



Submission cover sheet

Inquiry into the Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025

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Submission. Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025

To:
Standing Committee on Legal Affairs
ACT Legislative Assembly
LACommitteeLegal@parliament.act.gov.au

I write to this Committee in full support of the *Civil Law (Wrongs) (Organisational Child Abuse Liability) Amendment Bill 2025 (Bill)*.

I write this submission not only as a lawyer practicing in the area of historical child abuse litigation, but also as someone who has spent countless hours listening to the lived experiences of victim survivors. Many of them never intended to take legal action. What they were seeking was simply for the institution that failed them to accept responsibility and for it to be held to account.

What's difficult to explain to survivors is that the law sometimes inherently protects those institutions not because the institution wasn't involved, but because the abuser didn't fit or does not fit into a particular legal definition. The trauma of the original abuse is compounded by the trauma of a system that allows technicalities to override accountability.

For many years, I have guided victim survivors through the many legal hurdles and barriers that they have to go through to get a resolution to their claims for compensation.

The High Court of Australia's recent decision in *Bird v DP (A Pseudonym)* HCA 41 (**Bird v DP**) has created another legal barrier.

One of the main messages of the Royal Commission into Institutional Responses to Child Sexual Abuse (**Royal Commission**) was to remove legal barriers for victims of historical child sexual abuse.

Why the Bill Matters

The Bill is not just a procedural update. It is a vital access to justice reform that is long overdue.

The High Court of Australia's decision in *Bird v DP* exposed a major gap in the law and in many ways provides a get out of jail card to institutions based on a technicality.

In the *Bird v DP* case, the problem wasn't that the survivor wasn't believed, it was just that the law didn't stretch far enough to impose vicarious liability on the institution. This was despite the Bishop at the Diocese of Ballarat in Victoria, having authority as great as an employer of the offending priest, Father Bird. The law on vicarious liability in other Commonwealth jurisdictions does stretch far enough and has done so for some time.

This Bill addresses that problem directly. It recognises that institutional abuse often occurs through volunteers, religious leaders, sporting coaches, host families, or others operating under the banner of an organisation.

It should never be the case that the structure of a contract or the wording of a role determines whether a survivor can access justice.

In Line with the Royal Commission's Recommendations

The Royal Commission made it clear that survivors deserve a legal framework that prioritises accountability.

Recommendation 91 of the Final Report of the Royal Commission explicitly called for the introduction of laws making institutions liable for institutional child sexual abuse by persons **associated** with the institution unless the institution proves that it took reasonable steps to prevent the abuse.

This Bill is aligned with that vision. It implements the spirit and the substance of what the Royal Commission found to be necessary for meaningful justice. It is not radical, it is overdue.

National Implications

While this Bill applies in the ACT, its impact will extend beyond the borders of our territory. This Bill sets a strong precedent for other jurisdictions that are yet to implement similar reforms.

We in the ACT have an opportunity to lead by example and to show that the territory is willing to stand with survivors and to prioritise justice, even where the common law falls short.

An Access to Justice Issue

Ultimately, this Bill is about access to justice. Survivors already face enormous psychological and emotional barriers in coming forward. They should not have to overcome outdated legal doctrines that inherently provide institutions with protection.

The proposed amendments to the *Civil Law (Wrongs) Act 2002* (ACT) will remove a major legal barrier to justice. The amendments ensure that the prospects of succeeding in a compensation claim are not simply determined by how someone's role was labelled or categorised at an institution.

It restores fairness and reflects the real-world nature of how institutions failed many children.

Concluding Remarks

This Bill is principled, considered, and long overdue. It will improve access to justice, bring the ACT in line with the Royal Commission's recommendations and sends a clear message to institutions and to the other jurisdictions in Australia.

Responsibility cannot be and should not be avoided through legal structures, semantics or technicalities.

I commend Shane Rattenbury and the ACT Greens for the introduction of this Bill.

I urge the Committee to support its passage in full and its implementation into law on an urgent basis.

I am able to be contacted at any time by the Committee on this significant issue.

Yours sincerely,

Hassan Ehsan
Special Counsel