the law firm must additionally provide full details to the client as to the cost, or range of costs, the client will need to pay the law firm.
- (h) knowmore's expectation, where the client instructs that they have decided to pursue an application to the National Redress Scheme, is that the client will be referred back to knowmore to assist with making that application, free of charge to the client, in order to maximise the monetary benefit that the client may realise from any redress payment.
- (i) It is acknowledged that a client may decide that they wish to retain the law firm to act on their behalf in respect of such an application.
- (j) From time to time knowmore will be contacted by survivors and/or their supporters to provide feedback about their experiences with law firms on knowmore's referral panel. If at any time knowmore receives feedback, or other information, which may warrant reassessing a firm's eligibility to remain on the referral panel, knowmore will contact the firm to discuss that information.
- (k) Where knowmore has a conflict of interest and cannot provide a victim or survivor with initial advice, advice upon an offer of redress received from the National Redress Scheme, or act in preparation of an application to the Scheme (and where the victim or survivor cannot be referred to a Redress Support Service or another community legal centre that could act for the client free of charge); knowmore will refer the victim/survivor to a law firm, and pay fees at an agreed rate, as set out in the MOU.

- 30 To be on knowmore's panel, law firms must meet the practice, experience and other requirements as set out within the MOU, and be willing to sign and abide by the MOU. knowmore's Principal Lawyer will meet with principals of the law firm to discuss knowmore's expectations and the firm's experience.
- 31 knowmore's panel firms are located nationwide. There is a small number of firms which accept referrals of clients residing in Tasmania and/or who have potential claims arising in Tasmania.

National Redress Scheme applications

- 32 knowmore provides all clients who complete intake with initial advice about their legal options and related issues. Where following consideration of that initial advice a client determines that they want to make an application to the National Redress Scheme, knowmore will either refer that client to a suitable local Redress Support Service to assist, or will itself act for the client to prepare that application. Generally, knowmore will itself act in matters where clients have complex support needs or legally complex redress claims.
- 33 Examples of a client's complex support needs include where the victim or survivor has a terminal illness and circumstances require an application to be prepared and lodged urgently; or where the client is experiencing significant distress as a result of engaging about their justice options (and may have a recent history of self-harm); or where the client requires cultural support from knowmore's Aboriginal and Torres Strait Islander Engagement team to provide instructions to support their application.
- 34 Examples of legally complex redress claims include where a client:
- (a) has a serious criminal conviction, that impacts on their eligibility to apply to the National Redress Scheme
 - (b) may otherwise be facing an issue around their eligibility to apply to the Scheme (for example, whether the sexual abuse they suffered happened in an 'institutional' context)
 - (c) has previously received payments relevant to the particular instance(s) of institutional abuse, which may operate as 'prior relevant payments' to reduce their redress payment under the National Redress Scheme, or

(d) was housed in multiple institutions which were responsible for their abuse, and where some of those institutions may not be participating in the National Redress Scheme, or may be 'defunct' institutions (for the purposes of the Scheme).

35 The legislation establishing the National Redress Scheme contains provisions which impact upon the eligibility to apply of victims and survivors who have ever received a sentence of five years or more imprisonment (that is, who within the meaning of the legislation have been convicted of a 'serious criminal offence'). Potential applicants in this position must go through a special assessment process before they can make application for redress. This requires the provision of information to the Scheme about the relevant offences, with the Scheme then requesting advice from:

(a) the Attorney-General in the state or territory where the victim/survivor was abused; and

(b) the Attorney-General in the state or territory where the relevant offence occurred (if different).

36 The Scheme Operator then makes a decision about the entitlement of the applicant, after receiving the above advice, and taking into account factors set out in the legislation, such as the nature of the offence and the sentence; and the period of time since the offence was committed and the victim/survivor's rehabilitation.

37 In knowmore's experience, approaches on this issue differ across the jurisdictions. We have seen examples where the Tasmanian Attorney-General has opposed the potential eligibility of claims, in circumstances where we would have anticipated that at least some other State Attorneys would not have opposed an application on those same facts. We have also observed lengthy delays in cases involving Tasmania and serious criminal convictions; in one case amounting to a delay of over one year (since lodging the serious criminal conviction form and application) in hearing of whether the survivor will be allowed to proceed with their application. This has understandably caused significant distress and disappointment for this client.

38 The serious criminal conviction provisions and process were not implemented as a result of any recommendation by the Royal Commission. The requirement

is particularly impactful for a number of knowmore's Tasmanian clients who may have had a life trajectory involving the occurrence of abuse while in out of home care and/or youth detention settings, which then led on to committing offences as a young adult (often related to substance addiction issues), including crimes which involved a 'serious criminal conviction'.

- 39 In terms of non-legal support, where a Scheme claim appears to be straightforward and the client does not have complex support needs and/or has existing relationships with support workers, such as social workers and psychologists, knowmore may refer the client to a local Redress Support Service to progress their National Redress Scheme application. There are a number of services funded by the Commonwealth Government to provide this support; all are listed on the website of the National Redress Scheme by national, state and territory listings.
- 40 As noted above, knowmore is also funded to work with the Redress Support Services to build and support their capability. The listed Tasmanian Redress Support Services are currently the Sexual Assault Support Service Inc., Relationships Australia Tasmania, Blue Knot Foundation, Sexual Assault Counselling Australia, Bravehearts, People with Disability Australia, CLAN (Care Leavers Australasia Network), the Child Migrants Trust and In Good Faith Foundation.
- 41 knowmore works with these services to deliver training and information and to provide support through assisting with reviewing draft National Redress Scheme applications, providing case consultation services and assistance through a worker support line. knowmore and the services also refer clients as dependent upon the client's needs; for example, a Redress Support Service may be assisting a client with a National Redress Scheme application and issues of some legal complexity emerge during that process – this may lead to consultation and a referral to knowmore to continue with the victim-survivor's application.
- 42 From June 2021 knowmore has been funded by the Commonwealth to provide financial counselling services to people engaging with the National Redress

Scheme.¹ The purpose of these services is to provide advice and assist with matters such as protection of redress payments from creditors and others, the impact of payments upon entitlements such as benefits, aged care and housing, giving effect to the victim/survivor's wishes regarding their use of their payment and helping survivors maximise the benefit of payments received.

