



**GOLD COAST CENTRE**  
against sexual violence inc.

ABN 50621908411

Research Director,  
Legal Affairs and Community Safety Committee,  
Parliament House,  
George Street,  
Brisbane QLD 4000  
Via Email to [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

08 September 2016

Dear Sir/Madam

**Re : Inquiry into Limitation of Actions (Institutional Child Sexual Abuse) and Other  
Legislation Amendment Bill 2016  
and  
Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings)  
Amendment Bill 2016**

The Gold Coast Centre Against Sexual Violence Inc. welcomes the opportunity to make a brief submission to the Legal Affairs and Community Safety Committee in relation to the *Inquiry on Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016 and Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016*.

GCCASV (formerly Gold Coast Sexual Assault Support Service) was founded in 1990 to deliver specialist sexual violence intervention and prevention programs to the Gold Coast community. It is a feminist, community based, community controlled charitable organisation funded by Department of Communities, Disability and Child Safety. Run by women for women, the agency services the geographic area from Coolangatta to Upper Coomera. The organisation provides a safe, supportive, environment in which sexual assault survivors can become aware of their own strengths and gain confidence and control of their lives.

GCCASV offers the following comments based on the experience of working with victim/survivors of sexual violence for over 26 years.

## **1 Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016**

Gold Coast Centre Against Sexual Violence (GCCASV) makes the following comments in relation to this Bill:

### **1a Sole focus on institutions is too narrow**

GCCASV believes that this Bill does not go far enough to provide adequate access to justice for victim/survivors who have been abused outside of institutional settings.

Limiting this legislation to institutional settings has the potential to mean that there are certain offenders who will never be identified, brought to justice and held accountable for their actions.

Furthermore, by introducing legislation that only pertains to those abused in institutions two classes of victim/survivors will be created in Queensland.

### **1b Class action**

GCCASV supports the introduction of class actions in Queensland. Class actions are possible in other jurisdictions and are a fast growing type of litigation in Australia. The introduction of class action in Queensland would provide access to justice for victim/survivors who have suffered injury as a result of physical and sexual abuse.

## **2 Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016**

### **2a Reintroduce the right to trial by jury for civil actions for personal injury arising from child abuse**

Prior to 2003, victim/survivors bringing actions for personal injury from child abuse had the right to a trial by jury.

GCCASV supports the reintroduction of civil trial by jury for personal injury arising from child abuse.

Should civil trial by jury be reintroduced, consideration must be given to whether the plaintiff in a civil trial would be required to pay a fee for the use of a jury.

### **2b Removal of civil statutory and procedural time limits for personal injury actions arising from child abuse**

GCCASV supports the removal of civil statutory and procedural time limits for personal injury actions arising from child abuse with retrospective effect to ensure equal rights of access to justice for all victim/survivors of child abuse.

The statute of limitations as it stands is unjust protecting the rights of the abuser and serving as a significant barrier to justice for victim/survivors of child abuse.

GCCASV agrees with Mr Pyne that access to justice should not be dependent on whether or not child abuse occurs within an institution.

Child abuse is a serious issue for our community. From GCCASV's experience, we know that those sexually abused as children are sometimes unable to disclose, or, upon disclosure are not believed. At some future time, usually during their adulthood when victim/survivors feel safe, they may make a delayed complaint. Removing the statute of limitations recognises that delayed complaints are normal after experiencing trauma.

Furthermore, GCCASV supports that the removal of time limits be applied to judgments and settlements based on the application of previous time limits.

The statute of limitations has unfairly resulted in past unjust settlements where institutions have coerced victims to sign for and accept settlements in secret and agree to deed of release, releasing the institution from any future action for damages.

GCCASV is aware that victim/survivors often accepted whatever meager offer was on the table rather than face the prospect of significant legal costs payable to the institution.

Therefore, GCCASV supports the revocation of past settlements where those settlements were unfairly impacted by the time limits.

**2c Amendments to the *Civil Proceedings Act 2011***

GCCASV supports amendments to the Civil Proceedings Act as follows:

Prohibit a defendant obtaining a stay of proceedings based on the passage of time, where that defendant is the cause of the passage of time.

Where an institution has already made an admission of child abuse and/or liability, that they be prohibited from having civil proceedings stayed on the basis of seeking to question the admitted facts.

**2d Define child abuse as not restricted to an institutional context and as including both sexual abuse and serious physical abuse**

GCCASV supports the definition of child abuse as not restricted to an institutional setting. Child sex offenders do not only offend in institutional settings, they are known to offend close to home where children are accessible.

Through the work of GCCASV we are aware that there is no statute of limitations for sexual offenders. They are often serial offenders who need to be held accountable for their behaviour and to protect other children against future offending.

GCCASV also supports the definition of child abuse as both sexual and serious physical abuse. GCCASV believes that access to justice should not be dependent on the nature of the abuse perpetrated against the child.

### **3 Conclusion**

GCCASV asserts that this Bill complies with the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse as well as extending these provisions to non-sexual and non-institutional abuse.

GCCASV contend that the enactment of this legislation will remove a barrier to justice for ALL child victim/survivors of sexual and serious physical abuse enabling them to take civil action against the offender.

Yours faithfully



Di Macleod  
**Director**