

Daly & Davis, Unravelling Redress for
Institutional Abuse of Children in Australia,
Australian and New Zealand Association for the
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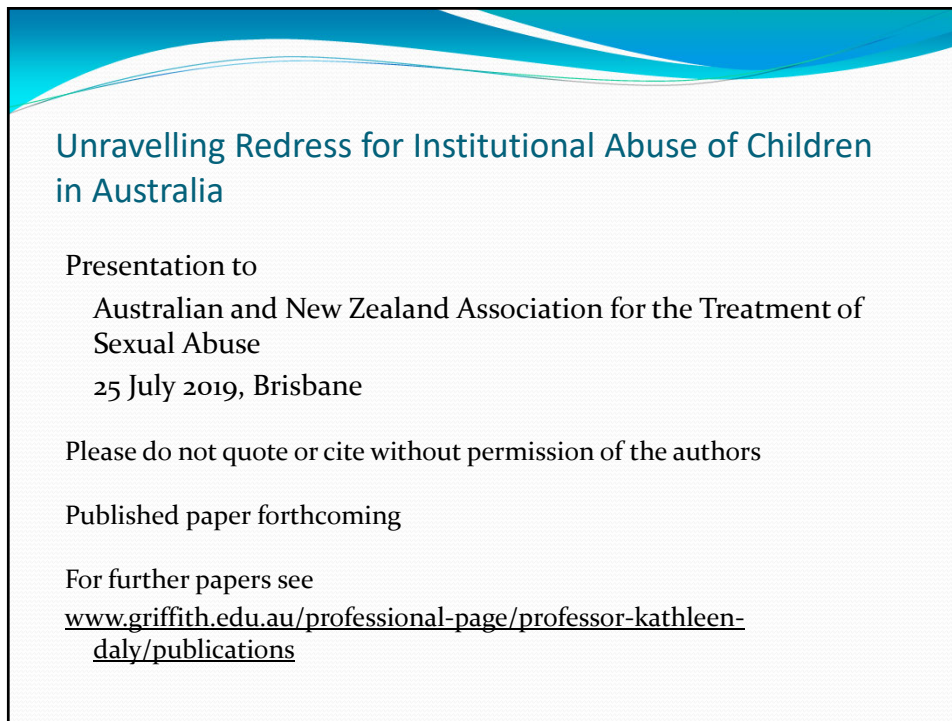


Unravelling Redress for
Institutional Abuse of Children
in Australia

Professor Kathleen Daly
School of Criminology and Criminal Justice
Griffith University
k.daly@griffith.edu.au

Juliet Davis
Research Fellow, Griffith Criminology Institute
Griffith University
juliet.davis@griffith.edu.au

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Presentation to
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25 July 2019, Brisbane

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Overview

- Chronicle the evolution of the National Redress Scheme (NRS)
- Outline the changing treatment of 17 contentious matters
- Discuss the implications of these changes

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Key findings

- 17 matters
- 14 saw moderate or significant change due to economic, political, or operational pressures
- All 14 matters departed from at least one of the Royal Commission's redress principles

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NRS in a nutshell

- Redress elements: monetary payment, counselling, direct personal response
- Broad set of eligible claimants
- 1 July 2018 – 30 June 2028
- Claimants must have been sexually abused

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(1) What shaped the development of the NRS?

- Voluntary opt-in by government and non-government institutions
- Time pressure to establish the scheme before July 2018 deadline
- Compromises based on economic, political, and operational pressures

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(2) What changes occurred during the development of the NRS?

A. Headliners (N=5)

- Monetary payment cap
- Criminal history exclusion
- Eligible abuse (sexual abuse only)
- Counselling and psychological care
- Assessment framework

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B. Buried Leads (N=12)

- **Institutions**
 - weaker obligations
 - greater power
 - greater protections for institutions
- **Survivors**
 - reduced flexibility
 - reduced access to redress

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Example

- Interaction of 2 'buried leads'
 - 2-year opt-in period for non-government institutions
 - single application requirement
- Improves operational convenience
- Diverges from Royal Commission's principles of redress

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(3) Implications of the changes

- Of the 14 matters that changed:
 - 14 were less survivor-focused
 - 6 had less regard to the nature and impact of child sexual abuse
 - 9 had less regard to the needs of vulnerable survivors

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Where to from here?

- Changes can be made to the scheme
- Federal Government is considering recommendations for change
- Substantial re-negotiation would be required

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Summary

NRS moved away from a best practice redress model recommended by the Royal Commission

- voluntary opt-in and constitutional limits
- compromises based on economic, political, and operational pressures
- compromises favoured institutions at the expense of survivors

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References

- Daly and Davis (2019) Unravelling Redress for Institutional Abuse of Children in Australia, *University of New South Wales Law Journal*, 42:4.
- Daly (2018) Inequalities of Redress: Australia's National Redress Scheme for Institutional Abuse of Children, *Journal of Australian Studies*, 42:2, 204-216.