

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING
9 JUNE 2020**



**SHIRE OF ASHBURTON
AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING**

**AGENDA AND ATTACHMENTS
(Public Document)**

**Ashburton Hall, Ashburton Avenue, Paraboradoo
9 June 2020
9.30 am**

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

SHIRE OF ASHBURTON

AUDIT AND RISK MANAGEMENT COMMITTEE MEETING

Dear Councillor

Notice is hereby given that an Audit and Risk Management Committee of the Shire of Ashburton will be held on 9 June 2020 at Ashburton Hall, Ashburton Avenue, Paraburdoo commencing at 9.30 am.

The business to be transacted is shown in the Agenda.



Mr Kenn Donohoe
CHIEF EXECUTIVE OFFICER

DISCLAIMER

The recommendations contained in the Agenda are subject to confirmation by the Committee and endorsement by the Council. The Shire of Ashburton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ashburton for any act, omission or statement or intimation occurring during a Council meeting.

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

1.	DECLARATION OF OPENING.....	4
1.1	ACKNOWLEDGEMENT OF COUNTRY	4
2.	ATTENDANCE	4
2.1	PRESENT	4
2.2	APOLOGIES.....	4
2.3	APPROVED LEAVE OF ABSENCE.....	4
3.	ANNOUNCEMENT OF VISITORS.....	4
4.	DECLARATION BY MEMBERS.....	5
4.1	DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA	5
4.2	DECLARATIONS OF INTEREST	5
5.	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	6
5.1	AUDIT AND RISK COMMITTEE MEETING HELD ON 10 MARCH 2020	6
6.	TERMS OF REFERENCE	6
7.	AGENDA ITEMS	8
7.1	NATIONAL REDRESS SCHEME (PARTICIPATIONS OF WA LOCAL GOVERNMENTS)	8
8.	CONFIDENTIAL MATTERS.....	16
8.1	CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD	17
9.	NEXT MEETING.....	19
10.	CLOSURE OF MEETING	19

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at _____ am.

1.1 ACKNOWLEDGEMENT OF COUNTRY

As representatives of the Shire of Ashburton Council, we respectfully acknowledge the local Indigenous people, the traditional custodians of this land where we are meeting upon today and pay our respects to them and all their elders both past, present and future.

2. ATTENDANCE

2.1 PRESENT

Members:	Cr P Foster Cr K White Cr L Rumble Cr M Lynch Cr D Diver Cr R de Pledge Cr J Richardson	Tom Price Ward (Presiding Member) Onslow Ward Paraburdoo Ward Tom Price Ward Tom Price Ward Ashburton Ward Tablelands Ward
Staff:	Mr K Donohoe Mr J Bingham Ms C Bryce Mrs K Bartley Mr M Hudson Mrs M Lewis	Chief Executive Officer Director Corporate Services Acting Director Property and Development Services Director Community Services Director Infrastructure Council Liaison Officer
Guests:		
Members of Public:	There were _____ members of the public in attendance at the commencement of the meeting.	
Members of Media:	There were _____ members of the media in attendance at the commencement of the meeting.	

2.2 APOLOGIES

Cr D Dias Paraburdoo Ward

2.3 APPROVED LEAVE OF ABSENCE

Cr M Gallanagh Pannawonica Ward

3. ANNOUNCEMENT OF VISITORS

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

4. DECLARATION BY MEMBERS

4.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

All Councillors are requested to give due consideration to all matters contained in the Agenda presently before the meeting.

4.2 DECLARATIONS OF INTEREST

Councillors to Note

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the *Local Government Act 1995*.

NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have an interest in a matter.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc.), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the *Local Government Act*, or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69 (3) of the *Local Government Act*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
There were no Declaration of Interests provided.		

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 AUDIT AND RISK COMMITTEE MEETING HELD ON 10 MARCH 2020

Officers Recommendation

That the Unconfirmed Minutes of the Audit and Risk Committee Meeting held on 10 March 2020 (**ATTACHMENT 5.1**) be confirmed as a true and accurate record subject to the following amendments:

6. TERMS OF REFERENCE

Audit and Risk Management Committee

Purpose

The Audit Committee's role in accordance with Regulation 15 of the *Local Government (Audit) Regulations 1995* is to provide assistance and guidance to Council on the discharge of its duties under Part 6 and 7 of the *Local Government Act 1995 (the Act)*. The Audit Committee assists Council to monitor the integrity of the Shire's financial statements, risk management, internal controls and compliance with legislative requirements.

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

Responsibilities

The Audit Committee is responsible for:

- 1.1 Guiding and assisting Council in carrying out its functions under:
 - (a) Part 6 of the Act and its functions relating to other audits and other matters related to financial management; and
 - (b) Part 7 of the Act in relating to auditing the Shire's financial accounts.
- 1.2 Reviewing the CEO's report required under regulation 17(3).
- 1.3 Monitoring and advising the CEO when the CEO is carrying out functions in relation to a review under:
 - (a) regulation 17 (1); and
 - (b) the *Local Government (Financial Management) Regulations 1996*, regulation 5(2)(c).
- 1.4 Support the Auditor conducting an audit and carrying out the Auditor's other duties under the Act.
- 1.5 Oversee the implementation of any action that Council
 - (a) is required to take, has stated it has taken or intends to take in respect to matters raised by the audit report;
 - (b) has accepted should be taken on receipt of the CEO's report of a review under regulation 17(1); and
 - (c) has accepted should be taken on receipt of the CEO's report under regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.
- 1.6 The Audit Committee's duties include;
 - (a) considering the Auditor's interim audit of the Shire's accounting and internal control procedures for the financial year;
 - (b) reviewing the audited financial report for the previous financial year;
 - (c) reviewing the interim and final audit reports for the financial year;
 - (d) reviewing the annual Compliance Audit Return;
 - (e) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's systems and procedures regarding risk management, internal controls and legislative compliance;
 - (f) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's financial management systems and procedures; and
 - (g) considering the proposed timeline for Council to adopt the budget and the ten-year financial plan for the following financial year; and providing a report to council on those matters.

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

7. AGENDA ITEMS

7.1 NATIONAL REDRESS SCHEME (PARTICIPATIONS OF WA LOCAL GOVERNMENTS)

FILE REFERENCE:	GRO1
AUTHOR'S NAME AND POSITION:	Kellie Bartley Director Community Services
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	22 May 2020
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Agenda Item 7.5 (Minute No. 577/2019) – Ordinary Meeting of Council 18 June 2019

Summary

The purpose of this report is for Council to consider the background information and the Western Australian Government's decision in relation to the National Redress Scheme. Noting the key considerations and administrative arrangements for the Shire of Ashburton and consider the Shire's participation as part of the WA Government's declarations in the National Redress Scheme.

Background

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the Western Australian Government and the broader WA community.

