

DIRECTION OF THE PREMIER

UNDER SECTION 10 OF THE *PUBLIC SECTOR ACT 2009 (SA)*

I, Peter Malinauskas, Premier of South Australia, hereby issue the following direction under section 10 of the *Public Sector Act 2009 (SA)*, which is binding on all South Australian public sector agencies.¹

ENCOURAGING MAXIMUM PARTICIPATION OF NON-GOVERNMENT INSTITUTIONS IN THE NATIONAL REDRESS SCHEME FOR INSTITUTIONAL CHILD SEXUAL ABUSE

Imposing the requirements of this Direction upon public sector agencies supports the Government of South Australia's commitment to encouraging maximum participation of non-government institutions ('NGI') in the National Redress Scheme for Institutional Child Sexual Abuse ('the Scheme') by limiting the public monies provided by South Australian public sector agencies to NGIs that have declined to join the Scheme. The Government is committed to the successful implementation of the Scheme within South Australia and ensuring eligible survivors are able to access Redress.

Direction 1 – No Contracting with non-government institutions which have been publicly named by the Scheme Operator as having declined to join the Scheme

I direct that from 14 days from my signing of this direction, South Australian public sector agencies must not enter into any Contract with an NGI, where that NGI meets the following criteria:

- it has been named as an institution responsible for the sexual or related abuse of a person in one or more applications for redress under the Scheme, or the Scheme Operator has determined that it has reasonable grounds to believe that the institution is responsible for abuse under the Scheme; and
- the institution is not currently participating in the Scheme; and
- the institution is considered to have 'declined to join the Scheme' because it has either:
 - declined, or failed, to agree to participate in the Scheme by the required date;² or
 - revoked its agreement to participate in the Scheme without reason being provided to the Scheme Operator's satisfaction; or
 - declined, or failed, to complete the Scheme's financial surety assessment to the Scheme Operator's satisfaction by the required date; or

¹ With the exception of the Courts Administration Authority; the Independent Commissioner Against Corruption; Office for Public Integrity and the Legal Services Commission.

² For the avoidance of doubt, a non-government institution will be taken to be participating in the Scheme where there is a Funder of Last Resort in place for that institution under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*.

- completed the Scheme's financial surety assessment to the Scheme Operator's satisfaction and in respect of which the Scheme Operator has determined that there are reasonable grounds for expecting that, if the institution was to be declared a participating institution, its liabilities under the Act would be discharged, though nevertheless declined to participate in the Scheme by the required date; and
- it has been publicly named by the Scheme Operator as an institution that has been named in an application for redress and can join the Scheme but has declined to join or has not responded to the Scheme's requests to join, as published from time to time by the Scheme Operator on the Scheme's website.³

Exceptions to Direction 1

Notwithstanding the operation of Direction 1, a public sector agency may enter into a Contract with an NGI that has been named by the Scheme Operator as having declined to join, if:

- it determines that not entering into the Contract with the NGI is genuinely likely to adversely impact upon:
 - survivors of institutional child sexual abuse or advocacy groups of survivors of institutional child sexual abuse; or
 - the provision of critical services to the public, or to leave a significant gap in the provision of any services to the public; or
 - the agency's ability to competitively source goods or services of a comparable quality or price; or
- it is advised by the State Redress Response Unit ('the Response Unit') of the Attorney-General's Department (subject to the Response Unit consulting with the Scheme) that the NGI is making genuine and concerted efforts to agree to participate in the Scheme; or
- other exceptional circumstances exist which, in the opinion of the agency, justify that agency entering into the contract with the NGI.

Direction 1 does not apply to the making of a payment by a public sector agency to a relevant NGI where:

- the public sector agency does so as an agent or administrator of funding provided by the Commonwealth Government and where the public sector agency has no discretion as to the recipient of those funds; or
- the obligation to make the payment arose under a Contract entered into by the public sector agency prior to the date of this Direction.

³ At the time of issuing this Direction, the location of this list was:
<https://www.nationalredress.gov.au/institutions/institutions-have-not-yet-joined>

Direction 2 – Framework and Reporting Obligations

I further direct that public sector agencies:

- when designing, implementing and evaluating funding and procurement programs or initiatives, have regard to the Scheme's website to identify NGI's that have been named by the Scheme as having declined to participate;
- before making a final decision, advise NGIs that have declined to join the Scheme that they are not eligible to enter into a contract with, or receive grant funding from the State, on the basis of their failure to join the Scheme and in accordance with this Direction;
- before making a final decision, NGIs that have declined to join the Scheme should be provided with an opportunity to provide further information or submissions as to why they should be considered eligible to enter into a contract with, or receive grant funding from, the State, including whether the NGI considers that an exemption under this Direction should apply;
- before making a final decision, consider further information or submissions provided by an NGI that has declined to join the Scheme with respect to eligibility to enter into a contract, or receive grant funding, including whether an exemption under this Direction should apply.
- after making a final decision, report to the Response Unit all decisions to not enter into a Contract with an NGI made in accordance with this direction;
- after making a final decision, report to the Response Unit, in writing, all decisions to enter into a Contract with a NGI that has declined to participate in the Scheme, where the agency determined that an exceptional circumstance justified doing so. Such a report should also disclose the nature of the exceptional circumstance relied upon by the public sector agency.

Definitions

For the purposes of this Direction:

- '**Act**' means the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* of the Commonwealth;
- '**Contract**' means a contract, agreement or other arrangement between a public sector agency and one or more other parties, whereby the public sector agency commits to or makes payment to the other party/ies, whether in consideration for the provision of goods or services or by way of a grant, subsidy, rebate or sponsorship;
- '**Declined to join**' means a non-government institution (NGI) that has declined to join the Scheme despite being named as an institution responsible for alleged abuse in an application for Redress and which has capacity to participate in the Scheme. This differs from institutions that are unable to participate in the Scheme as they do not have the requisite financial capacity to participate, as required under the Act;
- '**Institution**' has the same meaning as in the Act.

- **'Non-government institution'** has the same meaning as in the Act;
- **'Non-participating'** means an institution that is not participating in the Scheme;
- **'Scheme Operator'** has the same meaning as in the Act;
- **'Required date'** means:
 - if the non-government institution signified its intention to join the Scheme by 31 December 2020 in a signed letter to the Scheme - 31 December 2020; or
 - if the non-government institution was first formally contacted by the Scheme on a date after 31 December 2020 for the purposes of encouraging it to agree to join the Scheme - six months after the date the non-government institution was contacted by the Scheme;
- **'Scheme'** means the National Redress Scheme for Institutional Child Sexual Abuse.

This direction will remain in force until 30 June 2028, unless revoked earlier or extended.



Peter Malinauskas
PREMIER

12/10/2025