



Formerly- Incest Survivors' Association Inc.

Cabinet Submission

WA Cabinet Sub-Committee on Civil Litigation for Child Sexual Abuse

Part 1: Background Information about Phoenix

Part 2: Proposed changes to Statute of Limitations

Contact Person:

Louise Lamont
Executive Officer

Telephone: +61 8 9443 1910

Mobile: 0438 625 155

Email: louise.lamont@isa.asn.au

Part 1 - Background Information

Introduction

Phoenix Support & Advocacy Service Inc. (formerly known as ISA – Incest Survivors’ Association) supports those who have suffered child sexual abuse. Phoenix has provided counselling, therapeutic treatment services, education, advocacy and support in this specialised area in Western Australia for nearly 40 years.

About Phoenix Support & Advocacy Service

Phoenix Support and Advocacy Service (formerly Incest Survivors’ Association) was the first Non-Government Association in Western Australia to deal specifically with child sexual abuse and associated complex trauma impacts that were present and potentially can remain for a lifetime. Phoenix remains one of very few organisations in WA specialising specifically in this area.

Phoenix provides long term counselling for children, young people, and adults who have experienced child sexual abuse and seeks to leverage its specialised expertise by partnering with other organisations to improve recognition of, and responses to, child sexual abuse.

Currently the youngest client is 5 years of age and the oldest client to access the service was 91 years of age, which in some respects is indicative of no one being too young or too old to receive support. However, this is also indicative of tragically how early in life therapeutic treatments have to begin, along with how long and lasting can be the devastating effects of child sexual abuse, that even at the end of life memories still haunt, trauma effects can still be triggered, and the road to recovery can remain a life long journey.

Phoenix clients often return to our service months or years after they have taken a break from their recovery journey and when further support is required. Phoenix is keen to continue delivering this important community service and to advocate for those impacted by child sexual abuse. The prevalence can be as high as 1 in 3 girls and 1 in 6 boys confronted by this experience sometime in their childhood or adolescence.

What sets Phoenix apart from many mainstream organisations, particularly those using a medical model, is that Phoenix is responsive to client needs firstly by not being time-limited in terms of the number of sessions provided, or in terms of the period of time a client is accessing the service. This approach also acknowledges that it can take longer to build a trusting therapeutic alliance when a client has experienced trauma through the violation of trust, along with societal boundaries being disregarded for the purpose of exploiting a child. Phoenix’s therapeutic treatment approaches are flexible, and draw on a range of modalities to facilitate appropriate responses to the individual needs of each client, and to build some psychological resilience and develop a resource and support base for the client before embarking on complex trauma and processing work. Phoenix draws on a phased and tiered treatment approach to establish safety and stability first.

In the words of a Phoenix Client:

“For me, it was the knowledge that the right kind of help (Phoenix) was out there after three prior attempts with therapy with other professionals over the years”

The History of Phoenix Support & Advocacy Service

In 1978, Women's Health Care House and Australian Women Against Rape (Perth) organised a publicised 24 hour 'phone-in' designed to give women who had been sexually assaulted an opportunity to speak about their experiences. Of the 150 calls received, more than half related to intra-familial sexual abuse.

This group of women who headed up the phone-in and took calls, subsequently formed self-help and support groups after identifying that most of the women callers had been silenced and not supported by their families and loved ones. Many callers were profoundly depressed and had a mental health diagnosis.

Individual counselling, as well as group counselling, commenced shortly thereafter, initially on a volunteer basis. Incest Survivors' Association Inc. (ISA) now known as 'Phoenix Support and Advocacy Service' was formally incorporated in 1984 after obtaining a grant to provide services. The Incest Survivors' Association Inc. was the first Non-Government Association to deal specifically with child sexual abuse and the associated post-traumatic stress disorders and related psychological, emotional, relationship and wellbeing challenges.

It was common for women in that period of Australian history to establish services for sexual abuse and domestic violence with funds they had raised themselves and to work in those services on a volunteer basis. These were services that were not being provided by the Government of the day however, now would be considered at this point in time as essential services particularly, for vulnerable women and children escaping abuse and violence. Research studies into child sexual abuse and domestic violence have highlighted that these experiences are at times linked, and do not necessarily exist exclusively in isolation from each other. Women advocates, volunteering and lobbying separately in those two areas of social need, often joined forces to establish services, share scarce resources and collectively advocate for social justice.