Police referrals

- 43 knowmore often provides information and advice to clients about speaking to the police about their sexual abuse and the process of making complaints to the police. This involves explaining reporting processes and options, the possible timeframes and the nature of potential outcomes. It can be immensely difficult for a client to make a police complaint, particularly in circumstances where a previous report to authorities, often made at the time when the abuse happened, was not believed; if police previously took little or no action on a complaint; or if the survivor has had previous adverse contact with police.
- 44 In some instances, knowmore has helped clients engage directly with specialist police detectives in units or taskforces that have specific experience dealing with child sexual abuse and its impact. Such police detectives are more likely to take a trauma-informed approach in understanding how victims present, particularly victims of historical child sexual abuse. The existence of specialist units and detectives helps to reduce the need for victim-survivors to present at a local police station and speak to multiple police officers, and/or be required to engage in multiple referrals, possibly resulting in an unsatisfactory experience and outcomes of abandoning their complaint.

KNOWMORE'S CLIENT DEMOGRAPHICS

Overview of knowmore's clients in Tasmania

- 45 The State of Tasmania is overrepresented in knowmore's client base with around 4% of knowmore's clients residing in Tasmania, compared to

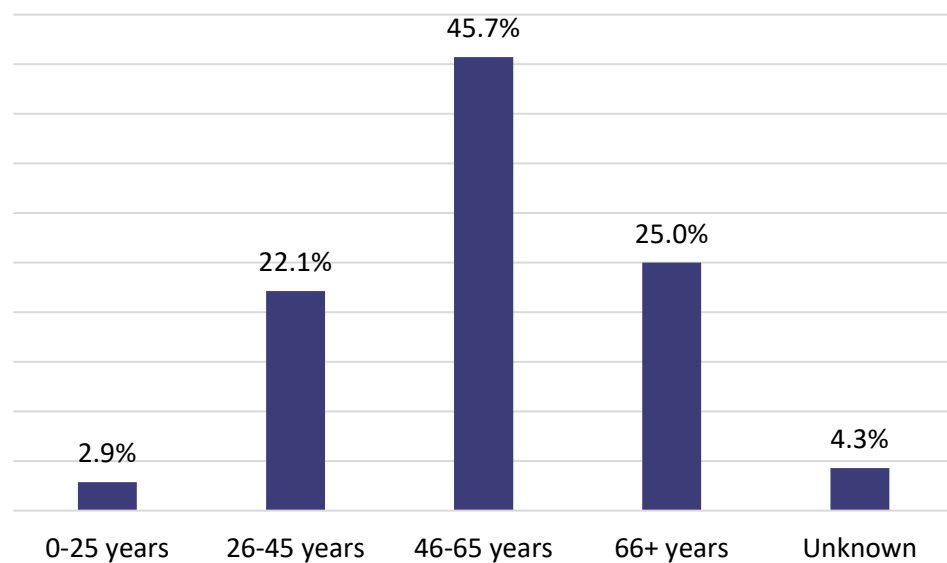
¹ From late 2018 to June 2021, knowmore provided limited financial counselling services with funding from a grant provided by the Financial Counselling Foundation

Tasmania's population, which constitutes only around 2% of the Australian population.

46 As at 9 February 2022, knowmore had 420 clients living in Tasmania.

47 The majority of clients were over the age of 45 years (45.7% aged 46 to 65 years and 25.0% aged 66 years and over; see Figure 1).

Figure 1: Age of knowmore clients living in Tasmania

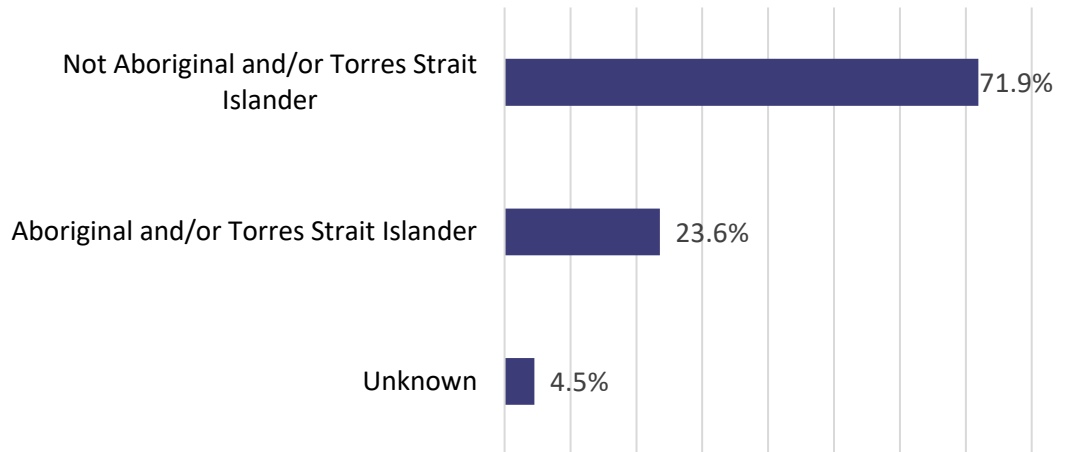


Note: Total number of clients = 420.

Source: knowmore client data as at 9 February 2022.

48 Almost a quarter of clients (23.6%) identified as Aboriginal and/or Torres Strait Islander people (see Figure 2).

Figure 2: Aboriginal and/or Torres Strait Islander identification of knowmore clients living in Tasmania

