



Mark Speakman
Attorney General

MEDIA RELEASE

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A CLEARER PATH FOR CHILD ABUSE SURVIVORS TO SUE

The NSW Government has eliminated a legal roadblock that prevented thousands of survivors of child abuse from suing churches and other institutions responsible for their suffering, Attorney General Mark Speakman announced today.

“I’m pleased my first item of business in 2019 is to condemn the ‘Ellis defence’ to the scrapheap and create a fairer civil litigation system for all child abuse survivors,” Mr Speakman said.

The Ellis defence is a legal precedent set in 2007 when former altar boy John Ellis lost a landmark civil action against the Catholic Church for child abuse. Since then, many unincorporated organisations have avoided being sued on the basis that they have no “legal personality” and are not a “proper defendant”.

From today, a child abuse survivor will be able to sue an unincorporated organisation, which can nominate a proper defendant with sufficient assets to meet the claim. If it fails to do so, the court can appoint associated trustees to be sued who can access trust property to pay the compensation.

“This means all survivors of institutional child abuse in NSW will now have the same access to compensation through civil litigation, no matter what kind of organisation is responsible,” Mr Speakman said.

The reform delivers a key recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse. The changes to the law are retrospective, making them accessible to survivors of past, present and future child abuse.

Mr Speakman said the NSW Government will continue to be a national leader in supporting survivors of institutional child sexual abuse.

“NSW was the first state to pass laws enabling the establishment of a National Redress Scheme and to introduce a comprehensive criminal justice response to the Royal Commission,” Mr Speakman said.

“The government has also removed limitation periods for civil claims relating to death or personal injury as a result of child abuse, including against a perpetrator or an institution. We are changing the power balance so survivors can hold institutions accountable for horrific abuse and move forward with their recovery.”