In 1986 the Western Australian Government began partial funding of the Association (Phoenix) to provide services to the community, recognising that the thousands of annual phone calls identified a large, hidden, community problem. From this time onwards, this funding allowed services to become increasingly professionalised and with paid staff who were required to have formal tertiary qualifications. Quality control measures were established through mandatory clinical supervision to support the worker's wellbeing and foster further skill development. Clinical Supervision also provided a monitoring process for promoting ethical high quality service delivery by Phoenix that was immersed in trauma informed practices.

Phoenix now operates as a Non-Government, Not-For-Profit charity. Phoenix currently has a contractual agreement with the WA Department for Child Protection and Family Support (CPFS) that provides approximately 90% of the funding. The remainder of funds are sourced from client fees, service fees, donations and memberships. Phoenix has expanded its services to include public talks, training and education, while maintaining a resource library and website. Innovative and evidence based effective treatment practices such as trauma sensitive yoga programs are being introduced.

Phoenix has provided a very important service in WA for nearly 4 decades however, a small organisation such as Phoenix faces the ongoing challenge of remaining sustainable and viable, yet the specific client group accessing Phoenix are clear it is a service such as Phoenix that is in a position to meet their needs far more effectively than mainstream services. This view is also supported by evidence emerging from the Royal Commission. Phoenix clients reported these mainstream services did not have the specialised knowledge and skills to assist their recovery from complex trauma that had resulted from experiences of child sexual abuse. Shockingly it is in some of these mainstream and/or faith based services where the abuse occurred.

The Purpose & Evolution of Phoenix

The original purpose of Phoenix when it was known as Incest Survivors' Association Inc. was to respond to Intra-familial child sexual abuse (or incest as it was more commonly referred to when the organisation was first established). Over time, and due to need, and requests for help, Phoenix expanded its service many years back to include anyone who experienced child sexual abuse inside or outside the family, but most often perpetrated by someone in whom they had placed their trust or who had authority over them. Support is also provided by Phoenix to the non-offending family members, friends and significant others of those affected by disclosures of child sexual abuse.

In the 2015 Report for Adults Surviving Child Abuse (ASCA), Pegasus Economics estimates that if the impacts of child sexual abuse (sexual, emotional and physical) on an estimated 3.7 million adults are adequately addressed through active, timely and comprehensive intervention, the combined budget position of Federal, State and Territory Governments could be improved by a minimum of \$6.8 billion annually. This estimate could rise to \$9.1 billion if these figures included up to 5 million adults. The ASCA Report also states that when survivors of child abuse comprehensively overcome their trauma, they and their children are freed to live productive, healthy and constructive lives. Their children too benefit, because the resolution of trauma in parents can intercept its transmission to the next generation.

The Transition To A New Name

As a result of feedback from clients, and our key stakeholders and partners in the community, a process began several years ago to consider a new name for the organisation. The original name of Incest Survivors' Association was no longer considered adequately reflective of the broader range of services now delivered by Phoenix. A rationale also presented to the organisation was the word 'incest' was no longer considered a commonly used or contemporary word given a growing trend toward using the term child sexual abuse.

In addition, clients had expressed a desire to Phoenix to access a service where the name provides some anonymity for them. It was also agreed that the organisation needed a name that was more reflective of current services and the broader group of clients accessing Phoenix.

Following much deliberation over a long period of time, a consultation process was undertaken in earnest between March & June 2015, with the Executive Officer and ISA Board approving at the August 2015 meeting a name change for the organisation to ***PHOENIX SUPPORT & ADVOCACY SERVICE Inc.***

The Future Direction of Phoenix

Phoenix Support & Advocacy Service (formerly Incest Survivors' Association Inc.) is keen to expand, refine and continually improve the services and the support provided to clients, their significant others and the broader community. Phoenix will endeavour to be an advocate and voice at the tables where it matters.

An ongoing challenge for a small service such as Phoenix is building capacity. There is so much potential for a service such as Phoenix however, much of the time and energy of Board members and the Executive Officer (employed part-time) is focused on fundraising and sustainability where this time and effort could be better utilised for continuous improvement in service treatment models, wider community education, the training of other professionals to build their capacity to respond adequately, appropriately and ethically.

