

National Redress Scheme

For people who have experienced institutional child sexual abuse

Protected Information Fact sheet

The Department of Social Services, in administering the National Redress Scheme for Institutional Child Sexual Abuse (the Scheme), protects information collected by the Scheme for the purpose of assessing a person's application in accordance with the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Redress Act).

What is 'protected information'?

Protected information is information about a person or institution provided to, or obtained by, the Scheme for the purpose of assessing an application for redress. Protected information also includes information to the effect that there is no information about a person or institution held in the records of the Department of Social Services or Services Australia.

Examples of protected information include:

- a submitted redress application and information contained within it or any attachments
- the identity of the person applying for redress
- the identity of another person included in the application
- information provided to the Scheme by an institution, and
- information about whether a redress payment has been offered or paid to a redress applicant.

It is an offence to obtain, record, disclose, use, solicit disclosure of, or offer to disclose protected information without authorisation under the Redress Act.

When can protected information be disclosed by a person?

A person can disclose protected information if authorised by the Redress Act, including in one or more of the following circumstances:

- for the purposes of the Scheme (for example, to request information from an institution to progress an application or to provide an applicant or institution with procedural fairness)
- with the consent of the person the information is about
- with the consent of the institution the information is about
- to a person's appointed Redress nominee
- if there is a belief on reasonable grounds that it is necessary to prevent or lessen a serious threat to an individual's life, health or safety
- to produce information that does not, directly or indirectly, disclose information about a person or institution (for example, data on the number of applications received by the Scheme),

When can protected information be disclosed by the Scheme Operator?

The Scheme Operator can disclose protected information if authorised by the Redress Act, including in one or more of the following circumstances:

- to publicly disclose that a non-government institution is not a participating institution if a person has applied for redress and the application identifies the institution as being involved in the abuse

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- to publicly disclose that a non-government institution is not a participating institution if the Operator of the Scheme has reasonable grounds to believe that the institution may be connected with the abuse of a person
- to disclose to an applicant for redress that an institution is not participating in the Scheme if the application identifies the institution as being involved in the abuse
- to disclose to an applicant for redress that the Operator of the Scheme has reasonable grounds to believe that the institution may be connected with the abuse
- to support the management of an applicant's financial affairs in relation to an applicant's redress application where they are subject to a financial management order.

The Redress Act also includes other authorisations that permit the disclosure of protected information for specific purposes.

What protected information does the Scheme give to an institution?

If the institution named in an application is a participating institution, the Scheme Operator will send a request for information (RFI) where it is possible that the institution may have information relevant to progressing an application. The Scheme Operator may also send a request for information (RFI) to a participating institution where it is possible that the institution may have information relevant to progressing an application. The Scheme Operator may only do so when the institution is participating or partly-participating in the Scheme.

The following information is ordinarily sent to an institution when sending an RFI:

- the name and date of birth of the person applying for redress
- a description of the abuse relevant to the institution (Part 2 of the Redress application), and
- if the applicant consents, information about the impact of the abuse.

When a decision (also known as a determination) is made about a person's redress application, the institution(s) will be sent:

- a notice of the Independent Decision Maker's decision, including the reasons for the decision relevant to the institution or the participating group of institutions,
- a notice to let them know if the person accepts, declines, asks for a review of the decision, and,
- if applicable, a notice with the outcome of the review of the redress decision.

What can an institution do with protected information related to me?

An institution may obtain, record, disclose, and use protected information that is provided by the Scheme for the purposes of:

- providing information to the Scheme,
- providing the applicant with a Direct Personal Response,
- facilitating an insurance claim related to the Scheme,
- undertaking an internal investigation and disciplinary procedures,
- the enforcement of the criminal law, and the safety and wellbeing of children.

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What are 'mandatory reporting' and 'reportable conduct' obligations?