The implications of the Royal Commission's recommendations are twofold: the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future-facing, ensuring better child safe approaches are implemented holistically moving forward.

PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9 JUNE 2020

The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the WA local government sector and the Shire of Ashburton) will be required to consider leading practice approaches to child safeguarding separately in the future.

The Shire may consider a Child Safe Policy that would include the National Principles for Child Safe Organisations that assists arts, cultural, community, sport and recreation organisations to reflect upon our current child safe practices against the National Principles for Child Safe Organisations and to identify areas for improvement, to act and make positive change.

National Redress Scheme

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single National Redress Scheme (the Scheme) to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three elements of Redress:

- A direct personal response (apology) from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme and the State started participating from 1 January 2019.

The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the National Redress Scheme.

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth)*, local governments may be considered a State Government institution.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

ATTACHMENT 7.1

Comment

Following extensive consultation, the State Government (December 2019):

- Noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Noted the options for WA local government participation in the Scheme;
- Agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and

PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9 JUNE 2020

- Agrees to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

The following will be covered for local governments participating in the Scheme as a State Government institution and part of the State's declaration:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the *State Records Act 2000*); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments participating in the Scheme as a State Government institution, with the State will be responsible for:

- Providing the State with the necessary (facilities and services) information to participate in the Scheme;
- Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- Costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion.

The WALGA State Council meeting of 4 March 2020:

1. Acknowledged the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration;
2. Endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government, and
3. Endorsed by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.

The State and WALGA will sign a Memorandum of Understanding to reflect the principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration.

State agencies (led by DLGSC), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9 JUNE 2020

The State's decision allows for the WA Government's Scheme participation declaration to be amended to include local governments and this report seeks endorsement of the Shire's participation in the Scheme.

As an independent entity and for absolute clarity, it is essential that the Shire of Ashburton formally indicates via a decision of Council, the intention to be considered a State Government institution (for the purposes on the National Redress Scheme) and be included in the WA Government's amended participation declaration.

The Shire of Ashburton will not be included in the State's amended declaration, unless it formally decides to be included.

The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State Government institution, as part of the State's amended declaration.

The option also exists for the Shire of Ashburton to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should the Shire of Ashburton formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the Shire include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire.

Detailed below is a list of considerations to participate in the Scheme:

Executing a Service Agreement

All Royal Commission information is confidential, and it is not known if the Shire of Ashburton will receive a Redress application. A Service Agreement will only be executed if the Shire of Ashburton receives a Redress application.

Shire of Ashburton needs to give authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received. Timeframes for responding to a Request for Information are 3 weeks for priority applications and 7 weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside most Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

Application Processing / Staffing and Confidentiality

Administratively the Shire of Ashburton will determine:

PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9 JUNE 2020

- Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements.

Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a 'disposal freeze' initiated under the *State Records Act 2000* (the Act) to protect past and current records that may be relevant to actual and alleged incidents of child sexual abuse. The Shire of Ashburton's record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in *The Act*.

Redress Decisions

The Shire of Ashburton should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the Shire of Ashburton do not have any influence on the decision made and there is no right of appeal.

Consultation

The State, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:

- Webinars to local governments, predominately in regional and remote areas;
- Presentations at 12 WALGA Zone and Local Government Professional WA meetings;
- Responses to email and telephone enquiries from individual local governments.

PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9 JUNE 2020

It was apparent from the consultations local governments were most commonly concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;
- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.

LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020.

The State's decision, in particular to cover the costs / payments to the survivor, has taken into account the feedback provided by local governments during the consultation detailed above.

Options

Option 1

That Council:

1. Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;
2. Agrees to participate in the National Redress Scheme as a State Government institution and is included as part of the State Government's declaration;
3. Authorises the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received;
4. Notes that a confidential report will be provided if a Redress application is received by the Shire of Ashburton; and
5. Request the Chief Executive Officer prepare a Shire of Ashburton Child Safe Policy for the consideration of Council as soon as practicable.

Option 2

That Council:

1. Notes that consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;

PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9 JUNE 2020

2. Does not endorse the participation of the Shire of Ashburton in the National Redress Scheme as a State Government institution and included as part of the State Government's declaration; and
3. Requests the Chief Executive Officer prepare a Shire of Ashburton Child Safe Policy for the consideration of Council as soon as practicable.

The option also exists for Council to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should the Shire formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the Shire include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire.

Statutory Environment

The Shire in agreeing to join the Scheme, is required to adhere to legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995*.

Financial Implications

The State's decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the local government may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice.

The State's decision also mitigates a significant financial risk to the local government in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person who receives redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

There is no current budget allocation for matters of this type.

Strategic Implications

There are no known strategic implications for this matter.

Risk Management

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be "Moderate" risk and can be managed by routine procedures, and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Officers Recommendation

That with respect to the National Redress Scheme (Participations of WA Local Governments), the Audit and Risk Management Committee recommend, Council:

1. Note the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of WA local governments;
2. Agree to participate in the National Redress Scheme as a State Government institution and is included as part of the State Government's declaration;
3. Authorise the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received;
4. Note that a confidential report will be provided if a Redress application is received by the Shire of Ashburton; and
5. Request the Chief Executive Officer prepare a Shire of Ashburton Child Safe Policy for the consideration of Council as soon as practicable.

8. CONFIDENTIAL MATTERS

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*
 - (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
 - (h) *such other matters as may be prescribed.*

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

**8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE
OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR
COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD**

FILE REFERENCE:	LS34
AUTHOR'S NAME AND POSITION:	Keith Pearson Special Projects Advisor Janyce Smith Executive Officer Alan Mccoll Manager Operations - East
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/ RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	25 May 2020
DISCLOSURE OF FINANCIAL INTEREST:	The authors and the authorising officer have no financial proximity or impartiality interests in the proposal.
PREVIOUS MEETING REFERENCE:	Confidential Agenda Item 8.1 (Minute No. 23/020) Audit and Risk Committee Meeting 10 March 2020 Confidential Agenda Item 18.5 (Minute No. 757/2020) Ordinary Meeting of Council 11 February 2020 Confidential Agenda Item 8.1 (Minute No. 689/2019) Audit and Risk Committee Meeting 17 December 2019 Confidential Agenda Item 18.2 (Minute No. 687/2019) Ordinary Meeting Council 22 October 2019 Confidential Agenda Item 8.1 (Minute No 631/2019) – Audit and Risk Committee Meeting 18 September 2019

REASON FOR CONFIDENTIALITY

The Chief Executive Officer's Report is confidential in accordance with s5.23 (2) *the Local Government Act 1995* because it deals with matters affecting s5.23 (2):

- (b) *the personal affairs of any person;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

Officers Recommendation

That with respect to the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and Roebourne - Wittenoom Road, the Audit and Risk Management Committee recommend, Council:

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

1. Receive the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and *Roebourne - Wittenoom Road* (**CONFIDENTIAL ATTACHMENT 8.1A**) and remain confidential in accordance s5.23 (2)(b) & (d) of the *Local Government Act 1995*; and
2. Ensure that the Shire management continue to provide Wittenoom related reports to the Audit and Risk Management Committee.