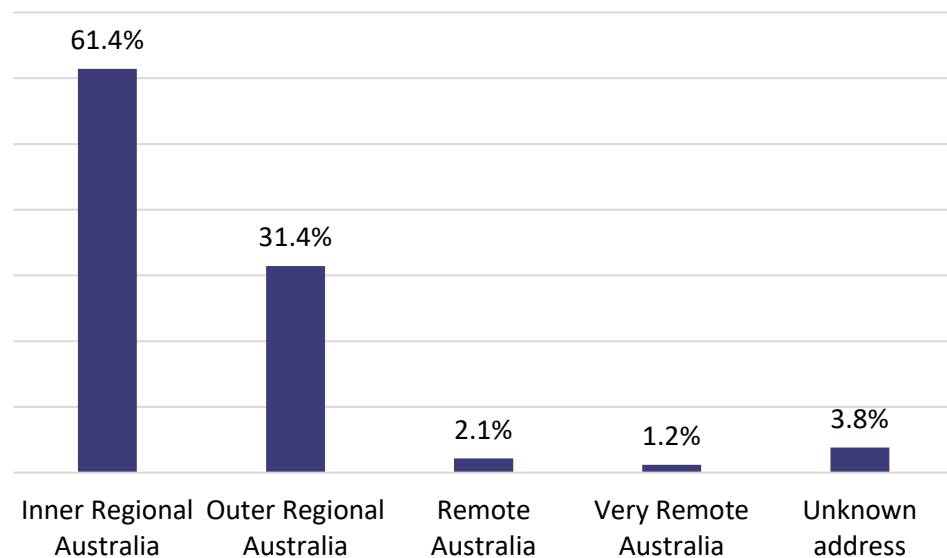


Note: Total number of clients = 420.

Source: knowmore client data as at 9 February 2022.

- 49 Most clients (61.4%) lived in areas classified as inner regional (i.e. around Hobart, Launceston and Devonport), although a small number of clients (3.3%) lived in remote and very remote areas (see Figure 3).

Figure 3: Geographical location of knowmore clients living in Tasmania

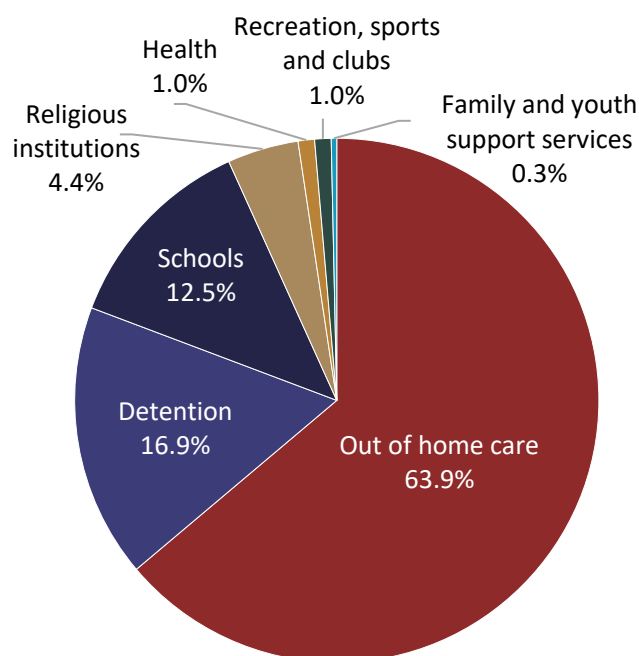


Notes: Total number of clients = 420; classifications reflect the [Australian Statistical Geography Standard \(ASGS\) Remoteness Structure](#).

Source: knowmore client data as at 9 February 2022.

50 Consistent with the data provided in our submission, the top three types of Tasmanian institutions named by knowmore clients continue to be out of home care (63.9% of named Tasmanian institutions), detention (16.9%) and schools (12.5%; see Figure 4).

Figure 4: Tasmanian institutions named by knowmore clients



Note: Total number of named institutions = 296.

Source: knowmore client data as at 9 February 2022.

51 In my opinion there are a couple of key reasons for knowmore's significant client base in Tasmania, which I have discussed below:

- (a) First, Tasmania had in place an Abuse in State Care compensation scheme (**Abuse in State Care Scheme**) between July 2003 and February 2013. Under the Abuse in State Care Scheme the State made *ex gratia* payments to victim-survivors of over \$54 million. The scheme sought to assist victim-survivors who were the subject of sexual, physical or emotional abuse in state care as children. In my experience State-based redress schemes (those prior to the National Redress Scheme) have generally raised awareness amongst victim-survivors around rights and engagement. Consequently this may lead to higher rates of participation in inquiries, accessing services and

promotion of connections between victim-survivors and support services, as well as connections between victim-survivors.

- (b) Secondly, the Ashley Youth Detention Centre is a particularly high profile institution. As noted above in Figure 4, a significant number of victim-survivors have contacted knowmore after being abused in Ashley Youth Detention Centre. The majority of the abuse we have seen in Ashley Youth Detention Centre is historical. More contemporaneous allegations of abuse in AYDC are likely to increase as victim-survivors decide to access support and redress later in their adulthood (consistent with the Royal Commission's finding that it takes victims and survivors 22 years, on average, to disclose their experience of child sexual abuse).

knowmore's client demographics generally

- 52 Approximately 33% of knowmore's clients nationally identify as Aboriginal and/or Torres Strait Islander. Aboriginal and Torres Strait Islander people are vastly overrepresented in our client base for two key reasons:
- (a) first, the high rates of Aboriginal and Torres Strait Islander victim-survivors are a consequence of previous policies around the removal of children from families and communities together with the historical and contemporaneous overrepresentation of Aboriginal and Torres Strait Islander children in child protection and youth detention settings, and
- (b) secondly, knowmore's active engagement strategy focuses on overcoming the barriers for Aboriginal and Torres Strait Islander people in accessing justice, through the leadership of knowmore's Aboriginal and Torres Strait Islander engagement team.
- 53 Approximately 17% of knowmore's staff identify as Aboriginal and/or Torres Strait Islander. knowmore's Aboriginal and Torres Strait Islander engagement team consists of male and female Aboriginal Engagement Advisors based across Australia, as well as an Elder in Residence. Staff who identify as Aboriginal and Torres Strait Islander also work in other roles, in knowmore's intake, legal and financial counselling teams. knowmore's Aboriginal engagement team enables it to provide services to its Aboriginal and Torres

Strait Islander clients in a culturally safe and trauma-informed way, with the goal of overcoming the barriers for Aboriginal and Torres Strait Islander people to access redress for their experiences of child sexual abuse. The Aboriginal and Torres Strait Islander Engagement team is led by Dean Bell, who is a descendent of the Ngunawal Aboriginal peoples of the Yass/Canberra region. Dean has worked with knowmore since its establishment in 2013.

