



# MEG WEBB MLC

Independent Member for Nelson

**The Secretary**  
Department of Justice

Via email: [haveyoursay@justice.tas.gov.au](mailto:haveyoursay@justice.tas.gov.au)

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Dear Secretary

**RE: Expungement of Historical Offences Amendment Bill 2023**

Thank you for the opportunity to comment on the Expungement of Historical Offences Amendment Bill 2023.

I congratulate the Government for the work being done to acknowledge the effects of past laws which criminalised male-male homosexuality. Acknowledgement of the discriminative nature of these laws and the harms caused is important for those affected as well as for setting an appropriately inclusive tone for all Tasmanians. This Bill continues the work of saying that it is, in fact, perfectly fine to be a gay man in Tasmania, and LGBTIQ+ Tasmanians are valued and loved members of our community.

In this submission, I focus on urging inclusion in the Bill of financial redress for people who successfully expunge their criminal record. I note Recommendation 13 in the 2020 *Independent Review of Expungement of Historical Offences Act 2017*, and strongly assert inclusion of financial redress would significantly better reflect the intent of Government for genuine recognition of the harm these laws caused.

It would also set this Bill in line with the precedents set by other Tasmanian compensation and redress schemes, such as The Stolen Generation redress scheme; redress for those abused in state care; and compensation for victims of crime.

Tasmania has a proud record of making real reparations once mistreatment of a population group is acknowledged by Government. Expungement of historical offences should not be the exception in this proud history.



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### **Tasmania was first to offer redress for victims of abuse in State care**

In her ministerial statement of 22 May 2018 announcing that Tasmania would opt in to the National Redress Scheme for victims of child sexual abuse in institutions, Attorney-General Elise Archer said,

*“Our decision to opt in to the National Redress Scheme builds on Tasmania’s proud record of supporting victims, including through our \$54 million Abuse in State Care compensation scheme that operated between 2003 and 2013, that assisted more than 1,800 survivors who were the subject of sexual, physical or emotional abuse whilst in State care as children.”<sup>1</sup>*

### **Tasmania was first to provide redress to victims of the Stolen Generation**

Once again, Tasmania was the first State to offer redress to members of the Stolen Generation, and their children. This came about after advice from Aboriginal leaders that words would not be sufficient.

In 1997, when the State formally apologized to the members of the Stolen Generation, Annette Peardon, a member of the Stolen Generation was invited into Parliament to respond. She said,

*“Surely some form of compensation is not too much to ask. Those who suffered trauma, personal shock or stress from accidental injury are quite properly compensated. Why would those who suffer the same, but as a result of deliberate harm not be compensated?”<sup>2</sup>*

Almost ten years later on 21<sup>st</sup> November 2006, again speaking to Parliament, Ms Peardon, said,

*“I am a survivor and I am going to ask Parliament today to please consider the Bill for compensation. You, as a Tasmanian government, have done everything right and I think we need to do one final thing together.”<sup>3</sup>*

In response, the Premier of the day, Paul Lennon, said that the Bill would provide financial redress because *“the State played a role in the removal of some Aboriginal children from their families”* and there was a need to *“make a substantial and tangible response to the Tasmanian stolen generations.”<sup>4</sup>*

### **Redress versus compensation**

Tasmania followed the lead of NSW and Victoria in establishing compensation for victims of crime. As a compensation scheme, it attempted to cover the costs incurred as a result of being a victim of crime, such as counselling. It was not trying to rectify a moral injustice. This is the difference between compensation and redress, and why this submission calls for a redress scheme to be included in the Expungement Bill.

Redress schemes are established to provide particular cohorts of victims access to financial redress for wrongs suffered from moral wrongs, such as the Stolen Generations, Child Migrants and Asbestos Injuries.

### **The Expungement Bill should include a redress scheme**

There can be no doubt that the past Tasmanian laws against homosexual men were discriminatory. There can be no doubt that these discriminatory laws caused harm. The Independent Review

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<sup>1</sup> [https://www.premier.tas.gov.au/releases/tasmania\\_opts\\_in\\_to\\_the\\_national\\_redress\\_scheme](https://www.premier.tas.gov.au/releases/tasmania_opts_in_to_the_national_redress_scheme)

<sup>2</sup> Hansard 13 August 1997, page 48

<sup>3</sup> Hansard 21 November 2006, page 32

<sup>4</sup> Hansard 21 November 2006, page 33

commissioned by the Government recommended an automatic, one-off payment be made to anyone whose record is expunged (Recommendation 13). I strongly support that recommendation and call on the Government to give it effect.

In preparing the Bill and inviting consultation, the Government has provided no reason for the omission of a redress scheme, as recommended in the Independent Review. This submission asks: Why did the Government decide not to include a redress scheme in the Bill? On the basis of what principles or rationale was Recommendation 13 of the Independent Review disregarded?

In addition, this submission also calls for redress to be available for family members who are successful in getting their loved ones' criminal records expunged. The Bill allows family members to apply for expungement, and I argue that if successful, they should also be eligible for financial redress.

Kind regards,



Hon Meg Webb MLC

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