

## Scouts Australia NSW

### Guiding principles for responding to claims for compensation concerning allegations of child sexual abuse

**Purpose:** The purpose of these guidelines is to minimise potential re-traumatisation of claimants and to ensure a compassionate and consistent approach across Scouts Australia NSW when dealing with civil claims for child sex abuse, to avoid unnecessarily adversarial responses to claims.

**Applicability:** These guidelines apply to civil claims for compensation, as distinct from a claim for redress under the National Redress Scheme. These guidelines will be commended to Scouts NSW Insurers for adoption by them however claims in the hands of an insurer will be handled in accordance with that insurer's protocols.

In responding to claims for compensation concerning allegations of child sexual abuse:

1. Scouts Australia NSW will be mindful of the potential for litigation to be a traumatic experience for claimants who have suffered sexual abuse.
2. Scouts Australia NSW will instruct lawyers who deal with child sexual assault matters on its behalf to comply with the requirements of these guidelines.
3. Scouts Australia NSW will consider resolving matters without a formal Statement of Claim.
4. Scouts Australia NSW will consider any requests from claimants for alternative forms of acknowledgment or redress, in addition to monetary claims. Where appropriate, Scouts Australia NSW will provide claimants with information regarding the National Redress Scheme.
5. Scouts Australia NSW will provide early acknowledgement of claims, including making available to claimants and their legal representatives:
  - (a) a copy of these guidelines;
  - (b) information and assistance in identifying the proper defendant to a claim if the proper defendant is not identified or is incorrectly identified;
  - (c) information about initial steps needed to resolve the claim (such as the estimated time for any necessary historical investigations by Scouts Australia NSW) and where possible, potential timing (noting that for litigated matters timing will be governed by the court timetable);
  - (d) information to assist in identifying any redress scheme that may be available to the claimant; and
  - (e) information about services and supports available to claimants.

6. Scouts Australia NSW will communicate regularly with claimants (or their legal representatives) about the progress of their claim.
7. Scouts Australia NSW will facilitate access to counselling for claimants who are the survivors of child sexual abuse.
8. Scouts Australia NSW will facilitate access to records relating to the claimant and the alleged abuse to the claimant, subject to others' privacy and legal professional privilege.
9. Scouts Australia NSW will consider paying legitimate claims without litigation. Scouts Australia NSW will consider facilitating an early settlement and will generally be willing to enter into negotiations, mediation or other forms of alternative dispute resolution to achieve this.
10. Scouts Australia NSW will not ordinarily rely on a defence that the limitation period has expired, either formally (for example in pleadings) or informally (for example in the course of settlement negotiations). However Scouts Australia NSW can rely on a statutory limitation period as a defence in matters involving multiple defendants, where there is a risk that Scouts Australia NSW could bear a disproportionate share of the whole liability owed to the claimant. If a limitation defence is relied on, Scouts Australia NSW will give careful consideration as to whether it is appropriate to oppose an application for extension of the relevant period.

Principle 10 applies to defences under the *Limitation Act 1969* (NSW), and does not affect any other applications that a defendant may make at common law (for example, an application that a court strike out or stay proceedings on grounds of unfair prejudice or abuse of process).

11. Scouts Australia NSW will resolve all claims as quickly as possible, and will seek to resolve the majority of claims within two years, or for matters proceeding to hearing, to have the matter set down for hearing within two years. Progress may depend on the conduct of plaintiffs' lawyers, police investigations, insurance investigations and criminal law trials.
12. If a claimant elects to apply for redress by lodging an application with the National Redress Scheme rather than pursuing a claim for compensation, all processes concerning the civil claim will be suspended to allow the claimant to have their claim assessed in accordance with the requirements of the National Redress Scheme.
13. To reduce trauma to survivors and to reduce unnecessary cost and delay, Scouts Australia NSW will suggest to claimants a range of potential experts, being both acceptable to Scouts Australia NSW and providing genuine choice to claimants, to facilitate agreement on the use of a single expert where practicable.
14. Scouts Australia NSW will act consistently in the handling of claims and litigation. In particular, Scouts Australia NSW will consider verdicts and settlements in other cases involving similar harm to survivors of child sexual assault, both within and across Scouts Australia NSW. Scouts Australia NSW will also take account of the individual circumstances of each case.
15. Scouts Australia NSW will consider the use of confidentiality clauses in relation to settlements on a case by case basis, taking into consideration:
  - (a) the claimant's preference; and
  - (b) whether there is a cross claim or other related proceedings.

In the event a confidentiality clause is used, it should not restrict a claimant from discussing the circumstances of their claim and their experience of the claims process.

16. Scouts Australia NSW will ordinarily consider pursuing a contribution to any settlement amount from alleged abusers.
17. Scouts Australia NSW will offer a written apology in all cases where it considers it is appropriate. Ordinarily it will be appropriate for the apology to be signed by a senior executive officer; however this will depend on the circumstances.
18. Scouts Australia NSW acknowledges they are required to report claims of any serious indictable offence to the relevant police force.
19. Compliance with this policy will be overseen through annual reports to Scouts Australia NSW's board of directors, outlining:
  - (a) the progress of civil matters involving child sexual assault;
  - (b) explanations for any significant delay in resolving matters; and
  - (c) statements of compliance with these principles.