

Civil Liability (Holding Institutions Accountable for Child Abuse) Amendment Bill 2026

Submission No: 015
Submission By: Victims' Commissioner
Publication: Making the submission and your name public

Office of the Victims' Commissioner

Civil Liability (Holding Institutions Accountable for Child Abuse) Amendment Bill 2026

Submission to the Justice, Integrity and
Community Safety Committee

22 June 2026

Commissioner's introduction

The lifelong harm caused to victims of child abuse, particularly sexual abuse, can be devastating. The Royal Commission into Institutional Responses to Child Sexual Abuse, issued its final report in 2017, and since then, institutions, state and territory governments and the federal government have been taking steps towards accountability and redress. I acknowledge, however, that despite steps towards justice and redress, the damage caused to people and families cannot be undone.

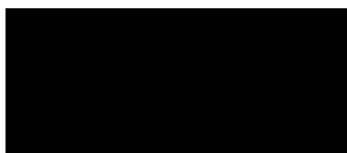
The national redress scheme, of which Queensland is a participant, is part of that process. Civil law claims for monetary damages against perpetrators and institutions have also been an important part of justice pathways available to victim-survivors.

I understand that the development of the law has been complex, both through Queensland's legislative reforms and recent decisions of the High Court of Australia in relation to the doctrines providing for institutional culpability at common law.

The High Court of Australia and the Queensland Parliament have both considered questions about potential unintended consequences of broadening doctrines at common law and the role of the legislature in providing certainty. I also acknowledge the government's response to this issue must consider public policy considerations about the sustainability of organisations, which might be subject to substantial civil claims. These issues are outside the scope of my role as Victims' Commissioner and are not considered in depth in this submission. My focus as Victims' Commissioner is the needs of victim-survivors and their just entitlement to full compensation for the harm done to them.

The Civil Liability (Holding Institutions Accountable for Child Abuse) Amendment Bill 2026 aims to clarify the pathway for civil claims against institutions to allow institutions to potentially be held vicariously liable, including retrospectively, for claims of abuse of children.

I am supportive of the broader objectives of this Bill to provide more clarity and available avenues of redress for victims. Wherever possible, there should be no "wrong door" for victim-survivors of institutional child sexual abuse in their search for justice.



Kate Connors

Victims' Commissioner

Note on language

I use the term 'victim' and 'victim-survivor' throughout this submission. I acknowledge some individuals may prefer 'victim' as it emphasises their experience of harm, while 'victim-survivor' acknowledges the ongoing impacts of crime and highlights the strength and resilience of individuals with lived experience. By incorporating both terms, I hope to honour these perspectives. I may also use the term 'victim' when referring to legislation as it is a term commonly used in legal frameworks.

I use the term 'children' and 'young person' throughout this submission to refer to Queenslanders who are under 18 years.

Role of the Victims' Commissioner

The role of the Victims' Commissioner is established under the *Victims' Commissioner and Sexual Violence Review Board Act 2024 (Qld)* (VCSVRB Act). My role is to protect and promote the rights and needs of victims of crime. My statutory functions include:

- Providing information to victims of crime to help them navigate the criminal justice system
- Dealing with complaints under the Charter of Victims' Rights
- Conducting systemic reviews
- Listening to victims to hear about their own, lived experiences
- Advocating for victims' rights by making recommendations and providing advice to government and non-government entities about improvements to policy, practices, procedures and systems to uphold the rights of victims and better meet their needs.
- Monitoring the implementation of recommendations.

Under section 6 of the VCSVRB Act, a victim includes a person who suffers harm because a criminal offence (including domestic violence) is committed against the person. This includes:

- people who have a criminal offence committed against them directly
- family members or dependants of a person who has a criminal offence committed against them
- people who are harmed because they helped another person who had a criminal offence committed against them
- witnesses of crimes.¹

The VCSVRB Act defines harm as including physical, psychological or emotional harm, damage to or loss of property, and financial or economic loss.² This definition recognises the range of impacts that a crime can have on an individual.

Submission on the bill

On Tuesday, 22 April 2026, the Hon Meaghan Scanlon MP, Shadow Attorney-General, Shadow Minister for Justice, Shadow Minister for Housing, Homelessness and Home Ownership, introduced the Civil Liability (Holding Institutions Accountable for Child Abuse) Amendment Bill 2026.