- 54 The team has two Senior Advisor roles and male and female Advisors in each office. Our Elder in Residence, Aunty Glendra Stubbs, explains how the team supports and works with Aboriginal and Torres Strait Islander people in this video, on knowmore's website: <https://knowmore.org.au/services/aboriginal-and-torres-strait-islander-engagement/>.

Out of home care

- 55 As above, over 63% of knowmore's clients report experiencing abuse in out of home care, in settings such as foster care where children are placed in the care of the state.
- 56 A number of our out of home care clients also report experiencing abuse as children in multiple settings. Often, this causes a trajectory through life in which the child is placed in out of home care because of an experience of abuse, and then experiences abuse in that setting. The child may then go on to youth detention, where the child may experience further abuse.
- 57 Out of home care is classed as an institutional setting for the purpose of the National Redress Scheme. However, abuse in out of home care is not covered under the National Redress Scheme if a child is formally adopted. knowmore works with clients and with the Redress Support Services to clarify that distinction.

WHAT ARE THE KEY FEATURES OF TRAUMA-INFORMED AND CULTURALLY SAFE SERVICES?

- 58 knowmore aims to deliver its services in a safe and sustainable way taking a trauma-informed and culturally safe approach. Each of these aspects is discussed below.

Trauma-informed practice

- 59 Trauma-informed practice is focused on ensuring that everyone that works with our clients understand, as far as possible, the impacts that our clients' experiences of trauma has had on their lives and how they might present, and ensures that we have the right skills to work well with them. In our work with clients we seek to reduce the risks of re-traumatisation and to observe the five principles of trauma-informed practice – safety, trustworthiness, choice, collaboration and empowerment.
- 60 knowmore works using a client-centred and multidisciplinary service model. This involves lawyers and financial counsellors working alongside social workers and counsellors, and Aboriginal and Torres Strait Islander engagement officers, who provide support by helping our lawyers to understand clients' complex needs so that advice and services are tailored to support them, and helping the victim-survivor clients to understand the advice provided to them, and to provide instructions. In short, we aim to reduce any 'silos' between our disciplines and to wrap our services around clients, as they need, instead of asking them to navigate our services on their own. As a lawyer, trauma-informed practice can require a culture shift, allowing clients to make choices and proceeding at a pace at which the client is comfortable. Trauma-informed practice aims to minimise re-traumatisation, with knowmore staff giving clients information, and respecting each client's choice to make decisions in their own best interest (for example, respecting a client's choice not to pursue a civil or redress claim because of the impact upon their mental health).
- 61 Respectful communication is critical to trauma-informed practice. Our clients' vulnerable circumstances makes it very important for knowmore to adhere to commitments around client contact and appointments. knowmore strives to provide its services in a timely manner as possible, within the limitations of its resources and the ongoing impacts of the COVID-19 pandemic. knowmore also strives to communicate with clients in ways that are appropriate and accessible; for example, through developing resources that meet accessibility standards, and which may be specifically targeted to particular victims and survivors, such as Aboriginal and Torres Strait Islander peoples.

62 As part of our trauma-informed approach to provision of services, knowmore regularly visits remote communities to establish and build trust and relationships through outreach programs, before we engage with clients in those communities, the objective being to understand the relevant context and ensure that knowmore's engagement does not cause any unintended further harm. This engagement can take different forms, such as the engagement with community services and representatives, and the holding of community forums (usually with another, local service) or other events.

Cultural safety

63 As a result of the overrepresentation of Aboriginal and Torres Strait Islander people within knowmore's client base, a significant part of knowmore's service focus relates to ensuring that Aboriginal and Torres Strait Islander clients' Cultural needs are met.

64 knowmore's Aboriginal and Torres Strait Islander Engagement team explain Cultural safety in these terms, which I quote with the team's approval:

***Cultural Safety** is when there is no assault, challenge or denial on a person's cultural identity. For Aboriginal and/or Torres Strait Islander peoples, **cultural safety** is an environment in which one feels safe to express themselves spiritually, socially, culturally and emotionally in which their cultural needs are met and respected.*

65 knowmore seeks to provide its services in a Culturally safe manner by offering every Aboriginal and/or Torres Strait Islander client appropriate Cultural support. This may include accommodating their preference around the gender of the person they would prefer to work with. knowmore has always focused on employing Aboriginal and Torres Strait Islander staff who can provide the cultural expertise required to ensure Aboriginal and Torres Strait Islander clients receive Culturally safe services.

AVAILABILITY OF SUPPORT SERVICES FOR VICTIM-SURVIVORS

66 knowmore works closely with the Redress Support Services in Tasmania, and with other key services supporting Tasmanian victims and survivors, such as the Hobart, Launceston and North-West Community Legal Centres, Laurel

House, the South-East Tasmanian Aboriginal Corporation, the Women's Legal Service and Legal Aid Tasmania. Among the funded Redress Support Services we work particularly closely in Tasmania with Relationships Australia and the Sexual Assault Support Service.

- 67 We have good working relationships with all of the above services, which all provide excellent support to victim-survivors of child sexual abuse, with committed staff members and good collaboration between services. Unfortunately, however, the number of services and the volume of clients those services are capable of supporting is relatively limited.
- 68 There are no Aboriginal services currently funded as Redress Support Services to support Aboriginal victims and survivors in Tasmania. While some Aboriginal corporations can assist survivors, their capacity is limited without specific funding to provide support with redress.
- 69 In recent years, and particularly during the COVID-19 pandemic, we have found that many of the support services knowmore works with are at capacity, with waiting lists for the provision of services and limited capacity at times to accept referrals. Much of that unprecedented increase is COVID-19-related, as pandemic-related stressors have added to the often already complex mosaic of existing concerns. This has been the case nationwide across Australia, including in Tasmania.
- 70 Victims and survivors living in regional and remote areas, including in Tasmania, are often at a disadvantage in accessing appropriate, specialist service, particularly if needing face-to-face support. As an alternative a client may be offered counselling by telephone; this is not an attractive or comfortable proposition to many victims and survivors. I am aware of one such client living in a small town in regional Tasmania who has a strong preference for receiving face-to-face support, but the closest town which receives outreach services from the relevant Redress Support Service is still an hour's drive away. Due to the clients' work commitments and health issues undertaking this type of travel regularly is problematic. Services aimed at men are also less readily available in Tasmania, despite men being overrepresented in knowmore's client group (59% of knowmore's clients are men). That overrepresentation appears to be a result of the historical overrepresentation of boys in institutional settings such as youth detention and out of home care.