Phoenix has a committed and diverse Board with a broad skill set along with a team of professional, appropriately experienced and well-qualified staff. These professionals are dedicated to providing the high quality, client centred, compassionate and long-term support needed by those who have been impacted by child sexual abuse.

Phoenix has a vision of becoming a centre of excellence and a strong and sought after advocacy voice. As a centre of excellence, Phoenix would envisage providing training and clinical supervision support for those professionals interested in working competently and safely in this complex area of need. Phoenix would show leadership in promoting good practice, and the sharing of practice wisdom and the learning gained from working 4 decades in this specialised field, and longer than any other organisation in Western Australia.

The Incest Survivors' Association, now operating as Phoenix Support & Advocacy Service Inc. has supported those impacted by child sexual abuse for the better part of nearly half a century on very little funding and with very little support or recognition. In many respects, the organisation has remained relatively invisible and somewhat unsupported by the WA community, similarly to the forgotten and invisible survivors that society frequently ignored or found hard to acknowledge existed due to collective denial and shame.

As well informed and committed advocates, Phoenix hope to contribute significantly to raising awareness and promoting prevention strategies and early intervention, along with promoting the benefits an essential service such as Phoenix can contribute to the ongoing wellbeing of the community and future generations.

Louise Lamont
Executive Officer

Telephone: +61 8 9443 1910

Mobile: 0438 625 155

Email: louise.lamont@isa.asn.au

Current Phoenix Board Members: (as of December 2016)

CHAIRPERSON:	Jonathan Smith	(Business Director)
DEPUTY CHAIRPERSON:	Angela Loxton	(Counsellor & Lecturer)
SECRETARY:	Leanne Sultan	(Director Mental Health Program)
TREASURER:	Minji Kim	(Accountant & Manager for NFP)
BOARD MEMBERS:	Hoosein Ismail Julie Woodhouse Rob Wilton	(Bookkeeper & Business Owner) (WA State School Principal) (Executive Manager – Community Service)
Pro-Bono Legal Advisor:	Peter Curry	(Lawyer) – not a member of the Board

Part 2 – Proposed changes to Statute of Limitations

The background history of Phoenix Support & Advocacy Service Inc. is provided in Part 1 of this submission.

Who is Phoenix and what can Phoenix Offer?

There is no other not-for-profit independent secular specialised service in Western Australia that has worked exclusively with child sexual abuse as long as Phoenix has, and therefore the organisation is well placed to make an important contribution to the current debate and proposed changes to the Statute of Limitations.

Following nearly 4 decades of operation and service, Phoenix has developed practice wisdom and specialized knowledge. The Executive Officer and staff of Phoenix collectively are well informed having acquired specific insight and skills from many years of working with those impacted by trauma, child sexual abuse and/or child abuse and neglect. Phoenix Board Members also bring a range of relevant knowledge and expertise.

Current Challenges to Contributing Knowledge

It is important to highlight that Phoenix has remained a very small, but highly effective and much needed and valued service in WA (see information provided in Part 1). The current funding situation for Phoenix supports operating a limited part-time service with all staff employed part-time.

These limitations create an ongoing dilemma for Phoenix, in the sense there is so much Phoenix could contribute to current discourse in the community about child sexual abuse however, Phoenix is constantly challenged with decisions about where efforts are best placed that will have the most impact for those in the community without a voice, as well as for those accessing Phoenix for support. The limited time, capacity and resources of Phoenix makes these decisions difficult, and too frequently important opportunities to make meaningful informed contributions are missed, a loss not only for Phoenix, but for the community too.

The Phoenix Perspective

Phoenix would highly recommend the removal of the Statute of Limitations for many reasons however, the main reason being that recent Royal Commission research revealed it takes a person on average 22 years from the time they were sexually abused as a child to actually disclose the abuse or decide to report it to Police if they ever do, which supports and affirms what Phoenix already knew anecdotally and from data collected. Therefore, it is obvious the six-year Statute of Limitations is problematic. We also know that babies and toddlers are sexually abused, as evidenced through the presence of sexually transmitted infections or presentations of related injuries, and therefore it is likely those children will not have become adults before their rights expire through the current Statute of Limitations period. Given current knowledge and the evidence highlighted above, Phoenix would advocate that no statute of limitations is applied.