The Bill seeks to provide another avenue for victim-survivors of historical child abuse to seek redress through the courts for the harm that they have suffered.

The Bill proposes to amend the *Civil Liability Act 2003* to:

- allow institutions to potentially be held vicariously liable, including retrospectively, for claims of abuse of children under their care, supervision, control, or authority, by extending the definition of persons associated with an institution to include persons in a relationship akin to employment by the institution; and
- allow courts to set aside and reconsider certain prior settlements for child abuse claims, where it would be just and reasonable to do so.

Overall, this bill may reduce uncertainty about the avenues for victims to claim redress, following two High Court decisions¹ about compensation for victim-survivors of historical child abuse. However, the flow-on effects of the most recent High Court decision are yet to be fully understood.

I support the broader objectives of the Bill on the understanding that the more legal options there are for victims to claim redress, the better. This is aligned to the recommendation by the Royal Commission into Institutional Responses to Child Sexual Abuse, that when it comes to redress there should be a ‘no wrong door’ approach for survivors in gaining access to redress.²

However, I acknowledge the competing policy consideration for government relates to the potential widening of liability for organisations who, while potentially culpable for historical abuse, may currently play a valuable role in the delivery of community services.

¹ *Bird v DP (A Pseudonym)* [2024] HCA 41; *AA v Trustees of the Roman Catholic Church for the Diocese of Maitland-Newcastle* [2026] HCA 2.

² Royal Commission into Institutional Responses to Child Sexual Abuse, 2015, [Redress and civil litigation | Royal Commission into Institutional Responses to Child Sexual Abuse](#).

Harm suffered by victims of historic child abuse

The Royal Commission into Institutional Responses to Child Sexual Abuse documented the devastating impacts child sexual abuse has on victims in Volume 3 of its 2017 Final Report: Impacts.³ The Royal Commission reported that for many victims, the abuse can have profound and lasting impacts, including deep, complex trauma, which can pervade all aspects of their lives, and cause negative impacts through their lives.⁴ For some victims, the abuse results in them taking their own lives.⁵

Institutional responses also have profound impacts on victims. This not only refers to the institutions at the centre of the harm, but also the responses of broader justice institutions – the police, complaint and oversight bodies, support services health services and the legal system.⁶

One survivor, quoted in the Royal Commission's report states:

*As a victim, I can tell you the memories, sense of guilt, shame and anger live with you every day. It destroys your faith in people, your will to achieve, to love, and one's ability to cope with normal everyday living. It has [been] and is an enormous struggle to stay on top of life.*⁷

In 2015, the Royal Commission released its Redress and Civil Litigation Report which contained recommendations for the provision of effective redress for survivors through a national redress scheme and reforms to civil litigation systems to make it a more effective means of providing justice for survivors.⁸ At the heart of this report is the importance of pathways to justice for victims as a source of healing and compensation.

In 2018, the Queensland Government committed \$550 million to the national redress scheme.⁹ While the scheme has provided outcomes for victim-survivors, civil litigation options are also important for Queensland victim-survivors. The redress scheme is limited to certain applicants, by institutions that have signed up, and the maximum amount of compensation is capped at \$150,000. In addition, the scheme will stop

³ Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, [Final Report - Volume 3. Impacts](#).

⁴ [Ibid](#) p9.

⁵ [Ibid](#) p10.

⁶ [Ibid](#) p11.

⁷ [Ibid](#) p 23 Name changed, private session, 'William Peter'.

⁸ Royal Commission into Institutional Responses to Child Sexual Abuse, 2015, [Final report - Redress and civil litigation](#) p2.

⁹ Chris O'Brien and Josh Bavas, ABC News, 30 April 2028, [Queensland commits \\$550 million to National Redress Scheme for survivors of sexual abuse - ABC News](#).

accepting applications on 30 June 2027.¹⁰ These restrictions don't apply to civil litigation and victim-survivors may be able to access significantly more compensation through civil litigation pathways.¹¹

Context of recent High Court decisions on civil liability

Survivors have not historically had a clear course of action against institutions, due to the difficulties in finding an institution liable for the deliberate criminal conduct of another person. There are three possible approaches to liability of institutions:

- an action in **negligence based on an institution's breach of a duty of care** owed to the child. The plaintiff must prove: the duty, its breach and the causal relationship to the damage. The duty is a duty to take reasonable care.
- **vicarious liability of the institution** for torts committed by its employees while acting in the course of their employment, which has been limited to apply only to the acts of 'employees'.
- an action for **breach of the institution's non-delegable duty** to ensure that a third party takes reasonable care to prevent harm. Unlike vicarious liability, it can apply to the acts of delegates as well as employees.¹² In 2015, at the writing of the Royal Commission's report, Australian law had not imposed a non-delegable duty on an institution for the criminal acts of an employee or other person, however that has recently changed.