- 71 Outside the services noted above, there appears to be a limited number of specialist, trauma-informed practitioners in private practice (psychologists, counsellors, social workers) available across Tasmania to deliver support to survivors – this is also reflected in limited entries in the Trauma Support Providers Directory. Services generally (health, mental health, alcohol and drug etc) also appear to be more limited in Tasmania compared to more populous states.
- 72 As a consequence of the above factors, knowmore often has difficulty providing clients with suitable and accessible options for ongoing support / therapeutic support. knowmore's in-house social workers do not have a role of treating our clients trauma in a long-term, therapeutic way. Their purpose is to provide support to the client during their engagement with knowmore. This can result in issues arising around the dependency which can develop, and which have to be carefully managed.
- 73 During the COVID-19 pandemic, we experienced a dramatic uplift in contact from our existing clients, whose anxiety levels were heightened. This was prevalent at times in all states and territories, including Tasmania, but more particularly so in those States such as Victoria and NSW that were heavily impacted by prolonged COVID-19 lockdowns. In contrast we have taken on fewer new clients at times during the pandemic (again, sometimes linked to hard lock-down periods); this may have been a consequence of the impact of the COVID-19 pandemic, with victim-survivors considering that now was 'not the time' to seek redress for institutional child sex abuse they experienced, such potential clients being concerned that it may add further trauma additional to that attributable to the current pandemic environment.

NATIONAL REDRESS SCHEME

- 74 The commencement of the National Redress Scheme has undoubtedly been helpful for victim-survivors as an alternative to civil litigation against the institutions at which they experienced sexual abuse. It is also a scheme which is operated and which determines applications from redress independently from the institution(s) responsible for the applicant's abuse.

- 75 In our experience, we have seen that redress can be life-changing for victim-survivors. Often it is not simply about the monetary value of the redress payment; for some victim-survivors it is more about:
- (a) an acknowledgment and access to some form of justice
 - (b) holding the responsible institutions to account
 - (c) obtaining a direct personal response and apology from the institution(s) concerned, and
 - (d) contributing to preventative measures to ensure that something similar does not happen to children in institutions in the future.
- 76 However, the National Redress Scheme is not without its flaws, both in its design and in its implementation, details of which knowmore has addressed in its submissions to the relevant oversight bodies such as the Parliament of Australia, the Parliament's Joint Select Committees on the implementation of the National Redress Scheme, and the Second year review of the Scheme. I will discuss some of these issues below.

Eligibility

- 77 The issue of eligibility is a key one. Some victims and survivors may not be prima facie eligible for the scheme, or they may be required to clear significant hurdles before accessing the National Redress Scheme. I touched on this earlier in this statement in the context of victim-survivors who have been convicted of serious criminal offences. As noted, this is contrary to the view of the National Royal Commission that the National Redress Scheme must provide equal access and equal treatment for all victim-survivors. As noted, there are also differences across the states in how these applications are dealt with. knowmore has previously indicated its support for a recommendation made by the first Joint Select Committee (of the Australian Parliament) on the Implementation of the National Redress Scheme:

The Committee recommends that Commonwealth, state and territory governments agree to and implement amendments that would allow all survivors who are currently in gaol or who have been sentenced to imprisonment for five years or longer to apply for and receive redress, unless:

- *the Operator decides in relation to a particular survivor that providing redress would bring the scheme into disrepute or adversely affect public confidence in the scheme; and*
- *this decision of the Operator is based on publicly available guidelines that set a high threshold for bringing the scheme into disrepute or adversely affecting public confidence in the scheme.*

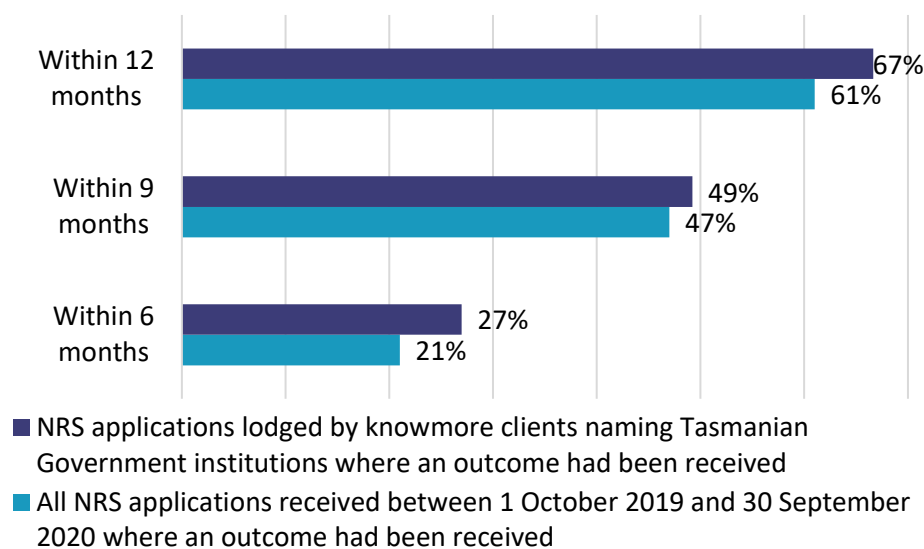
78 Further, only victim-survivors who experienced institutional child sexual abuse prior to 2018 are eligible for redress under the current National Redress Scheme. knowmore considers that civil litigation may be the better option for many young people experiencing abuse since 2018 as it is likely to result in more significant monetary redress, and evidence to support claims may be more available. While that may be generally true, civil litigation might not be the preferred option for everyone. The legislation establishing the National Redress Scheme does have a review mechanism within it so there is the possibility that it could be extended, however this remains to be seen. knowmore will be advocating for an extension to the scheme at the appropriate point in time. We also understand that there will be victims and survivors who are currently eligible and who will not come forward during the 10 year life of the Scheme as it is simply not the right time for them to do this; for example, for reasons relating to their health; lack of support etc.

