



YESHIVAH REDRESS SCHEME SCHEME POLICY

Yeshivah-Beth Rivkah Colleges Inc and Chabad Institutions of Australia Inc (together, **Yeshivah**) deeply regret the failure to protect those who were victims of sexual abuse perpetrated by people in a position of trust in the Colleges and the Yeshivah Centre.

Yeshivah strongly believes that it must acknowledge that all abuse is wrong, that abuse can cause serious harm to the victim and that those entrusted with the responsibility of caring for children have a special responsibility to protect them from abuse.

Yeshivah makes this Statement on behalf of their predecessors, the Colleges, and other entities within the Yeshivah Centre.

Yeshivah is committed to ensuring that the failures in the system of care which allowed the sexual abuse to occur are not repeated and they will do all that they reasonably can to prevent any abuse being inflicted upon those in their care.

Yeshivah has established the Yeshivah Redress Scheme, to ensure that the wrongs committed against children while involved in the Colleges and the Yeshivah Centre will not go unacknowledged.

The Yeshivah Redress Scheme will provide redress to a person who has suffered sexual abuse while a student and participating in an activity of the Yeshivah College and Beth Rivkah Ladies College, or involved in a Community Activity at Yeshivah.

The members of the Committees of Management acknowledge that the Yeshivah Redress Scheme gives effect to their responsibility to provide social justice. They are committed to ensuring that the support Yeshivah will offer is based on its values of a strong commitment to quality and equality.

The *Redress and Civil Litigation Report of the Royal Commission into Institutional Responses to Child Sexual Abuse*, which was released on 14 September 2015 has been a significant resource to guide the development of the Yeshivah Redress Scheme.

1 INTRODUCTION

Since at least the 1940s, members of the Chabad community in Melbourne have volunteered to assist in the provision of educational, social, welfare and cultural services in accordance with the Chabad faith.

The Yeshivah Centre, which is located at 88 Hotham Street St Kilda East, has been used to provide community, social and cultural activities (**Community Activities**). Chabad Properties Inc (**Properties Inc**) owns the land and buildings known as the Yeshivah Centre.

The Yeshivah College and Beth Rivkah Ladies College (**Colleges**) were established to provide secular and religious education to members of the Jewish community. The Colleges were registered with the Department of Education in 1955 and 1956 respectively.

In 1986 Yeshivah-Beth Rivkah Colleges Inc (**YBRC Inc**) assumed the operation of the Colleges and the delivery of the secular education programme.

Since 1986 Chabad Institutions of Australia Inc (**Chabad Inc**) has been responsible for delivering the religious education at the Colleges as well as operating the early learning centre, the kindergarten and the childcare centre.

The Yeshivah Redress Scheme (**Scheme**) has been established by Yeshivah to provide redress to any child who has suffered sexual abuse while either a student of the Colleges, or engaged in a Community Activity at the Yeshivah Centre.

For the purposes of this Scheme, "**Yeshivah**" also means the Colleges (past and present), the Community Activities conducted at the Yeshivah Centre and Yeshivah. Yeshivah-Beth Rivkah Colleges Inc and Chabad Institutions of Australia Inc have maintained common membership including of their Committees of Management. The "**Committee of Management**" means the Committees of YBRC Inc and Chabad Inc.

2 OVERVIEW OF THE SCHEME

The purpose of the Scheme is to establish a process by which Yeshivah will offer support to people who have suffered Abuse. "**Abuse**" means:

- sexual abuse suffered by a person;
- while the person was either a student of the Colleges or engaged in a Community Activity at the Yeshivah Centre, and under the age of 18 years at the time of the abuse;
- the abuse was perpetrated by a person who was either:
 - engaged or employed by Yeshivah; or
 - a person working as a volunteer at the Colleges or the Yeshivah Centre; or
 - a person who was a student at the College or who was participating in the Community Activity at the time of the abuse; and
- there is a sufficient connection between the sexual abuse and the person's involvement with Yeshivah.

The primary objective of the Scheme is to provide redress. "**Redress**" under the Scheme means a direct personal response by Yeshivah, access to counselling and psychological care, or a monetary payment.

The funds used to make redress will be held by a third party separate from Yeshivah and the Panel.

The provision of Redress is viewed as an acknowledgement by Yeshivah that:

- abuse is wrong;
- abuse can have a serious impact;
- those entrusted with the responsibility of caring for children have a special responsibility to protect them from sexual and other abuse; and
- Yeshivah deeply regrets the failure to protect those who were victims of abuse perpetrated by people in a position of trust.

The Scheme may offer Redress in the form of:

- **A direct personal response by Yeshivah.** This direct personal response can include an apology, an opportunity for the Applicant to meet with a senior representative of Yeshivah and an assurance by that representative as to the steps Yeshivah has taken or will take to prevent abuse occurring again.
- **Access to counselling and psychological care,** to supplement existing services or fill service gaps so that Applicants can have access to the counselling and psychological care that they need.

- **A monetary payment**, to provide a tangible recognition of the seriousness of the hurt and injury suffered by a survivor.

Monetary payments are ex gratia payments. The payments are not made as compensation for any physical, psychological, emotional or financial injury, or loss or damage suffered by a person as a result of abuse.

3 OPERATION OF THE SCHEME

The Scheme will operate from 7 December 2015. When applications to the Scheme reduce to a level where it would be appropriate to consider closing the Scheme, the Committee of Management will consider specifying a closing date. The closing date will be at least twelve months into the future and will be given appropriate publicity.

The Committee of Management has appointed the Panel to oversee the operation of the Scheme, receive and assess Applications for Redress and make a Determination about whether to award Redress and, if so, in what form. "Application for Redress" means an application in the prescribed form for redress. "Determination" means a decision made by the Panel as to whether or not Redress may or may not be made to a person, or their Authorised Representative and the amount of any monetary payment.