**PUBLIC AGENDA - AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 9
JUNE 2020**

9. NEXT MEETING

The next Audit and Risk Committee Meeting will be held on Tuesday 8 September 2020 at the Barry Lang Centre, Pannawonica at a time to be advised.

10. CLOSURE OF MEETING

The Presiding Member closed the meeting at _____ am.

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**



**SHIRE OF ASHBURTON
AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING**

**MINUTES
(Public Document)**

**Council Chambers, Onslow Shire Complex, Second
Avenue, Onslow
10 March 2020
9.00 am**

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

**SHIRE OF ASHBURTON
ORDINARY MEETING OF COUNCIL**

The Acting Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.

ACTING CEO: *P. Heedy*

Date: 10.03.2020

These minutes were confirmed by Council as a true and correct record of proceedings of the Ordinary Meeting of Council on the 10.03.2020.

Presiding Member: _____

Date: _____

DISCLAIMER

The resolutions contained in the Minutes are subject to confirmation by Council. The Shire of Ashburton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ashburton for any act, omission or statement or intimation occurring during a Council meeting.

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

1.	DECLARATION OF OPENING.....	4
1.1	ACKNOWLEDGEMENT OF COUNTRY	4
2.	ATTENDANCE	4
2.1	PRESENT	4
2.2	APOLOGIES.....	4
2.3	APPROVED LEAVE OF ABSENCE.....	4
3.	ANNOUNCEMENT OF VISITORS.....	4
4.	DECLARATION BY MEMBERS.....	5
4.1	DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA	5
4.2	DECLARATIONS OF INTEREST	5
5.	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	6
5.1	AUDIT AND RISK COMMITTEE MEETING HELD ON 17 DECEMBER 2019	6
6.	TERMS OF REFERENCE	7
7.	AGENDA ITEMS	8
7.1	LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN FOR 2019	8
8.	CONFIDENTIAL MATTERS.....	10
8.1	CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD	12
9.	NEXT MEETING.....	14
10.	CLOSURE OF MEETING.....	14

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 9.01 am.

1.1 ACKNOWLEDGEMENT OF COUNTRY

As representatives of the Shire of Ashburton Council, we respectfully acknowledge the local Indigenous people, the traditional custodians of this land where we are meeting upon today and pay our respects to them and all their elders both past, present and emerging.

2. ATTENDANCE

2.1 PRESENT

Members:	Cr P Foster Cr K White Cr D Dias Cr L Rumble Cr M Lynch Cr D Diver Cr M Gallanagh Cr R de Pledge Cr J Richardson	Tom Price Ward (Presiding Member) Onslow Ward Paraburdoo Ward Paraburdoo Ward Tom Price Ward Tom Price Ward Pannawonica Ward Ashburton Ward Tablelands Ward
Staff:	Mr P Sheedy Mr J Bingham Mr B Cameron Mr D Bailey Mrs J Fell Ms J Smith Mrs M Lewis Mrs K Cameron	Acting Chief Executive Officer Director Corporate Services Director Property and Development Services Manager Projects and Assets Manager Land and Asset Compliance Executive Coordinator Council Liaison Officer Governance Officer (entered at 9.04 am)
Guests:	Nil	
Members of Public:	There were no members of the public in attendance at the commencement of the meeting.	
Members of Media:	There were no members of the media in attendance at the commencement of the meeting.	

2.2 APOLOGIES

Mr Alan McColl Acting Director Infrastructure
Mrs K Bartley Director Community Services

2.3 APPROVED LEAVE OF ABSENCE

There were no approved applications for leave of absence for this meeting.

3. ANNOUNCEMENT OF VISITORS

There were no visitors for this meeting.

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

4. DECLARATION BY MEMBERS

4.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

All Councillors noted that they had given due consideration to all matters contained in the Agenda presently before the meeting.

4.2 DECLARATIONS OF INTEREST

Councillors to Note

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the *Local Government Act 1995*.

NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have an interest in a matter.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc.), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the *Local Government Act*, or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69 (3) of the *Local Government Act*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
There were no Declaration of Interests provided.		

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 AUDIT AND RISK COMMITTEE MEETING HELD ON 17 DECEMBER 2019

Council Decision

MOVED: Cr L Rumble

SECONDED: Cr M Lynch

That the Unconfirmed Minutes of the Audit and Risk Committee Meeting held on 17 December 2019 (ATTACHMENT 5.1) be confirmed as a true and accurate record subject to the following amendments:

That Minute Numbers 687/2019 - 689/2019 for the Unconfirmed Minutes of the Audit and Risk Management Committee be amended to the following - 717/2019 to 719/2019.

Reason for change – Change required due to error in Synergy recording.

CARRIED 9/0

UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 10 MARCH 2020

6. TERMS OF REFERENCE

Audit and Risk Management Committee

Purpose

The Audit Committee's role in accordance with Regulation 15 of the *Local Government (Audit) Regulations 1995* is to provide assistance and guidance to Council on the discharge of its duties under Part 6 and 7 of the *Local Government Act 1995 (the Act)*. The Audit Committee assists Council to monitor the integrity of the Shire's financial statements, risk management, internal controls and compliance with legislative requirements.

Responsibilities

The Audit Committee is responsible for:

- 1.1 Guiding and assisting Council in carrying out its functions under:
 - (a) Part 6 of the Act and its functions relating to other audits and other matters related to financial management; and
 - (b) Part 7 of the Act in relating to auditing the Shire's financial accounts.
- 1.2 Reviewing the CEO's report required under regulation 17(3).
- 1.3 Monitoring and advising the CEO when the CEO is carrying out functions in relation to a review under:
 - (a) regulation 17 (1); and
 - (b) the *Local Government (Financial Management) Regulations 1996*, regulation 5(2)(c).
- 1.4 Support the Auditor conducting an audit and carrying out the Auditor's other duties under the Act.
- 1.5 Oversee the implementation of any action that Council
 - (a) is required to take, has stated it has taken or intends to take in respect to matters raised by the audit report;
 - (b) has accepted should be taken on receipt of the CEO's report of a review under regulation 17(1); and
 - (c) has accepted should be taken on receipt of the CEO's report under regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.
- 1.6 The Audit Committee's duties include;
 - (a) considering the Auditor's interim audit of the Shire's accounting and internal control procedures for the financial year;
 - (b) reviewing the audited financial report for the previous financial year;
 - (c) reviewing the interim and final audit reports for the financial year;
 - (d) reviewing the annual Compliance Audit Return;
 - (e) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's systems and procedures regarding risk management, internal controls and legislative compliance;
 - (f) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's financial management systems and procedures; and
 - (g) considering the proposed timeline for Council to adopt the budget and the ten-year financial plan for the following financial year; and providing a report to council on those matters.