The Royal Commission commented that in 2015, the law on vicarious liability and non-delegable duties was uncertain. Several recommendations were made for state based legislative reform to create certainty for victim-survivors.¹³

To our minds it is time that Australian parliaments moved to impose liability on some types of institutions for the deliberate criminal act of a member or employee of the institution as well as for the negligence of that member or employee.¹⁴

¹⁰ Michelle James, Maurice Blackburn Lawyers, [The important difference between the National Redress Scheme & making a damages claim | Maurice Blackburn](#).

¹¹ Barry Nilsson, 6 October 2021, [Recent Queensland damages award in historic abuse claim | Barry Nilsson](#). This article reports on a case in 2021 where the Queensland Supreme Court awarded damages of \$1,456,524.15 to a plaintiff in relation to historical sexual abuse against his former school teacher.

¹² Royal Commission into Institutional Responses to Child Sexual Abuse, 2015, [Final report - Redress and civil litigation](#) p53.

¹³ Ibid, Recommendations 89-93 [Final report - Redress and civil litigation](#) p57.

¹⁴ Ibid p54.

In 2019, the Queensland Government enacted amendments to the *Civil Liability Act 2003*, which responded to several of the recommendations in the Royal Commission's report. *The Civil Liability and Other Legislation Amendment Act 2019* amended the *Civil Liability Act 2003* to require an institution to prove it took reasonable steps to prevent the sexual abuse of a child in its care by a person associated with the institution to avoid legal liability for the abuse. These amendments introduced a statutory duty of institutions to *prevent* child sexual abuse, reversing the onus of proof prospectively.¹⁵ The amendments also clarify that a 'person associated with an institution' includes officers, volunteers, agents, ministers of religion (if the institution is religious) and delegates if the institution has delegated care of a child – among other individuals.¹⁶

There have been two significant High Court cases that have further clarified the common law legal doctrines on vicarious liability and non-delegable duties.

Bird v DP (A Pseudonym) [2024] HCA 41

In November 2024, the High Court unanimously allowed an appeal from the Court of Appeal of the Supreme Court of Victoria, finding that the Roman Catholic Diocese of Ballarat was not vicariously liable for sexual assaults committed by one of its priests. A majority of the High Court held that the principles of vicarious liability are confined to employment relationships and, as the priest was not an employee, there could be no finding of vicarious liability on the part of the Diocese.

The High Court was not willing to extend vicarious liability to relationships 'akin to employment' as several State and Territory governments had considered this and extended the doctrine, albeit prospectively only.¹⁷ The Court indicated that it is ultimately a matter for legislatures, not Australian courts, to extend the scope of relationships that can give rise to vicarious liability in Australia.¹⁸ The majority judgement stated:

The difficulties that have existed and presently exist with vicarious liability in Australia, and overseas, as well as the other matters that have been identified, do not provide a proper basis for the development of the common law by extension of the threshold more broadly, or to address the specific issue of whether a diocese or a bishop may be held vicariously liable for the unlawful actions of a priest who sexually abuses a child,

¹⁵ Sections 33D and 33E *Civil Liability Act 2003*.

¹⁶ Section 33C *Civil Liability Act 2003*.

¹⁷ While the 2019 amendments to the *Civil Liability Act 2003* in Queensland don't use the language "akin to employment", they have a similar prospective outcome and religious ministers, leaders and personnel are covered. See section 33C.

¹⁸ Sonya Parsons, Luke Geary, Mills Oakley, 14 November 2024, [Case Note: Bird v DP \(A Pseudonym\) \[2024\] HCA 41 - Mills Oakley](#).

*on an incremental basis. Reformulation of the law of vicarious liability is properly the province of the legislature.*¹⁹

It is that call from the majority judgement to which this Bill responds.

