



Our **Mission** is to stop child sexual assault in our society.
Our **Vision** is to make Australia the safest place in the world to raise a child.



The Research Director
Legal Affairs and Community Safety Committee
Parliament House
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Submission to the Legal Affairs and Community Safety Committee:

- ***Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016***
- ***Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016.***

To Whom It May Concern,

Bravehearts is grateful for the opportunity to provide feedback on the draft *Limitations of Actions (Institutional Child Sexual Abuse) and Other Amendment Bill 2016* and the *Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016*.

As an agency that works with, and advocates for, survivors of child sexual assault we regularly provide support and information for clients who have sought financial compensation via the civil litigation process.

Bravehearts believes that civil litigation processes are important mechanisms to assist survivors of child sexual assault achieve appropriate levels of monetary redress. It is particularly important for these individuals to receive appropriate compensation, given the lifelong, wide-ranging effects of child sexual assault.

The removal of time limitations for compensation is an issue that Bravehearts has long advocated for.

Survivors of child sexual assault face enormous barriers in disclosing. The impacts of child sexual assault typically mean that the victim does not disclose until they feel safe to do so, and this frequently does not occur until some time has passed. Having been, in many cases, completely disempowered by an offender, the psychological consequences of child sexual

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assault have far reaching consequences: shame and guilt can often mean that survivors are unable to disclose until parents have passed away; many survivors are simply not ready to disclose as they may still be processing the psychological trauma and impacts of the sexual assault; and victims may experience post-traumatic stress disorder (essentially this means that a victim is aware of the harm they experienced but disassociate themselves from any reminders of the traumatic event, including litigation). Even if a survivor is aware of the possibility of legal action they may decide that to take such action would revive traumatic memories and may even be destructive and therefore delay proceeding with the matter.

Bravehearts recognises that limitation periods serve a valid purpose in relation to other civil matters. However, given the key characteristics of childhood sexual assault (silence, secrecy, shame and delayed disclosure) it is not appropriate for limitation periods to apply to proceedings related to criminal child abuse matters, such as child sexual assault and associated damages.

The legal position must be altered to recognise the nature of sexual offending against children and its ongoing effect on adult survivors. It is from this position that we are providing support for the draft *Limitations of Actions (Institutional Child Sexual Abuse) and Other Amendment Bill 2016* and the *Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016*.

Bravehearts is supportive of the intention of these Bills and makes the following comments:

1. Bravehearts supports the definition of child abuse as outlined in the *Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016*, as it is broad enough to ensure that the related harms perpetrated in connection to the sexual assault or serious physical abuse is adequately considered.
2. Bravehearts supports the intention of the Bills, to rescind time limitations and allow those who have previously been denied access to civil recourse because of time limitations the opportunity to commence actions. The intention should not be to reopen matters that have previously been subject to judgements of dismissal for reasons other than time limitation.

Bravehearts is concerned that there may be some victims who may have had previous judgements of dismissal, due to a lack of understanding of the evidence of harm. We know that over the past decade there has been an increase in understanding and knowledge around sexual assault. We support recognition of this and the inclusion of avenues for those to put forward cases for review.

In addition, we believe that it is important to ensure that victims who may have been unable to continue or pursue claims previously, for example due to financial constraints, are not barred from pursuing renewed action.

3. It has been clear in a number of the Royal Commission into Institutional Responses to Child Sexual Abuse public hearings, that compensation paid out, whether through previous civil action or through internal/institutional processes, has often been

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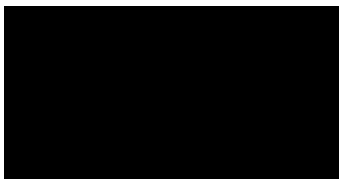
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inadequate in terms of the loss and damage suffered by survivors of child sexual assault. Acknowledging this, Bravehearts' position is that any financial compensation already received should be taken into consideration but should not be a barrier to making a further claim.

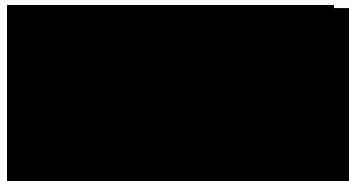
Please also consider our attached 'endorsement letter' for the *Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016*

We thank you again for the opportunity to provide feedback on the draft Bills. We commend the efforts to right this wrong and rescind the time limitations impacting on victims of child sexual assault.

Kind Regards,



Hetty Johnston AM
Founder & CEO



Carol Ronken
Criminologist, BA(psych), MAppSoc (social research)
Director of Research and Policy Development



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***Draft Limitations of Actions and Other Legislation
(Child Abuse Civil Proceedings) Amendment Bill 2016.***

To Whom It May Concern,

Bravehearts is pleased to provide our endorsement for the draft *Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016*.

It is our position that all four elements of reform are needed to ensure the rights of survivors to seek compensation for the often lifelong, wide-ranging effects of child sexual assault. Any legislative approach that focusses solely on removing the time limitations, without considering related issues, such as past settlements or compensation awarded, grounds for stay of proceedings and the right to jury trials, will be inadequate.

The removal of time limitations for compensation is an issue that Bravehearts has long advocated for. As an agency that works with, and advocates for, survivors of child sexual assault we regularly provide support and information for clients who have sought financial compensation via the civil litigation process.

Survivors of child sexual assault face enormous barriers in disclosing. The impacts of child sexual assault typically mean that the victim does not disclose until they feel safe to do so, and this frequently does not occur until some time has passed. Having been, in many cases, completely disempowered by an offender, the psychological consequences of child sexual assault have far reaching consequences: shame and guilt can often mean that survivors are unable to disclose until parents have passed away; many survivors are simply not ready to disclose as they may still be processing the psychological trauma and impacts of the sexual assault; and victims may experience post-traumatic stress disorder (essentially this means that a victim is aware of the harm they experienced but disassociate themselves from any reminders of the traumatic event, including litigation). Even if a survivor is aware of the possibility of legal action they may decide that to take such action would revive traumatic memories and may even be destructive and therefore delay proceeding with the matter.

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The legal position must be altered to recognise the nature of sexual offending against children and its ongoing effect on adult survivors. It is from this position that we endorse the draft *Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016*.

We commend the efforts to right this wrong and rescind the time limitations impacting on victims of child sexual assault.

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