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

7. AGENDA ITEMS

7.1 LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN FOR 2019

MINUTE: 22/2020

FILE REFERENCE:	GV32
AUTHOR'S NAME AND POSITION:	Kathy Cameron Governance Support Officer
AUTHORISING OFFICER AND POSITION:	Paul Sheedy Acting Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	25 February 2020
DISCLOSURE OF FINANCIAL INTEREST:	The author and authorising officer have no financial, proximity or impartiality interests in the proposal.
PREVIOUS MEETING REFERENCE:	Agenda Item 9.2.1 Ordinary Meeting of Council 12 March 2019

Summary

Each local government is to carry out a Compliance Audit annually. This Compliance Audit Return is for the period of 1 January to 31 December 2019.

The Return for the year 2019 is presented to the Audit and Risk Committee for review and approval, prior to presentation to Council for Adoption.

Background

The Compliance Audit Return is to assist Council in monitoring its organisational functions. Council is required to note any areas of non-compliance and endorse remedial action.

The Audit is provided by the Department of Local Government, Sport and Cultural Industries through their secure website platform called Smart Hub. The same audit is required to be completed by every WA local government. The Department considers, from a large range of issues it can audit, which ones will be specific to the year in question (i.e. each year the audit questions can change).

For 2019, there were 104 questions over 11 disciplines. The return has been completed by the respective areas and it was noted that the following are non-compliant:

- Item 8 Delegations of Power/Duty;
- Item 2 Optional Questions;
- Item 1 Tenders for providing Goods and Services; and
- Item 27 Tenders for Providing Goods and Services.

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

All explanations and actions to be taken are stated in **ATTACHMENT 7.1**.

Comment

The Return is required to be presented to Council for adoption before its submission to the Department of Local Government and Communities.

Consultation

Executive Management Team

Statutory Environment

Section 7.13 of the *Local Government Act 1995*, and Regulations 13, 14 & 15 of the *Local Government (Audit) Regulations 1996*.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

Shire of Ashburton 10 Year Strategic Community Plan 2017 – 2027 (2019 Desktop Review)

Goal 05 Inspiring Governance
Objective 3 Council leadership

Risk Management

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be "High". The high level of risk is being driven by the risk of a compliance breach requiring an internal investigation. As a high risk matter, the Chief Executive Officer and his staff actively monitor these matters.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Kathy Cameron entered the meeting at 9.04 am.

Committee Recommendation and Council Decision

MOVED: Cr M Lynch

SECONDED: Cr R de Pledge

That with respect to the Local Government Compliance Audit Return for 2019, the Audit and Risk Management Committee recommend, Council:

- 1. Accept the Compliance Audit Return (ATTACHMENT 7.1) of the Council for the period 1 January to 31 December 2019 and;**
- 2. Submit a certified copy of the Compliance Audit Return to the Director General of the Department of Local Government Sport and Cultural Industries by 31 March 2020.**

CARRIED 9/0

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

8. CONFIDENTIAL MATTERS

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*
 - (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
 - (h) *such other matters as may be prescribed.*

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

Council Decision

MOVED: Cr D Diver

SECONDED: Cr M Gallanagh

That Council move behind closed doors at 9.12 am to consider the following Confidential Items.

8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD

pursuant to sub section 5.23 (2) (a) (b) (c) and (d) of the *Local Government Act 1995* which provides:

- (b) the personal affairs of any person;**
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;**
 - (I) a matter that if disclosed, would reveal;**
 - (II) a trade secret;**
 - (III) information that has a commercial value to a person; or**
 - (IV) information about the business, professional, commercial or financial affairs of a person.**

CARRIED 9/0

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD

MINUTE: 23/2020

FILE REFERENCE: LS34

AUTHOR'S NAME AND POSITION: Keith Pearson
Special Projects Advisor

Janyce Smith
Executive Officer

Alan Mccoll
Acting Director Infrastructure Services

AUTHORISING OFFICER AND POSITION: Paul Sheedy
Acting Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 28 February 2020

DISCLOSURE OF FINANCIAL INTEREST: The authors and the authorising officer have no financial proximity or impartiality interests in the proposal.

PREVIOUS MEETING REFERENCE: Confidential Agenda Item 18.5 (Minute No. 757/2020)
Ordinary Meeting of Council 11 February 2020

Confidential Agenda Item 8.1 (Minute No 631/2019) –
Audit and Risk Committee Meeting 18 September 2019

REASON FOR CONFIDENTIALITY

The Acting Chief Executive Officer's Report is confidential in accordance with s5.23 (2) *the Local Government Act 1995* because it deals with matters affecting s5.23 (2):

- (b) *the personal affairs of any person;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

Committee Recommendation and Council Decision

MOVED: Cr D Diver

SECONDED: Cr K White

That with respect to the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and Roebourne - Wittenoom Road, the Audit and Risk Management Committee recommend Council:

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

1. Receive the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and *Roebourne - Wittenoom Road* (CONFIDENTIAL ATTACHMENTS 8.1A, 8.1B) and remain confidential in accordance s5.23 (2)(b) & (d) of the *Local Government Act 1995*; and
2. Ensure that the Shire management continue to provide Wittenoom related reports to the Audit and Risk Management Committee.

CARRIED 9/0

Council Decision

MOVED: Cr D Diver

SECONDED: Cr J Richardson

That Council re-open the meeting to the public at 9.20 am pursuant to sub section 5.23 (2) (a) and (b) of the *Local Government Act 1995*.

CARRIED 9/0

**UNCONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

9. NEXT MEETING

The next Audit and Risk Committee Meeting will be held on Tuesday 9 June 2020 at the Ashburton Hall, Ashburton Avenue, Paraborndoo at a time to be advised.

10. CLOSURE OF MEETING

The Presiding Member closed the meeting at 9.21 am.

