

21 October 2016

Chair of the Royal Commission
Royal Commission into Institutional Responses to Child Sexual Abuse
GPO Box 5283
Sydney NSW 2001

Dear Hon Justice Peter McClellan AM

Re. Criminal Justice Consultation Paper

The Victorian Multicultural Commission (VMC) welcomes the opportunity to provide this submission to the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) to advocate for people from diverse backgrounds. We commend the Royal Commission's proposed approach to criminal justice reforms to institutional child sexual abuse, that takes account of individual cultural and other needs.

Since 1983 the VMC has provided independent advice to governments to inform legislative and policy frameworks to Victoria's diverse and growing newly arrived population, and other people from culturally, linguistically and religiously diverse backgrounds. As specified in the *Multicultural Victoria Act 2011* the VMC's objectives include to promote access by Victoria's diverse communities to services made available by governments and other bodies, and a better understanding of Victoria's diverse communities.

Noting the approach of the Royal Commission to criminal justice reforms, in particular around ensuring that victims and survivors are supported to seek criminal justice responses. I would draw your attention to the needs of diverse population groups – in particular newly arrived migrants such as refugees and humanitarian entrants - who face greater barriers when seeking to access the criminal justice system.

The VMC has learned from its community consultations and state-wide regional advisory councils, that barriers to services and support, in general, are often influenced by a lack of accessible information, concerns of privacy and confidentiality, mistrust of authorities often based on negative pre-settlement experiences, language/communication difficulties, and cultural sensitivities or differences (such as concern about stigma). These barriers are even more pertinent in relation to sexual violence, including child sexual abuse. An aspect of this review might therefore be to look at the ways the criminal justice system and key associated agencies could seek to improve the agency of victims and survivors from culturally diverse backgrounds in accessing a criminal justice response, including aspects of encouraging reporting.

Recently, Victoria's Royal Commission into Family Violence (RCFV), drawing from a range of existing examples of restorative justice programs operating in national and international jurisdictions, recognised the potential to meet the needs of some victims. For example, the South Eastern Centre Against Sexual Assault in Victoria has established a pilot restorative justice conferencing program for victims of sexual assault, many of whom were abused by family members. The RCFV concluded that – with robust safeguards and based on international best

practice – restorative justice options in the family violence context has the potential to meet more of the justice needs of those victims who are experiencing the shortcomings of the existing justice response.¹

Whilst acknowledging the view of the Royal Commission, that restorative justice approaches to institutional child sexual abuse can be contentious, the VMC suggests that there are circumstances where it may be a viable approach. The RCFV recommended the development of a framework and pilot program for the delivery of restorative justice options for victims of family violence. The VMC supports the view that restorative justice can provide a meaningful justice approach and should be available as an additional option for victims and survivors to consider.

The efficacy of any restorative approach would need to be inclusive of the diversity of people affected by institutional child sexual abuse, including the adoption of strategies aimed at ensuring culturally diverse communities are able to seek available restorative justice options. Such strategies may include culturally appropriate skilled facilitators, the right to adequate interpreter and translation services, and culturally relevant restorative justice processes. The Restorative Justice Sub-Committee in the ACT identified that the principles of restorative justice would require the criminal justice system to also be culturally appropriate for both victims and offenders.²

The Royal Commission has demonstrated the importance and healing aspects of truth-telling testimony, it may be that restorative justice has the potential to offer more effective justice responses than are currently available. This would entail support around victims' justice needs to participate, have a voice, validation of their experience, genuine offender accountability, and reparation.³

Yours sincerely



Helen Kapalos
CHAIRPERSON

¹ See State of Victoria, Royal Commission into Family Violence: Report and Recommendations, Vol IV, Parl Paper No 132 (2014-16), 135-147.

² See Australian Capital Territory, Restorative Justice Options for the ACT: Issues Paper, (2003). At http://cdn.justice.act.gov.au/resources/uploads/RJU/IssuesPaper_RJU_OCT2003.pdf.

³ See K Daly, 'Reconceptualizing Sexual Victimization and Justice', in I Vanfraechem, A Pemberton and F Ndahinda (eds.), *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (Routledge, 2014). 388.