Both Victoria and the Australian Capital Territory enacted legislation to clarify liability after the Bird decision.²⁰

AA v Trustees of the Roman Catholic Church for the Diocese of Maitland-Newcastle [2026] HCA 2

In February this year, the High Court unanimously allowed an appeal from the Court of Appeal of the Supreme Court of New South Wales, finding that the Roman Catholic Diocese of Maitland-Newcastle was liable for the breach of a non-delegable common law duty of care it owed to ensure that reasonable care was taken to prevent reasonably foreseeable personal injury to a child while the child was under its care.²¹

The judgement is significant as the decision may mean that institutions may be liable regardless of any systems that they implemented or their lack of awareness of the intentional act. The fact that the harm was foreseeable and committed against a vulnerable person over whom the institution had assumed a special responsibility is itself proof that the system in place that was intended to prevent it was not adequate.

In her ministerial statement on 3 March 2026, the Hon. Deb Frecklington, Attorney-General and Minister for Justice and Minister for Integrity, stated:

*This represents a significant development in Australian law and underscores the importance of the High Court's reasoning for victims and survivors of historical abuse. The outcome of AA means survivors are not confined by the employer-employee test established in Bird v DP, which reaffirmed the longstanding principles governing vicarious liability.*²²

The Attorney General indicated that because the AA decision has expanded avenues for historical child abuse victims to bring forward claims, amendments to clarify the doctrine

¹⁹ [Bird v DP \(a pseudonym\) \(M82-2023\) \[2024\] HCA 41.pdf](#) para [67].

²⁰ In Victoria, the [Justice Legislation Amendment \(Vicarious Liability for Child Abuse\) Act 2026](#) amended the [Wrongs Act 1958 \(Vic\)](#). In the ACT, the [Civil Law \(Wrongs\) Organisational Child Abuse Liability\) Amendment Act 2025](#) amended the [Civil Law \(Wrongs\) Act 2002 \(ACT\)](#).

²¹ [AA v The Trustees of the Roman Catholic Church for the Diocese of Maitland-Newcastle \(S94-2025\) \[2026\] HCA 2.pdf](#)

²² Queensland Legislative Assembly, Hansard, 3 March 2026, [2026_03_03 WEEKLY](#) p327.

of vicarious liability, as called for by the High Court in *Bird*, and implemented by this Bill, are no longer required.

More avenues for redress for victims

The avenues for redress through civil claims have undergone recent evolution but remain complex. The legislative amendments to the *Civil Liability Act 2003* that clarify the position of liability, including for non-employees are prospective, from 2019.

For victims of historical abuse, the legal doctrines of vicarious liability and non-delegable duties are distinct and require different elements to be proven, which in turn will depend on the facts on each case.

The AA case has expanded the remit of the doctrine of non-delegable duties for historical claims. However, it is conceivable that there may be some victims of historical abuse that may fall through the cracks because the circumstances of their case would better align with the doctrine of vicarious liability (if it were extended to circumstances where the perpetrator was in a relationship akin to employment). Victim-survivors who may have settled a claim for a lesser amount after the *Bird* decision in 2024, and before the AA decision in 2026, would also benefit from this Bill which allows for the settlement to be set aside.²³

I acknowledge the Attorney-General's advice to the Queensland Parliament that the case of AA has expanded the avenues for redress significantly. It is hard to imagine that there are many cases that would be resolved positively for the victim under the proposed legislative broadening of the doctrine of vicarious liability (as per this Bill) that could not have also been resolved positively under the non-delegable duty doctrine in AA.

Accordingly, allowing both doctrines to stand as avenues for redress would likely not significantly increase the number of claims, but it would provide certainty and options for legal argument for victims pursuing justice.

Support for affected institutions providing valuable community services

As noted, it is unclear whether the proposed amendments would widen the liability of Queensland institutions and organisations for historical abuse. This may already have occurred due to the AA decision. These institutions and organisations should properly be

²³ Civil Liability (Holding Institutions Accountable for Child Abuse) Amendment Bill 2026, clause 4 new section 33IE.

held accountable for the harm caused to victim survivors of historical institutional child sexual abuse but I do acknowledge that some of these institutions and organisations may currently play an important role in our broader community.

I urge the Parliament to consider how such institutions and organisations could be supported so that they are able to make redress for past harm – a vital justice outcome for victim-survivors – and where appropriate continue to participate meaningfully in our community.