UNCONFIRMED MINUTES



Department of
**Local Government, Sport
and Cultural Industries**

National Redress Scheme for Institutional Child Sexual Abuse

**Department of Local Government, Sport
and Cultural Industries**

Information Paper

3 February 2020

Contents

1. SUMMARY - WA LOCAL GOVERNMENT: ROYAL COMMISSION AND REDRESS	3
2. CURRENT SITUATION - WA LOCAL GOVERNMENT PARTICIPATION IN THE NATIONAL REDRESS SCHEME.....	4
CURRENT TREATMENT OF WA LOCAL GOVERNMENTS IN THE SCHEME	4
3. CONSULTATION TO DATE WITH WA LOCAL GOVERNMENT SECTOR.....	5
4. WA GOVERNMENT DECISION - FUTURE PARTICIPATION OF WA LOCAL GOVERNMENTS IN THE NATIONAL REDRESS SCHEME	7
KEY ASPECTS OF THE STATE’S DECISION	8
5. CONSIDERATIONS FOR WA LOCAL GOVERNMENTS	10
CONFIDENTIALITY	10
APPLICATION PROCESSING / STAFFING	10
RECORD KEEPING.....	10
REDRESS DECISIONS	11
MEMORIALS.....	11
6. NEXT STEPS – PREPARATION FOR WA LOCAL GOVERNMENT PARTICIPATION IN THE SCHEME	12
ACKNOWLEDGEMENTS	13
FOR MORE INFORMATION	13
APPENDIX A.....	14
ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE – FURTHER INFORMATION	14
THE WESTERN AUSTRALIAN GOVERNMENT RESPONSE TO THE ROYAL COMMISSION.....	15
APPENDIX B.....	16
NATIONAL REDRESS SCHEME - FURTHER INFORMATION.....	16
SURVIVORS IN THE COMMUNITY	17
TREATMENT OF LOCAL GOVERNMENTS BY OTHER JURISDICTIONS	18
TIMEFRAME TO JOIN THE SCHEME.....	19
THE SCHEME’S STANDARD OF PROOF	19
MAXIMUM PAYMENT AND SHARED RESPONSIBILITY	20
EFFECT OF AN APPLICANT ACCEPTING AN OFFER OF REDRESS	20

1. SUMMARY - WA LOCAL GOVERNMENT: ROYAL COMMISSION AND REDRESS

The Western Australian Government (the State), through the Department of Local Government, Sport and Cultural Industries (DLGSC), has been consulting with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme (the Scheme) with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Following this initial consultation and feedback gathered, the State Government considered a range of options regarding WA local government participation in the Scheme and reached a final position in December 2019.

DLGSC, supported by the Departments of Justice and Premier and Cabinet, will again engage with WA local governments in early 2020, to inform of the:

- State's decision and the implications for the sector (see [Section 4](#));
- Support (financial and administrative) to be provided by the State; and
- Considerations and actions needed to prepare for participation in the Scheme from 1 July 2020 (see [Section 5](#)).

DLGSC's second phase of engagement with WA local governments is summarised in the table below:

Description and Action	Agency	Timeline
Distribution of Information Paper to WA Local Governments	DLGSC	3 February 2020
WALGA hosted webinar	DLGSC / DPC	18 February 2020
Metro and Country Zone meetings	WA LG's / DLGSC	19 to 24 February 2020
State Council meeting – Finalisation of Participation arrangements	WALGA	4 March 2020
WALGA hosted webinar – Participation arrangements	DLGSC/ DPC	Mid-March 2020

Further information about the Royal Commission is available at [Appendix A](#) and the National Redress Scheme at [Appendix B](#) of this Information Paper.

The information in this Paper may contain material that is confronting and distressing. If you require support, please [click on this link](#) to a list of available support services.

2. CURRENT SITUATION - WA LOCAL GOVERNMENT PARTICIPATION IN THE NATIONAL REDRESS SCHEME

The WA Parliament passed the legislation required to allow for the Government and WA based non-government institutions to participate in the National Redress Scheme. The *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (WA) took effect on 21 November 2018.

The WA Government commenced participating in the Scheme from 1 January 2019.

The State Government's Redress Coordination Unit within the Office of the Commissioner for Victims of Crime, Department of Justice:

- Acts as the State Government's single point of contact with the Scheme;
- Coordinates information from State Government agencies to the Scheme; and
- Coordinates the delivery of Direct Personal Responses (DPR) to redress recipients (at their request) by responsible State Government agencies to redress recipients.

CURRENT TREATMENT OF WA LOCAL GOVERNMENTS IN THE SCHEME

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), Local Governments may be considered a State Government institution.¹

There are several considerations for the State Government and Local Governments (both individually and collectively) about joining the Scheme.

The State Government considers a range of factors relating to organisations or bodies participation in the Scheme, before their inclusion in the declaration as a State Government institution. These factors include the capability and capacity of the agencies or organisations to:

- Respond to requests for information from the State Government's Redress Coordination Unit within prescribed timeframes;
- Financially contribute to the redress payment made by the Scheme on behalf of the agency or body; and
- Comply with the obligations of participating in the Scheme and the Commonwealth legislation.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's declaration. This was to allow consultation to occur with the local government sector about the Scheme, and for fuller consideration to be given to the mechanisms by which the sector could best participate in the Scheme.

¹ Section 111(1)(b).

3. CONSULTATION TO DATE WITH WA LOCAL GOVERNMENT SECTOR

The Department of Local Government, Sport and Cultural Industries (DLGSC) has been leading an information and consultation process with the WA local government sector about the Scheme. The Departments of Justice and Premier and Cabinet (DPC) have been supporting DLGSC in the process, which aimed to:

- Raise awareness about the Scheme;
- Identify whether local governments are considering participating in the Scheme;
- Identify how participation may be facilitated; and
- Enable advice to be provided to Government on the longer-term participation of WA local governments.

DLGSC distributed an initial *Information and Discussion Paper* in early January 2019 to WA local governments, the WA Local Government Association (WALGA), Local Government Professionals WA (LG Pro) and the Local Government Insurance Scheme (LGIS). Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments and involved:

- an online webinar to 35 local governments, predominantly from regional and remote areas;
- presentations at 12 WALGA Zone and LG Pro meetings; and
- responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations that the local government sector had, at the time, a very low level of awareness of the Scheme prior to the consultations occurring, and that little to no discussion had occurred within the sector or individual local governments about the Scheme. Local governments were most commonly concerned about the:

- Potential cost of redress payments;
- Availability of historical information;
- Capacity of local governments to provide a Direct Personal Response (apology) if requested by redress recipients;
- Process and obligations relating to maintaining confidentiality if redress applications are received, particularly in small local governments;
- Lack of insurance coverage of redress payments by LGIS, meaning local governments would need to self-fund participation and redress payments.

LGIS Update (April 2019) – National Redress Scheme

LGIS published and distributed an update regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

WALGA State Council Resolution

The WALGA State Council meeting of 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

It is understood that this recommendation was made with knowledge that it is ultimately a State Government decision as to whether:

- Local governments can participate in the Scheme as part of the State's Government's declaration; and
- The State Government will fund local government redress liability.

4. WA GOVERNMENT DECISION - FUTURE PARTICIPATION OF WA LOCAL GOVERNMENTS IN THE NATIONAL REDRESS SCHEME

Following the initial consultation process, a range of options for local government participation in the Scheme were identified by the State Government including:

1. WA Local governments be **excluded** from the State Government's declaration of participating institutions.

This means that: local governments may choose not to join the Scheme; or join the Scheme individually or as group(s), making the necessary arrangements with the Commonwealth and self-managing / self-funding all aspects of participation in the Scheme.