The current age range of clients that have accessed support from Phoenix is 5 years onwards and with the oldest client being 91 years of age (see Part 1). It is becoming more evident through research and first hand reports that healing from experiences of child sexual abuse (and other forms of child abuse) is a life long journey of recovery for many. Phoenix has been operating for nearly 40 years (since 1978) and Phoenix has clients who have re-engaged with the service even after a 20-year break when issues arise or are triggered.

On average, clients attend Phoenix over a 1 to 5 year period and take some therapeutic breaks during that time, but their initial therapy following disclosure, and if they are ready for the emotionally taxing work, is to attend either once a week or once a fortnight for on average around 12 months and sometimes longer if they are presenting with complex trauma and comorbidity. Sadly, because Phoenix has been operating for such a long period in WA, from time to time the adult children of former Phoenix clients (i.e. of parents or relatives) seek counselling for the trans-generational impacts passed on as a result of sexual abuse, or because they themselves have also been sexually abused, which is not uncommon because the child's parent who suffered abuse often does not know how to be a protective parent due to their own abuse experiences.

Child sexual abuse is an extremely emotive topic (as are other forms of child abuse) that often leads to robust debates, particularly with so many injustices having been perpetrated by the very systems supposedly set up to represent and/or protect victims of child abuse. Unfortunately uninformed perspectives are rife.

Phoenix would recommend reviews of recent Royal Commission Papers relevant to the proposed changes including the paper on 'Trauma informed approaches to child sexual abuse'. This report highlights how human service organisations and the legal and welfare systems set up to respond, support or protect, all too frequently re-traumatise victims of child sexual abuse, mostly through lack of knowledge or adequate training, and/or workers representing their own personal views rather than being informed by evidence based research or underpinned by required action, best practice or organisational policy.

It should never be assumed that those in the helping and legal professions really understand child abuse and know how to respond adequately and appropriately because sadly the majority don't. Their training in this area is often tokenistic and totally inadequate for preparing them for sound decision making and responses resulting in crisis driven reactivity often instead. Personal ideology can then prevail over professional policy. Children are further abused and traumatised by the system as well as the offender and the wounds fester.

Consideration of Unintended Consequences of Reform

Phoenix took an active part in assisting with the WA Redress Scheme in support of survivors however, through that experience found the organisation was required to complete an onerous administrative process that ultimately overshadowed the counselling and support role of the organisation, and counselling staff felt somewhat compromised in their role. The requirement for an extensive history of the abuse to be sought from the survivor led to many clients being re-traumatised by the process.

The Royal Commission has been made very much aware of this challenge when implementing Redress schemes, and consideration is being given in how to reduce and minimise these impacts. The Royal Commission papers mentioned above, also review and comment on some of these concerns and challenges.

Current good practice for supporting the recovery of survivors of child abuse does not necessarily require the retelling of historical events or providing detailed descriptions of the abuse, as this can re-traumatise and reinforce neuronal pathways associated with particular memories. Therapeutic processes work more with addressing and healing the impacts of the trauma experienced (e.g. anxiety, depression, self-harm, suicidal ideation etc.) rather than working with the memories of abuse.

Seeking historical information is where child abuse impacts become complicated when legal processes actually require the retelling of events in criminal prosecutions, civil litigation or criminal injuries claims. Phoenix appreciates why this information is sort, and the processes considered necessary however, recommendations by the Royal Commission seek to educate the community and those in the relevant legal and welfare systems and redress schemes.

Phoenix is not so bold or deluded to assume the organisation has all the answers or solutions to offer, however Phoenix does consider the line between counselling, forensic investigations, criminal proceedings, civil litigation, criminal injuries compensation claims etc. has become blurred and problematic, resulting in offenders more likely in some respects to possibly benefit, or avoid justice, while survivors are re-victimised.

Counselling is Counselling

This is a complicated topic and conversation for this submission alone however Phoenix must highlight a few key points. Consideration needs to be given to separating the counselling process from the other processes named above. Citizens, including children, should be able to seek counselling support without ever having to fear their personal and confidential records will become fodder for public display and courtroom debates.

Counselling was never ever intended to be or become a source of evidence. Counselling practitioners recording case notes are doing so for therapeutic purposes only, and to inform their practice approach and knowledge of their client, and to keep track of the work undertaken. Counselling sessions, and counselling records, were not designed originally to gather information for forensic purposes, court proceedings, civil litigation, or divorce applications, nor were these records designed to stop violence, settle child access or property disputes, or to inform compensation claims full stop. The line in the sand has disappeared.