79 The National Royal Commission found that victim-survivors only disclose suffering child sexual abuse an average of 22 years after the date it actually occurred, with men taking longer than women to disclose. With this in mind, we consider that it would be beneficial for the National Redress Scheme to be extended as a national scheme to also assist post-2018 victim-survivors, and pre-2018 victims and survivors who were not able to come forward during the 10 years of the Scheme's operation. An alternative option to extending the National Redress Scheme would be for each State to implement their own child sexual abuse redress schemes. A State to State approach may, however, result in further inconsistencies and inequalities between jurisdictions compared with a National Scheme, because individual States will be differently funded, have different processes and may adopt different attitudes towards institutional child sexual abuse.

Excessive assessment timeframes

- 80 The lengthy delays in some victim-survivors receiving a decision from the National Redress Scheme on their claim is a significant and ongoing problem for many of knowmore's clients. While we have seen improvements in these timeframes over time, some of knowmore's clients with applications currently in progress have been waiting for more than 12 months for an assessment.
- 81 At the time of its implementation, the National Redress Scheme was promoted as a timelier avenue for obtaining redress compared with civil litigation. However, given the delays in the National Redress Scheme process, in some cases victim-survivors would have received a resolution in civil litigation within a similar timeframe, together with a potentially substantially higher settlement sum from the institution. We understand that a lack of resourcing, coupled with a lack of transparency regarding accurate assessment timeframes, were key factors which have resulted in those delays.
- 82 Delay in reaching a decision is a significant source of distress, anxiety and frustration for knowmore's clients. In our experience, a clients' distress over the delay is heightened by the lack of information and visibility about how long it may take to receive a decision from the National Redress Scheme.
- 83 When a claimant lodges a redress application with the National Redress Scheme, the National Redress Scheme's first step as a matter of course is to seek the relevant records from the appropriate institution(s). If there is a delay in meeting those records requests, the assessment time for a determination is further impacted.
- 84 An analysis of 52 NRS applications lodged by knowmore clients naming Tasmanian Government institutions where an outcome had been received indicates that the timeframes for processing these applications are similar to the timeframes for processing applications to the Scheme generally (see Figure 5 below). Put another way, there is no indication that applications naming Tasmanian Government institutions take longer to process than NRS applications generally.

Figure 5: Processing times for NRS applications lodged by knowmore clients naming Tasmanian Government institutions vs for NRS applications generally



Note: Total number for knowmore clients = 52; total number for all NRS applications = 1,916.

Source: knowmore client data as at 9 February 2022; [NRS Strategic Success Measures](#) data as at 31 March 2021 (published July 2021, p. 4).

Procedural fairness

85 In our submission to the Second Year Review of the National Redress Scheme knowmore raised a number of concerns around the lack of transparency and procedural fairness in the Scheme's decision-making processes. These included:

- 1. The lack of transparency surrounding the Assessment Framework Policy Guidelines.*
- 2. The lack of natural justice for survivors.*
- 3. The lack of the provision of adequate reasons for determinations to applicants.*
- 4. The lack of transparency and fairness in the internal review process.*

These problems risk undermining a survivor's trust and confidence in the decision-making process and their ability to understand how or why a decision has been made. It is not uncommon for a survivor to experience these problems cumulatively. For some, it has impacted their overall perception of the redress process and whether the decision they received was fair, making it difficult to accept the outcome and progress their healing. For others, it has perpetuated the power imbalance they have frequently experienced when engaging with institutions. In some instances, a lack of transparency and procedural fairness in the decision-making process may also raise concerns about the correctness of a determination. These same shortcomings may prevent survivors from rectifying any error in the decision. For example, without an understanding of the policy framework underpinning the decision and/or the reasons for the decision, it is difficult for survivors to make an informed choice about whether to exercise their right to seek an internal review.

86 In the above submission knowmore made a number of recommendations to address these issues.

Survivor advocacy businesses

87 knowmore is particularly concerned about the exploitative practices of 'survivor advocacy businesses' established in response to the National Redress Scheme. By 'survivor advocacy business', we mean private businesses, fronted by a victim-survivor, operating a service that refers victim-survivors to law firms, for a referral fee, and purports to add value by preparing an initial legal statement. These businesses are in effect 'claim farmers' – they target vulnerable victim-survivors, including Aboriginal and Torres Strait Islander victim-survivors, victim-survivors with low literacy levels, and particularly those in prison populations. The law firms retained by 'survivor advocacy businesses' are also, in our experience, more likely to engage in exploitative practices, which include having clients to sign costs agreements that they may not fully understand.

88 In one of the most egregious examples recently brought to our attention, a client of knowmore was sent a costs agreement by a law firm they had never been in contact with. We understand that an acquaintance of our client gave

their name to a victim-survivor farming business, which in turn passed our client's name onto the law firm. Our client said that they 'felt used and taken advantage of' by these lawyers, and felt that the lawyers 'were out to make money from [their] pain.'

- 89 We have widely advocated our adverse views about these businesses, for example, by making submissions to the Joint Select Committee for reforms to address this exploitation. We have recommended, amongst other things, that:
- (a) legislative provisions are introduced to eradicate 'claim farming' with respect to the National Redress Scheme
 - (b) impose a legal obligation on lawyers to advise a potential client of the availability of free services (knowmore and the Redress Support Services), and to certify such advice has been provided, before executing a costs agreement for a National Redress Scheme application
 - (c) that a set of expected practice standards for lawyers and victim-survivor advocates providing services to victim-survivors seeking redress is implemented, and
 - (d) that the National Redress Scheme provides information and a complaints-handling process for potential applicants relevant to their decision to hire a lawyer or victim-survivor's advocate.
- 90 The Queensland Government has recently introduced a Bill (the Personal Injuries Proceedings and Other Legislation Amendment Bill 2022) to stop claim farming for all personal injury claims, including those arising from institutional child sexual abuse. The Bill also aims to prevent undesirable costs agreement practices by law firms in personal injury claims.
- 91 We commend the leadership of the Queensland Government in progressing these reforms and would strongly encourage the Tasmanian Government to pursue similar reforms as soon as possible.

ALTERNATIVE RECOURSE AND THE ROLE OF RESTORATIVE JUSTICE

- 92 Restorative justice is a criminal justice response that focuses on the harm caused by criminal behaviour to people, relationships and community. It

provides a framework for addressing and preventing harm which focuses on healing rather than punishment, encouraging the perpetrator and the victim to work collaboratively towards an outcome.