2. WA Local governments be **included** in the State Government's declaration of participating institutions.

There were three sub-options for ways local government participation as a State Government institution could be accommodated:

- a. Local governments cover all requirements and costs associated with their participation;
- b. The State Government covers payments to the survivor arising from local governments' participation, with costs other than payments to the survivor (including counselling, legal and administrative costs) being funded by local governments; or
- c. An arrangement is entered into whereby the State Government and local governments share the requirements and costs associated with redress – for example, on a capacity to pay and deliver basis.

The State Government considered the above options and resolved via the Community Safety and Family Support Cabinet Sub-Committee (December 2019) to:

- Note the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Note the options for WA local government participation in the Scheme;
- Agree to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agree to the DLGSC leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

KEY ASPECTS OF THE STATE'S DECISION

For clarity, the State's decision that means the following financial responsibilities are to be divided between the State Government and the individual local government that has a Redress application submitted, and then subsequently accepted by the Scheme Operator as a Redress claim.

State Government

The State Government will cover the following:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response or DPR (Apology) to the survivor if requested (on a fee for service basis with costs covered by the individual local government – see below).

Individual Local Government

The individual local government will be responsible for:

- Costs associated with gathering their own (internal) information if requested in a Redress application;
- Providing the State with the necessary information to participate in the Scheme; and
- Costs associated the delivery of a DPR (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). *

* note – The State's decision includes that all DPR's will be coordinated and facilitated by the Redress Coordination Unit (Department of Justice) on every occasion, if a DPR is requested by the survivor.

This decision was made on the basis that:

- State Government financial support for local government participation in the Scheme, as set out, will ensure that redress is available to as many WA survivors of institutional child sexual abuse as possible.
- The demonstration of leadership by the State Government, as it will be supporting the local government sector to participate in the Scheme and recognising the WALGA State Council resolution of 3 July 2019, is consistent with the local government sector's preferred approach.
- Contributes to a nationally consistent approach to the participation of local governments in the Scheme, and particularly aligns with the New South Wales, Victorian and Tasmanian Governments' arrangements. This provides opportunity for the State Government to draw on lessons learned through other jurisdictions' processes.
- Ensures a consistent and quality facilitation of a DPR (by the State) if requested by the survivor.
- State Government financial support for any local government redress claims does not imply State Government responsibility for any civil litigation against local governments.

Noting the State's decision, a range of matters need to be considered and arrangements put in place to facilitate local governments participating with the State Government's declaration and meeting the requirements of the Scheme. Those arrangements will:

- provide for a consistent response to the Scheme by WA Government institutions, and for WA survivors accessing the Scheme; and
- mitigate concerns raised by local governments during consultations about complying with the processes and requirements of the Scheme.

5. CONSIDERATIONS FOR WA LOCAL GOVERNMENTS

Following the State's decision, a range of matters need to be considered by each local government and in some cases, actions taken in preparation for participating in the Scheme, these include:

CONFIDENTIALITY

- Information about applicants and alleged abusers included in RFIs (Requests for Information) is sensitive and confidential and is considered protected information under *The National Redress Act*, with severe penalties for disclosing protected information.
- Individual local governments will need to consider and determine appropriate processes to be put in place and staff members designated to ensure information remains confidential.

APPLICATION PROCESSING / STAFFING

- The timeframes for responding to an RFI are set in *The Act* and are 3 weeks for priority application and 7 weeks for non-priority applications. This RFI process will be supported by the State (DLGSC and the Redress Coordination Unit).
- Careful consideration should be given to determining which position will be responsible for receiving applications and responding to RFIs, due to the potentially confronting content of people's statement of abuse.
- Support mechanisms should be in place for these staff members, including access to EAP (Employee Assistance Program) or other appropriate support.
- The need for the appointed position and person(s) to have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest.
- The responsible position(s) or function(s) would benefit from being kept confidential in addition to the identity of the person appointed to it.

RECORD KEEPING

- The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements of the *State Records Act 2000*.
- Consider secure storage of information whilst the RFI is being responded to.

REDRESS DECISIONS

- Decisions regarding redress applicant eligibility and responsible institution(s) are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State government does not have any influence on the decision made.
- There is no right of appeal.

MEMORIALS

- Survivors (individuals and / or groups) from within individual communities may ask about the installation of memorials. The State Government's view is to only consider memorialising groups, however locally, this is a decision of an individual local government.

6. NEXT STEPS – PREPARATION FOR WA LOCAL GOVERNMENT PARTICIPATION IN THE SCHEME

In addition to the second-phase information process outlined in section 1, the State will develop:

1. A Memorandum of Understanding (MOU) - to be executed between the State and WALGA following the (WALGA) State Council meeting on 4 March 2020.

The MOU will capture the overall principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration; and

2. Template Service Agreement – that will be executed on an 'as needed' basis between the State and an individual local government, if a redress application is received.

DLGSC and the Department of Justice will work with WALGA / LGPro and all local governments to prepare for participation in the Scheme including:

- Identifying appropriate positions, staff and processes to fulfil requests for information;
- Ensuring local governments have delegated authority to an officer to execute a service agreement with the State if needed;

The State will prepare a template Council report, where all WA local governments will be asked to delegate authority to an appropriate officer in advance, able to execute a service agreement if required. This is necessary as priority requests for information under the Scheme, are in a shorter turnaround time than Council meeting cycles and therefore, cannot be undertaken at the time.

- Ensuring local government have established appropriate processes and can fulfil Scheme obligations (particularly in terms of confidentiality, record keeping etc); and
- Gathering the necessary facility and service information from all individual local governments to commence participation in the Scheme. This information will be provided to the Commonwealth, loaded into the Scheme database and used to facilitate an individual local government's participation in the National Redress Scheme.

ACKNOWLEDGEMENTS

The contents of this Information and Discussion Paper includes extracts from the following identified sources. Information has been extracted and summarised to focus on key aspects applicable to the Department of Local Government, Sport and Cultural Industries' key stakeholders and funded bodies:

- The Royal Commission into Institutional Responses to Child Sexual Abuse – Final Report.

To access a full version of the Royal Commission's Findings and the Final Report, please follow the link at <https://www.childabuseroyalcommission.gov.au/>

- Western Australian State Government response to the Royal Commission (27 June 2018).