To force the handing over of counselling records via subpoena, or other legal means, is a violation of a right to privacy. Effectively, this course of action allows offenders, lawyers, magistrates, court workers, police, and the general public to become voyeurs in a process that at the time was considered safe, supportive and confidential and for some almost 'sacred', similarly to the traditional protection afforded the sacrosanct and faith based 'confessional'. It seems the 'Churches' and their 'Priests' have been protected and permitted to keep their confessional and known secrets to themselves, while the records of confidential conversations and the intimate information belonging to victims and survivors can be sought after anytime to reveal all.

Phoenix acknowledges counselling records may contain information of some relevance to a legal proceeding however that it not the purpose of the records and never should be. Careful and creative consideration needs to be given to devising other means for collecting information that may or may not need to be used in the future, and that would be considered credible information if it is called upon to validate a victim and their claims, rather than a source from which to discredit and humiliate them. It is ironic and hypocritical to encourage victims to come forward and seek counselling, or compensation, or and make reports to Police if their records will not remain confidential. It is like asking someone to step forward and volunteer to be traumatised, disbelieved, demeaned and objectified all over again, and to recreate the original nightmare. It's a brave and courageous survivor (and there are many) who still takes that risk despite all the odds stacked against them.

Phoenix suggests a record of attendance to a counselling service should suffice at most, but even then may not be necessary if more effective evidence-gathering systems independent of counselling are in place. Counselling records however, should not be seen as the means, or foundation for the prosecution case.

Removing the Statutes of Limitations needs to be thought through in the broader context, and the implications this may have for people seeking justice and ways to validate their experiences of abuse. Victims themselves often have no idea of the implications of consenting to their records being obtained. They are not informed that they will have no control over how that information is used once released, or who will see it. Phoenix has supported many clients dealing with the aftermath and shock of this realisation and reality, and the distress of being humiliated and doubted as a witness recalling their experience of abuse, and then having to live with the fact the defense used the information from their own counselling file to facilitate an offender going free and not held to account. For many this is the unbearable last straw.

Protecting Counselling Records

Phoenix would suggest the Cabinet Sub-Committee review sections 19A – 19M of the WA Evidence Act 1906 to ensure that by removing the Statute of Limitations client counselling records are not sought and remain protected by the Act. Phoenix, along with similar counselling organisations, currently have obligations under this Act to protect the privacy and confidentiality of clients, and to protect their records however Phoenix have had situations where WA Police have sought to circumvent this Act by serving orders through for example the Criminal Investigations Act 2006 (CIA). This action places organisations in a double bind, as it is an offence not to comply with either of these Acts. When an order is served through the CIA there is no opportunity to dispute the order in a Court or otherwise. Phoenix was informed the consequences of non-compliance are severe. Section 55(2) of the CIA provides that a person who is served with an order to produce and who, without reasonable excuse, does not obey it, commits an offence with the penalty being a fine of \$12,000 and imprisonment for 12 months.

Phoenix have also found Police becoming heavy handed in their approach, by making veiled or in some cases direct threats by stating an intention to raid the premises to obtain counselling records. Phoenix appreciates that often there is valid and honourable intent by Police to gather evidence, prosecute a case and seek justice but without fully understanding the implications of seeking counselling records. Refusal to comply by human services is treated as resistance rather than protection of privacy. This is as a Police training issue.

Human Service personnel seeking to support victims of crime and child abuse should not be subjected to the concerns identified above, as their work is complex enough and emotionally taxing, without feeling threatened and intimidated for fulfilling their obligations and duty to protect the privacy of the client.

The position of Phoenix is that client counselling records should be protected at all times, as it is our experience it is rare these records assist a prosecution. Generally representatives for the defense will use information from the records to discredit the victim and attempt to undermine the prosecution case. Often it is claimed in court the counselling records do not marry up with victim accounts or evidence gathered by Police, and of course this is the case, given the records were not written for court proceedings or for forensic purposes, and the counselling notes were not recorded by practitioners trained for that specific undertaking.

Phoenix restates the view that a record of attendance at a service should be sufficient evidence to establish that the witness (victim) required and sought support, for the impacts of child abuse. The notes and detailed records kept are for therapeutic purposes only, and are not recorded for any other purpose, and as such have no relevance to, or place in, civil or criminal proceedings.