'Mandatory reporting' obligations impose obligations on certain people who are in contact with children to report suspected child abuse to relevant authorities in their state or territory where they consider a child is at risk of harm. The Scheme Operator is not a mandatory reporter and the states and territories each have different obligations around mandatory reporting.

'Reportable conduct' obligations impose obligations to report a person who has or is perpetrating child abuse or child-related sexual misconduct to relevant state and territory authorities. Based on the content of an application, the Scheme Operator can make a report to a government institution – see below for more information.

How does an institution use and disclose protected information for these reports?

Protected information may be disclosed by an institution to relevant authorities for the purposes of the enforcement of the criminal law, the safety or wellbeing of children or an investigatory, disciplinary process related to the safety or wellbeing of children.

Protected information may also be disclosed by an institution to a government institution if a law of the Commonwealth, a State or Territory requires or permits the disclosure of information to a government institution that has functions that relate to those purposes. This may include where the information indicates a child may be at risk of harm, or they have identified a person engaging in sexual misconduct against a child.

Where the information triggers 'mandatory reporting' or 'reportable conduct' obligations under the relevant state and territory laws that require a person to report these risks to children to authorities, the disclosure is permitted.

What happens after an institution makes these reports?

Where an institution has made a mandatory or reportable conduct report, this may trigger the relevant state or territory authorities to commence their own investigation. For example, the police or a government agency responsible for child protection may take action. This reporting process and any following investigation is separate to the Scheme.

Will a person be notified when an institution uses protected information about them to make these reports?

No. Institutions are not required to let the Scheme, or the applicant know when they make mandatory or reportable conduct reports containing protected information.

Does the Scheme report to the police or child protection authorities?

Yes. The Scheme Operator may disclose protected information to a government institution (for example, the police) where it is reasonably necessary for the safety or wellbeing of children or the enforcement of criminal law. If there are reasonable grounds to suspect that the safety or wellbeing of a child is at risk, the Scheme will ask the applicant if they want to be identified in a Child Safe Report.

In some cases, the relevant state or territory child protection authority or the police may ask the Scheme to assist them in their investigations into a report.

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Can an institution use protected information received from the Scheme for an internal investigation?

Yes. An institution, and the institutions within their participating group, can use information they receive from the Scheme for an internal investigation or disciplinary procedure. The Scheme does not have oversight or say of how an institution conducts their internal investigations.

Can an institution advise the named perpetrator about the abuse?

Yes. The institution can advise the named perpetrator about the abuse under the Redress Act, where it is reasonably necessary for the institution to undertake an internal investigation and disciplinary procedures or respond to a RFI. For example, if a named perpetrator is still employed by or associated with the institution.

Can an institution engage a third party, for example a lawyer, and share protected information with them?

Yes. An institution may engage and disclose information received from the Scheme to a lawyer to obtain legal advice related to participating in the Scheme, or for the purposes of the Scheme (such as responding to a RFI or providing a direct personal response on behalf of the institution).

Can a person publicly disclose that they have received a redress payment and the institution/s that were found responsible for the abuse?

Generally, a person can disclose that they received a redress offer from the Scheme and that they were paid an amount of redress, as this is information about them. Any information about a person's experience of abuse is information about them and they can discuss this how they wish. A person cannot disclose protected information about the institution that they obtained from the Scheme.

What happens if an institution discloses protected information without authority under the Redress Act?

Any unauthorised disclosure of protected information may be a criminal offence and should be reported to us as soon as possible by calling us on **1800 737 377**.

What should I do if I need more information on how my information is used under the Redress Act?

You can find more information about the Scheme, and the Scheme's privacy policy on our website www.nationaldress.gov.au/about/privacy, or call us on **1800 737 377**.

Part 4-3 of the Redress Act sets out the Scheme's protected information obligations which are also explained online at [Guides to Social Policy Law, National Redress Guide](#).

You should seek independent legal advice to know your obligations under the Redress Act. [Knowmore](#) legal service is a free, confidential and independent legal service. Redress applicants can call Knowmore on 1800 605 762.