To access a full version of the State Government's detailed response and full report, please follow the link at

[https://www.dpc.wa.gov.au/ProjectsandSpecialEvents/Royal-Commission/Pages/The-WA-Government-Response-to-Recommendations-\(June-2018\).aspx](https://www.dpc.wa.gov.au/ProjectsandSpecialEvents/Royal-Commission/Pages/The-WA-Government-Response-to-Recommendations-(June-2018).aspx)

- More information on the National Redress Scheme can be found at www.nationalredress.gov.au.
- The full National Redress Scheme - Participant and Cost Estimate (July 2015) Report at <https://www.dlgsc.wa.gov.au/resources/publications/Pages/Child-Abuse-Royal-Commission.aspx>

FOR MORE INFORMATION

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APPENDIX A

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE – FURTHER INFORMATION

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was established in January 2013, to investigate systemic failures of public and private institutions² to protect children from child sexual abuse, report abuse, and respond to child sexual abuse. The Royal Commission's Terms of Reference required it to identify what institutions should do better to protect children in the future, as well as what should be done to:

- achieve best practice in reporting and responding to reports of child sexual abuse;
- eliminate impediments in responding to sexual abuse; and
- address the impact of past and future institutional child sexual abuse.

The Western Australian Government (State Government) strongly supported the work of the Royal Commission through the five years of inquiry, presenting detailed evidence and submissions and participating in public hearings, case studies and roundtables.

The Royal Commission released three reports throughout the inquiry: *Working with Children Checks (August 2015)*; *Redress and Civil Litigation (September 2015)* and *Criminal Justice (August 2017)*. The Final Report (Final Report) of the Royal Commission into Institutional Responses to Child Sexual Abuse incorporated the findings and recommendations of the previously released reports and was handed down on 15 December 2017. To access a full version of the Royal Commission's Findings and the Final Report, follow the link at <https://www.childabuseroyalcommission.gov.au/>

The Royal Commission made 409 recommendations to prevent and respond to institutional child sexual abuse through reform to policy, legislation, administration, and institutional structures. These recommendations are directed to Australian governments and institutions, and non-government institutions. One specific recommendation was directed at Local Government, while many others will directly or indirectly impact on the organisations that Local Government works with and supports within the community.

Of the 409 recommendations, 310 are applicable to the Western Australian State Government and the broader WA community.

² * For clarity in this Paper, the term 'Institution' means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), however described, and:

- Includes for example, an entity or group of entities (including an entity or group of entities that no longer exist) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families
- Does not include the family.

THE WESTERN AUSTRALIAN GOVERNMENT RESPONSE TO THE ROYAL COMMISSION

The State Government examined the 310 applicable recommendations and provided a comprehensive and considered response, taking into account the systems and protections the State Government has already implemented. The State Government has accepted or accepted in principle over 90 per cent of the 310 applicable recommendations.

The State Government's response was released on 27 June 2018 fulfilling the Royal Commission recommendation 17.1, that all governments should issue a formal response within six months of the Final Report's release, indicating whether recommendations are accepted; accepted in principle; not accepted; or will require further consideration. The WA Government's response to the Royal Commission recommendations can be accessed at:

<http://www.dpc.wa.gov.au/childabuseroyalcommission>

The State Government has committed to working on the recommendations with the Commonwealth Government, other states and territories, local government, non-government institutions (including religious institutions) and community organisations.

The State Government's overall approach to implementation of reforms is focused on:

- Stronger Prevention (including Safer Institutions and Supportive Legislation)
 - Create an environment where children's safety and wellbeing are the centre of thought, values and actions;
 - Places emphasis on genuine engagement with and valuing of children;
 - Creates conditions that reduce the likelihood of harm to children and young people.
- Reliable Responses (including Effective Reporting)
 - Creates conditions that increase the likelihood of identifying any harm;
 - Responds to any concerns, disclosures, allegations or suspicions of harm.
- Supported Survivors (including Redress).

Many of the recommendations of the Royal Commission have already been addressed through past work of the State Government, and others working in the Western Australian community to create safe environments for children. This work is acknowledged and where appropriate, will be built upon when implementing reforms and initiatives that respond to the Royal Commission's recommendations.

APPENDIX B

NATIONAL REDRESS SCHEME - FURTHER INFORMATION

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single national redress scheme to recognise the harm suffered by survivors of institutional child sexual abuse.

The National Redress Scheme (the Scheme):

- Acknowledges that many children were sexually abused in Australian institutions;
- Recognises the suffering they endured because of this abuse;
- Holds institutions accountable for this abuse; and
- Helps people who have experienced institutional child sexual abuse gain access to counselling and psychological services, a direct personal response, and a redress-payment.

The National Redress Scheme involves:

- People who have experienced institutional child sexual abuse who can apply for redress;
- The National Redress Scheme team — Commonwealth Government staff who help promote the Scheme and process applications;
- Redress Support Services — free, confidential emotional support and legal and financial counselling for people thinking about or applying to the Scheme;
- Participating Institutions that have agreed to provide redress to people who experienced institutional child sexual abuse; and
- Independent Decision Makers who will consider applications and make recommendations and conduct reviews.

The National Redress Scheme formally commenced operation on 1 July 2018 and offers eligible applicants three elements of redress:

- A direct personal response from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

Importantly, the Scheme also provides survivors with community based supports, including application assistance; financial support services; and independent legal advice. The Scheme is administered by the Commonwealth Government on behalf of all participating governments, and government and non-government institutions, who contribute on a 'responsible entity pays' basis.

Institutions that agree to join the Scheme are required to adhere to the legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

More information on the Scheme can be found at www.nationalredress.gov.au or the [National Redress Guide](#).

SURVIVORS IN THE COMMUNITY

Throughout the five years of its inquiry, the Royal Commission heard detailed evidence and submissions, and held many public and private hearings, case studies and roundtables. Most notably, the Royal Commission heard directly from survivors of historical abuse.

The Royal Commission reported that survivors came from diverse backgrounds and had many different experiences. Factors such as gender, age, education, culture, sexuality or disability had affected their vulnerability and the institutions response to abuse.

The Royal Commission, however, did not report on the specific circumstances of individuals with the details of survivors protected; the circumstances of where and within which institutions their abuse occurred is also protected and therefore unknown. Further, survivors within the WA community may have chosen to not disclose their abuse to the Royal Commission.

Accordingly, it is not known exactly how many survivors were abused within Western Australian institutions, including within Local Government contexts. Within this context of survivors in the community, who may or may not be known, consideration needs to be given to how all institutions, including local governments, can fulfil the Royal Commission's recommendation in relation to redress.

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single national redress scheme to recognise the harm suffered by survivors of institutional child sexual abuse. This report also recommended that Governments around Australia remove the limitation periods that applied to civil claims based on child sexual abuse, and consequently prevented survivors – in most cases – pursuing compensation through the courts.