- 93 knowmore's clients' thoughts on using restorative justice in institutional child sexual abuse settings covers the spectrum of views. Some clients may, in their particular circumstances, support the approach. However, many others advocate for increased severity of consequences for perpetrators, which arises from a general notion that perpetrators do not receive sufficient custodial sentences. The majority of knowmore's victim-survivor clients do not wish to re-engage with their perpetrators and their preference is towards punishment and deterrence, to prevent what happened to them from occurring to other children.
- 94 In my view, there are four main barriers to adopting a restorative justice approach in institutional child sexual abuse matters, as follows:
- (a) there is a complex dynamic of power coupled with the seriousness of child sexual abuse offending, especially in institutional settings
 - (b) there is an unwillingness of many victim-survivors to seek a restorative justice outcome with a perpetrator
 - (c) there is an unwillingness and unavailability of perpetrators to participate in a restorative justice approach, particularly given the long time it may take for many victims and survivors to report child sexual abuse, and
 - (d) the limited effectiveness of any restorative justice approach in deterring criminal offending by others and reflecting society's condemnation of the perpetrator's conduct (as is done through the criminal justice process).
- 95 My own view (acknowledging my limited experience in this area) is that I see restorative justice as more appropriate in matters such as some cases of intra-familial abuse, where victim-survivors may potentially wish to have an ongoing relationship with their perpetrator, or do not wish to see their perpetrator imprisoned. Any such application or process should be evidence-based and informed by the views of experts.

- 96 Notwithstanding the general views expressed by the majority of knowmore's clients, we support victims and survivors having the option to participate in restorative justice processes within or alongside the criminal justice system, provided there are appropriate safeguards, such as ensuring any decision made by a victim-survivor to participate is fully-informed and free from the alleged perpetrator's influence, and is made with appropriate support (including legal advice) and after proper consideration.
- 97 There is an element of restorative justice in the direct personal response component of the National Redress Scheme where, for example, a victim-survivor may receive an apology from a representative of the institution in which they were abused.

ACCESS TO RECORDS AND RELEASE OF RECORDS

- 98 We work with many victim-survivors who do not have copies of their records relating to their time in care or time spent in relevant institutions. These records may assist victim-survivors in obtaining adequate legal advice and provide sufficient evidence to make a successful National Redress Scheme claim, or indeed to pursue a successful civil action against the institution. Even in a National Redress Scheme institutional claim, a victim-survivor must show that abuse occurred to them while they were in that institutional setting, and support their claim to a standard of proof of 'reasonable likelihood.'
- 99 While records do not often contain any direct evidence of sexual abuse, they might record details about hospitalisation, contain medical records or details of behavioural issues that correlate with a victim-survivor's account of abuse at that relevant time.
- 100 Records can also be very meaningful to people who have very few records of their own from their times as a child; for example they may have no photographs from when they were children. They may assist in restoring a sense of who an individual is, where they came from, why they went into care, and may help re-establish family connections.
- 101 Record keeping and facilitating access to institutional records is generally suboptimal throughout institutions nationwide, however in our experience the

problem is particularly pronounced in Tasmania in several key areas which are discussed below.

Redactions

- 102 When releasing records, the responsible government agency often heavily redacts those records. This includes redacting third parties' names within those records to accord with internal policy requirements developed by those agencies, for example third party confidentiality issues. This often results in large sections of text, including the names of family members, being blacked out.
- 103 Such redactions within records can be re-traumatising for a victim-survivor. Not only can those redactions impact upon the capacity to provide accurate legal advice, they can leave the victim-survivor in the dark about parts of their own history and abuse. In cases involving government records and claims against government agencies, the applicant's trauma is exacerbated by such decisions (about redaction) being made by the same institution perceived as responsible for the victim-survivor's child abuse.
- 104 In our view there is a need for government agencies to apply their redaction policies flexibly in respect of this particular applicant group, and to understand the motivations of applicants seeking access to their records. A trauma-informed approach should be adopted. In this context, all decision makers should receive at least some training in trauma-informed practice.

Delays

- 105 Delays in providing access to records is a key issue nationwide, and is particularly pronounced in Tasmania. Records requests in Tasmania have taken as long as two years, and generally can take up to 18 months. Such delays can obviously be re-traumatising for victim-survivors who, having embarked on the process of obtaining information, have difficulty in progressing their options for justice due to inability to access records made about them in a timely way.
- 106 knowmore is at times told by Tasmanian government agencies, such as the Department of Communities Tasmania, to which many of our Tasmanian records requests are directed, that lack of resourcing and the volume of National Redress Scheme applications is the cause of those delays. However,

other states that are working within similar restrictions appear to be more responsive.

- 107 It can generally take up to 18 months to receive records from the Abuse in State Care Compensation Scheme. It is noted that some Tasmanian departments regularly process record requests more quickly (e.g. the Department of Premier and Cabinet). There also appear to be some issues in departments according priority to records requests made by health priority clients. In one case, knowmore was asked to provide extensive medical information in support of the request for priority, with it still taking just under a year to receive records.

THE STATE OF TASMANIA AS A CIVIL LITIGANT

- 108 Tasmania, along with other State government departments and institutions around Australia, has implemented model litigant guidelines 2019 which guide its conduct in civil proceedings. Attached to this statement and marked **WS-2** is the Tasmanian Model Litigant Guidelines (the **Guidelines**). The Guidelines require Tasmania to fulfil its role as a 'moral exemplar' in litigation and requires, amongst other things, matters to be dealt with efficiently and expeditiously, and to avoid litigation in preference for settlement wherever possible.
- 109 As noted above, knowmore does not act for clients in civil claims. Feedback from our panel lawyers about the approach of the Tasmanian government to claims based on institutional child sexual abuse varies, and reflects the following views:
- (a) Some panel firms have advised that their experience is that the Tasmanian Government is less willing than some mainstream religious institutions to participate in genuine settlement conferences (prior to issuing proceedings), and adopts an overly adversarial approach to the conduct of proceedings (which leads to further delay and angst for victim-survivors); and
 - (b) Claims against the Tasmanian Government are taking on average between 12 to 18 months to finalise.