The Tip of the Iceberg

Victims of Institutional Sexual Abuse are the 'tip of the iceberg' so to speak, as the topic most avoided and uncomfortable to talk about for so many is 'Incest' even though the majority of child sexual abuse is taking place in families, or is perpetrated by those known to, or associated with families.

Phoenix has assumed it unlikely there will be a Royal Commission into the child abuse taking place in families, or a specific redress scheme set up for those victims and survivors. The overall effect of the removal of the Statute of Limitations would be to strongly encourage litigation against offenders in families, perhaps especially for survivors of intra-familial sexual abuse, and other forms of child abuse, who will not or are unlikely to be given the benefit of any Royal Commission redress schemes.

Abuse that occurs in families is so complex due to the emotional attachments that may be present before the abuse takes place, and the ripple effect of the varied impacts that reverberates through a family and beyond to significant others when a disclosure occurs are shattering and often leave their scars for life time.

Professor Stephen Smallbone from Griffith University worked for many years in prisons with sexual offenders, and his research concludes that many sexual offences against children are 'opportunistic' crimes and not as a result of 'pathology' or someone assessed as having 'pedophile' tendencies. Children are more at risk of being abused by someone they know taking advantage of an opportunity that presents, or is purposely and carefully crafted and created, than being at risk of sexual abuse from a stranger. The Child Pornography epidemic is only going to feed this risk, and this is another topic no one talks about much. It is an epidemic that is running rife, ruining lives, and rarely comes under control. There is no effective vaccine or cure in sight at present for addressing this plague and scourge hiding among our citizens.

Abuse is Abuse

Phoenix would advocate all victims of child sexual abuse, or for that matter any form of child abuse and neglect, should have the opportunity to seek compensation. Society can no longer dismiss child abuse as something someone 'gets over' easily, as the evidence is clear; any form of abuse can have an impact on brain development and long-term wellbeing. This statement is not just an assumption it now a proven fact.

The impacts of child abuse are no longer invisible either, which brain scans undertaken can demonstrate. Reports in current research clearly show evidence of these developmental impacts along with changes in brain structure and function. Few among the public are aware that verbal abuse can be as damaging to well-being and brain function as some forms of child sexual abuse. As stated 'Abuse is Abuse' and more on this can be found among the prolific body of work from researchers and neuroscientists such as Dr Martin Teicher, Harvard University and Dr Jack Shonkoff author of 'From Neurons to Neighborhoods' to name a few.

There is hope though, with emerging research and practices, in the areas of self-regulation and mindfulness, for the process of prevention, healing and recovery. This includes the work of Dr Stuart Shanker, The Mehrit Centre, Canada and the work of Dr Dan Siegel, Stanford University and author of numerous publications on these therapies.

It is worth noting, the WA Government ceased to continue funding a media campaign in the '90s for the prevention of domestic violence as a result of advertisements generating too much demand for treatment programs and other support services. There is little logic, common sense, forward thinking, ethics or compassion underpinning these decisions. Political decisions and legislative change should not occur in a vacuum and isolated from the moral and ethical implications, and the demands for support and service delivery these decisions and changes may create. Neither should these implications become the excuse for inaction. Radical and innovative legislative and social policy change (as currently proposed) needs to be considered while looking at the broader 'whole' system. Taking this approach assists with identifying potential consequences, unrecognised need, likelihood of increased demands on services so these possibilities are well planned for. With the resources and the services in place in readiness to respond adequately and effectively further traumatization can be prevented. These types of social paradigm shifts need bi-partisan support beyond the 4-year election cycles, which Phoenix acknowledges has been said a thousand times already, however this fact has fallen for many years on deaf ears that are elected to listen.

There is so much evidence based research available to argue the case, and many of these arguments are built from longitudinal studies conducted over as long as 40 years. The economic argument is there too as all the research concludes for every dollar invested in early childhood many dollars will be saved long-term. Crime rates, prison incarceration rates, unemployment etc., as we've also heard many times before are significantly reduced, but still we see the same old same old and the recycling of the 3-year pilot program.