As a result of reforms made in response to these recommendations, WA survivors now have the following options to receive recognition of their abuse:

1. Pursuing civil court action(s) against the perpetrator and/or the responsible institution. The *Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018* (WA) took effect on 1 July 2018, removing the limitation periods that previously prevented persons who had experienced historical child sexual abuse from commencing civil action.
2. Applying to the National Redress Scheme, which provides eligible applicants with a monetary payment, funds to access counselling and an apology. Note, to receive redress the responsible institution(s) will need to have joined the Scheme.

TREATMENT OF LOCAL GOVERNMENTS BY OTHER JURISDICTIONS

At the time of the State Government joining the Scheme, only two jurisdictions had made a decision about the treatment of local governments. All jurisdictions have since agreed to include local governments within their respective declarations, with the exception of South Australia (SA). The SA Government is still considering their approach.

It is understood that all jurisdictions, with the exception of SA, are either covering the redress liability associated with local government participation in the Scheme or entering into a cost sharing arrangement. The table below provides a summary of other jurisdictions' positions.

Jurisdiction	Position
Commonwealth	<ul style="list-style-type: none"> No responsibility for local governments. The Commonwealth Government has indicated preference for a jurisdiction to take a consistent approach to the participation of local governments in the Scheme.
Australian Capital Territory (ACT)	<ul style="list-style-type: none"> ACT has no municipalities, and the ACT Government is responsible for local government functions. ACT has therefore not been required to explore the issue of local government participation in the Scheme.
New South Wales (NSW)	<ul style="list-style-type: none"> In December 2018, the NSW Government decided to include local councils as NSW Government institutions and to cover their redress liability. The NSW Office for Local Government is leading communications with local councils about this decision. NSW's declaration of participating institutions will be amended once preparation for local council participation is complete.
Northern Territory (NT)	<ul style="list-style-type: none"> The NT Government has consulted all of the Territory's local governments, including individually visiting each local government. NT is in the process of amending Territory's declaration of participating institutions to include local governments.
Queensland	<ul style="list-style-type: none"> Queensland is finalising a memorandum of understanding (MOU) with the Local Government Association of Queensland to enable councils to participate in the Scheme as State institutions. The MOU includes financial arrangements that give regard to individual councils' financial capacity to pay for redress.
South Australia (SA)	<ul style="list-style-type: none"> Local governments are not currently included in the SA Government's declaration The SA Government is still considering its approach to local governments.
Tasmania	<ul style="list-style-type: none"> Local Governments have agreed to participate in the Scheme and will be included as a state institution in the Tasmanian Government's declaration. A MOU with local governments is being finalised, ahead of amending Tasmania's declaration.
Victoria	<ul style="list-style-type: none"> The Victorian Government's declaration includes local governments. The Victorian Government is covering local governments' redress liability.
Western Australia (WA)	<ul style="list-style-type: none"> The WA Government has excluded local governments from its declaration, pending consultation with the local government sector.

TIMEFRAME TO JOIN THE SCHEME

Institutions can join the Scheme within the first two years of its commencement. This means that institutions can join the Scheme up to and including 30 June 2020 (the second anniversary date of the Scheme). The Commonwealth Minister for Social Services may also provide an extension to this period to allow an institution to join the Scheme after this time. However, it is preferred that as many institutions as possible join the Scheme within the first two years to give certainty to survivors applying to the Scheme about whether the institution/s in which they experienced abuse will be participating.

If an institution has not joined the Scheme, they are not a participating institution. However, this will not prevent a person from applying for redress. In this circumstance, a person's application cannot be assessed until the relevant institution/s has joined the Scheme. The Scheme will contact the person to inform them of their options to either withdraw or hold their application. The Scheme will also contact the responsible institution/s to provide information to aid the institution/s to consider joining the Scheme.

THE SCHEME'S STANDARD OF PROOF

The Royal Commission recommended that 'reasonable likelihood' should be the standard of proof for determining eligibility for redress. For the purposes of the Scheme, 'reasonable likelihood' means the chance of the person being eligible is real and is not fanciful or remote and is more than merely plausible.

When considering a redress application, the Scheme Operator must consider whether it is reasonably likely that a person experienced sexual abuse as a child, and that a participating institution is responsible for an alleged abuser/s having contact with them as a child. In considering whether there was reasonable likelihood, all the information available must be taken into account.

Where a participating institution does not hold a record (i.e. historical information), the Scheme Operator will not be precluded from determining a person's entitlement to redress. The information to be considered by the Scheme Operator includes:

- The information contained in the application form (or any supplementary information provided by a person by way of statutory declaration);
- Any documentation a person provided in support of their application;
- The information provided by the relevant participating institution/s in response to a Request for Information from the Operator, including any supporting documentation provided; and
- Any other information available including from Scheme holdings (for example where the Scheme has built up a picture of relevant information about the same institution during the relevant period, or the same abuser).

It should be noted that the 'reasonable likelihood' standard of proof applied by the Scheme is of a lower threshold (or a lower standard of proof) than the common law standard of proof applied in civil litigation – the 'balance of probabilities'. Please see 11.7 of the Royal Commission's *Redress and Civil Litigation Report (2015)* for additional information on the difference between the two.

MAXIMUM PAYMENT AND SHARED RESPONSIBILITY

The amount of redress payment a person can receive depends on a person's individual circumstances, specifically the type of abuse the person experienced.

A person may only make one application for redress. The maximum redress payment payable under the scheme to an applicant is \$150,000 in total.

The payment of redress is made by the institution(s) found responsible for exposing the individual to the circumstances that led to the abuse.

There may be instances where one or more institutions are found to be jointly responsible for the redress payment to a person, and instances where a person may have experienced abuse in one or more different institutions. In such situations, the redress payable by an institution will be apportioned in accordance with the Scheme's assessment framework - see <https://www.legislation.gov.au/Details/F2018L00969> and method statement - see <http://guides.dss.gov.au/national-redress-guide/4/1/1>

Prior payments made by the responsible institution for the abuse to the applicant (e.g. ex-gratia payments) will be taken into account and deducted from the institutions' redress responsibility.

EFFECT OF AN APPLICANT ACCEPTING AN OFFER OF REDRESS

Accepting an offer of redress has the effect of releasing the responsible participating institution/s and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person agrees to not bring or continue any civil claims against the responsible participating institution/s in relation to any abuse within the scope of the Scheme.

If a responsible participating institution/s is a member of a participating group, the person will be releasing the other associated institutions and officials within that group from any civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme.

Accepting an offer of redress also has the effect of preventing a responsible participating institution from being liable to contribute to damages that are payable to the person in civil proceedings (where the contribution is to another institution or person).

In accepting the offer of redress, a person will also be consenting to allow the participating institution/s or official/s to disclose the person's acceptance of redress offer in the event that a civil claim is made. The Scheme must provide a copy of the person's acceptance of offer to each responsible institution for their records once received.

Note – the acceptance of an offer of redress does not exclude the pursuance or continuance of criminal proceedings against the abuser(s).