(c) Others have reported a more recent cultural shift in claims against the Government, reflected in obtaining significant and successful settlement outcomes.

110 We strongly support the provision of appropriate training to all government lawyers and departmental staff involved in responding to claims based on child sexual abuse, to promulgate a better understanding of child sexual abuse and its impacts, and the importance of a trauma informed approach. While it may seem attractive to judge the severity of a victim-survivor's trauma based on the objective severity of the offending that happened to them (for example, the level of violence involved and injury caused), all lawyers involved in these claims need to better understand that victim-survivors have individual, complex trauma, which may manifest in different ways. Even child sexual abuse judged to be at the 'lower' end of an objective severity spectrum might be incredibly traumatising, and the delays and failures to negotiate contribute to that trauma further.

TASMANIAN GOVERNMENT PROGRESS AND AREAS FOR REFORMS

111 In my view there are a number of areas in need of reform to improve the State of Tasmania's response to, and prevention of, child sexual abuse. These include ensuring that the National Royal Commission's recommendations are promptly and fully implemented, ensuring that the Tasmanian Integrity Commission is sufficiently equipped and plays a more active external oversight role to the public sector, and increasing the age of criminal responsibility to 14 years. Details of these are discussed below.

Fourth Annual Progress Report

112 The Tasmanian Government's Fourth Annual Progress report on the implementation of the National Royal Commission's recommendations reflects progress in many areas (including timely progress in the implementation of the National Royal Commission's recommendations relating to civil litigation and redress), but there remains significant work to be done. For example, there are important criminal justice reforms, such as the introduction of a new criminal offence of failing to protect a child, which need to be prioritised. Most other jurisdictions have implemented these reforms.

- 113 The progression of legislation to allow the reception of additional tendency and coincidence evidence, while a challenging area of evidence law, is also very important to victims and survivors, and in preventing perpetrators from continuing to offend.
- 114 We welcome the announcement made earlier in 2021, and noted in the report, that the Tasmanian Government will be closing the Ashley Youth Detention Centre.

Integrity bodies

- 115 Appropriately resourced, integrity agencies can be effective oversight mechanisms. I have experienced examples of their effectiveness in other integrity agencies, for example, while I was employed at the Queensland Criminal Justice Commission (as it then was), we held a lengthy public inquiry into multiple complaints of abuse relating to a residential institution for adults with disability. We held lengthy public hearings and produced a public report which ultimately led to the closure of that institution. I was also involved in a large inquiry in 2004 into Queensland's child protection system which was motivated by investigations into egregious examples of abuse of children in foster care and apparent lack of appropriate oversights. This led to public hearings, a lengthy public report, widespread policy reform and the creation of a standalone child safety department.
- 116 In my experience, integrity agencies if appropriately empowered and resourced can really bring to the forefront these types of issues. There was an investigative focus during these hearings but also a policy and systemic procedural reform focus.
- 117 In Tasmania, the Tasmanian Integrity Commission is tasked with investigating and preventing public sector misconduct, including misconduct which may enable, fail to respond to, or fail to prevent child sexual abuse. The Tasmanian Integrity Commission receives reports from any member of the public, and its scope of responsibility encompasses the Tasmanian State Service, as well other government agencies and public entities such as Tasmania Police.
- 118 knowmore has no direct experience with the Tasmanian Integrity Commission but is concerned about the issues that have been reported by other sources surrounding the gaps in effective oversight of government actions giving rise to

complaints, and the powers that exist within the Tasmanian Integrity Commission to investigate such matters. For example, we understand that the Tasmanian Integrity Commission:

- (a) has never held a full inquiry since its inception in 2010, meaning it has not used its investigative powers to expose corruption and misconduct in the Tasmanian public service
- (b) does not hold hearings or make findings, and
- (c) publishes limited reports that do not seek to address systemic issues.²

119 In order to be effective, in my view integrity bodies such as the Tasmanian Integrity Commission must be appropriately empowered and appropriately resourced, have an investigative and policy reform focus, and hold public hearings. Review of the procedures, powers and scope of the Tasmanian Integrity Commission to ensure that it can effectively address systemic issues within the Tasmanian Government's responses to institutional child sexual abuse that suggest corrupt or other criminal conduct would be an advantageous development in providing additional oversight and contributing to the safety of children in Tasmanian institutions

Age of criminal responsibility

120 The National Royal Commission found that certain settings, including youth detention settings such as AYDC, are high risk settings due to a variety of factors, including:

- (a) the level of access adults have to children, and
- (b) the frequently complex needs and histories of abuse, neglect and other trauma that increase the vulnerability of children to both sexual and non-sexual abuse while in detention.

121 knowmore considers that bringing young children below the age of 14 into these environments is detrimental because, among other things, it exposes children to an environment of increased risk that may result in the child experiencing trauma which has lifelong consequences. The experience of child

² The Australia Institute, *Tasmania's toothless watchdog* (2018), p 23.

sexual abuse in youth detention can have significant, lifelong impacts for victim-survivors, particularly in contributing to later criminal behaviour and leading to patterns of recurrent imprisonment. This has an onward impact for society through healthcare needs, criminal justice implications and the funding of adult correctional facilities.

122 Currently, the minimum age of criminal responsibility in Tasmania is 10 years. This is in line with other Australian jurisdictions but is significantly lower than the global average of 12.1 years.

123 The Tasmanian government has recently taken the positive step alongside other Australia States to consistently increase the minimum age of criminal responsibility from 10 years to 12 years, an initiative which knowmore supports. However, knowmore actively supports increasing the minimum age of criminal responsibility from 10 to 14 years nationwide, including in Tasmania, to keep children out of detention where possible, or introducing a minimum age of detention of 14 years. knowmore is of the view that such ambitious reform is also necessary to address the over-representation of Aboriginal and Torres Strait Islander children in Australian detention environments, as well as to bring Australia in line with international human rights standards.

I make this solemn declaration under the *Oaths Act 2001* (Tas).

Declared at Brisbane

on 28 April 2022

[Redacted signature]

Warren Strange

Before me

[Redacted signature]

[Full name of Justice, Commissioner for Declarations or Authorised Person]

[Redacted name]