Comments on Compensation Caps

Another matter of relevance, is to highlight if a client decides to apply for criminal injuries compensation the amount that can be claimed is limited to whatever the 'cap' was at the time the abuse occurred, so for example in the 1970s the 'cap' was around \$2,000 and so that is all the victim would be entitled to receive if compensation was sought and granted. If we take in to consideration the 22 year average gap between abuse occurring and disclosure, then any claims would be limited to the 'cap' of the 1990s which no doubt is a totally inadequate amount. In addition to removing the Statute of Limitations, Phoenix would recommend the Cabinet Sub-Committee also consider removing former capped limits on compensation amounts, as well as these caps being applied retrospectively. The compensation amounts set should address meeting the needs of victims in today's market. Phoenix is aware the WA Criminal Injuries Compensation scheme only has 3 Assessors employed, and that is for all types of claims, so they are not set up to deal adequately with victims of crime in general, let alone victims of child sexual abuse or other forms of child abuse. Consideration of adequate staffing and resources is critical. Support with arduous application processes also needs to be provided.

From a metaphoric perspective, it could be said the current situation for survivors of child sexual abuse is represented by a leaky boat with many holes in the system however, to avoid re-traumatisation and further injustices, the system needs to be looked at holistically rather than responded to reactively by plugging one hole without considering the others that exist.

Addressing one of the 'flaws' in the system by removing the Statute of Limitations is a good place to start, but will not be very effective if the other 'holes' that exist in the leaky boat, or potentially could be created, are not considered and prepared for. If these factors are not taken in to account, it is likely there will be unintended consequences, some of which Phoenix has highlighted above.

General Comments

As a more general comment it is unfortunate the Cabinet Sub-Committee has not sought to consult directly with an organisation such as Phoenix with a 40 year history and developed expertise in working in WA exclusively with child sexual abuse, along with the small number of other service providers that are funded like Phoenix under the Government's 'Child Sexual Abuse Treatment Services' program.

It is highly likely members of the Cabinet Sub-Committee may not be aware of a WA Service such as Phoenix, as we are one of Perth and WA's best-kept secrets.

However, despite not being consulted, Phoenix is very grateful for the opportunity to make some contribution to these important legislative changes being proposed and considered by the Cabinet Sub-Committee.

While this submission extends beyond the information the Commission requested Phoenix appreciates our submission has perhaps gone off on tangents and is somewhat broader than perhaps the information and specific response being sought however, it was important to place child abuse in its broader context in which it occurs. Phoenix does not have many opportunities, or the resources to be a voice at the table so this is the time to speak and hopefully be heard. This submission is intended to contribute to the ongoing education of those that hold public office, and to emphasise the enormous responsibility they have for protecting WA's children from abuse and ensuring they do their best to honour their role as the representatives for not only WA electors, but as representatives of the children who can't or couldn't speak for themselves.

Last Word

As final comment, Phoenix notes there is a move in the sector, to have small organisations merge with large organisations, as a means to reduce overall contract management responsibilities and costs, and to rationalise the internal infrastructure costs of each individual service. In some respects there are certainly areas of service duplication and/or synergies that exist where streamlining makes absolute sense, and can in fact make service delivery for the consumer and the community more effective. Phoenix however, would argue there are some service needs in the community that are highly specialised and lose their effectiveness if absorbed in to mainstream services. In regional areas, where relationships are key, and often built by services with the community over many years, the paternalistic attitude that prevails that 'big is best' and should takeover rather than join, shows lack of foresight and leadership about what really matters. The emphasis is better focused on capacity building what exists, rather than starting over and losing all that has been established and learnt. These smaller entities are not necessary a thorn in the side, but rather 'gritty' survivors working at turning themselves into community 'pearls' and need support to grow and replicate.

With child sexual abuse prevalence rates as high as 1 in 3 girls and 1 in 6 boys, and with all that is emerging from the Royal Commission about the failure of Institutions funded to care for and protect children, not continuing to fund or adequately resource specialised child sexual abuse services is absolutely counter to what should be happening and what is being recommended. It is an agency such as Phoenix, and other similar ones that exist throughout Australia, that should be holding the larger organisations to account in regard to child safe practices, especially due to their poor record to date in terms of protecting victims and essentially re-traumatising survivors through either a lack of response, or through an unformed one.

Hopefully the information provided in this submission will prove to be in some way helpful for informing the important work and considerations of the Cabinet Sub-Committee on Civil Litigations for Sexual Abuse.