The Panel has the sole responsibility for determining Applications for Redress.

The Panel comprises:

- Scheme Coordinator (Mr Michael Debinski).
- Reviewer (Mr John Leatherland).

Michael Debinski and John Leatherland are experienced community services professionals with significant experience in supporting people who have experienced abuse and trauma. Additional reviewers will be appointed if the need arises.

All identifying information about Applicants to the Scheme (including the applications, assessments and determinations) will remain strictly confidential to the Panel, and the third party paying any monetary payment, and any organisation providing counselling and therapeutic care to the Applicant.

"Applicant" means the person who makes, or in respect of an Authorised Representative makes, an Application for Redress through the Scheme, and who makes an allegation through the Scheme that they suffered sexual abuse.

"Authorised Representative" is someone who the Panel is satisfied is:

- (a) a trustee, guardian or administrator appointed under legislation, or by a Court or Tribunal order;
- (b) the holder of a power of attorney;
- (c) a legal representative; or
- (d) someone who has legal or written authority (general or specific) to represent the Applicant in relation to the person's Application for Redress in the Scheme.

The Panel will provide regular reports on the operation of the Scheme to the Committee of Management. These reports will not include any information that identifies any Applicant.

Initial inquiries

Initial inquiries can be made by contacting: **1-800-059-064**

Or sending an email to: **yeshivahredress@gmail.com**

This contact number and email address are managed by Jewish Care Victoria, as the organisation engaged by Yeshivah to undertake this task.

Initial contact

The Panel will make initial contact with the person making the inquiry within 24 hours. If the person making the inquiry satisfies the eligibility requirements of the Scheme, the Panel may offer counselling or other support services and assistance to make a report to police through the Scheme. The Panel may also provide assistance to the person in relation to making an Application for Redress.

Redress

Redress may only be made to a person, or their Authorised Representative, where in the opinion of the Panel, on the basis of information available:

- (a) The person has lodged a compliant Application for Redress;
- (b) The person has, plausibly, suffered one or more instances of Abuse;
- (c) The person is alive at the time their Application for Redress is lodged and does not die before redress is made to the person;
- (d) The person has not previously received a monetary payment under the Scheme;
- (e) The person has not previously received any compensation in respect of any allegation of abuse; and
- (f) The person qualifies for a category of monetary payment.

"Compliant Application for Redress" means an application lodged with the Panel between the commencement date and while the Scheme is in operation that complies with all the requirements of the Application for Redress Form and contains all required information and documents.

Application for Redress Forms are provided on line and in print form. An Application for Redress will be assessed and decided upon promptly, efficiently and effectively having regard to the purpose of the Scheme and the circumstances of the claim.

The **Receipt, Assessment and Determination of Applications for Redress** are the sole responsibility of the Panel.

For the Panel to be satisfied that an allegation of abuse warrants an offer of support through the Scheme, it must be satisfied that it is **reasonably likely** to have occurred.

This assessment of **Reasonable Likelihood** will not require the Panel to make a determination on the 'balance of probabilities' or 'beyond reasonable doubt' as is generally required by civil or criminal proceedings. This standard of proof only requires the Panel to be satisfied that the alleged abuse was more than just 'a possibility' and that there are 'real and substantial grounds' that it occurred. The panel does not need to be satisfied that the alleged abuse was 'probable'. Within this spectrum, the degree of satisfaction must be commensurate with the seriousness of the allegations and the potential monetary payment.

Any **monetary payments**, as determined by the Panel, are arranged and made through a separate organisation as contracted by the Committee of Management.

4 DIRECT PERSONAL RESPONSE

The Royal Commission into Institutional Response to Child Sexual Abuse accepted and articulated that it is important to many survivors of child abuse in an institutional context that the institution makes a genuine apology to them, acknowledges the abuse and its impacts on them, and gives a clear account of steps it has taken to prevent such abuse occurring again.

Accordingly, in appropriate situations where an assessment has found that the allegations are plausible and where requested by the Applicant, the Panel will recommend to Yeshivah that a senior representative provides a written apology for the failure to protect the person from

harm. The content of the apology will depend upon the circumstances of the alleged abuse and what the Applicant is seeking.

A direct personal response can also include:

- The opportunity to meet with a senior representative of Yeshivah and receive an acknowledgement of the abuse and its impact on them. Through this process the Applicant will have the opportunity to be heard by someone in authority, to have their abuse acknowledged and their experience validated.
- Receiving an assurance or undertaking from the Yeshivah that it has taken, or will take steps to protect further abuse of children.
- A discussion of any other possible ways Yeshivah may be able to assist the Applicant, in accordance with the purposes of the Scheme eg assistance with obtaining personal records.

5 ACCESS TO COUNSELLING AND PSYCHOLOGICAL CARE

The Royal Commission into Institutional Response to Child Sexual Abuse identified that through the experience of other redress schemes, some clients will need counselling and psychological care to address their mental health needs and emotional, behavioural and interpersonal problems that have arisen in whole or in part from their experiences of institutional abuse.

Existing public programs and support services already provide a range of counselling and psychological care services, many of which are valued by abuse survivors. It is important that counselling and psychological care that is provided through the Scheme not displace or impair provision through these existing services. Rather, funding and arranging counselling and psychological care through redress should supplement existing programs and services where there are service gaps or gaps between public funding provision (eg through Medicare) and the cost of counselling provided by psychologists or psychiatrists who have specialist expertise and capabilities in treating complex trauma that has arisen because of childhood abuse.

Accordingly, the Committee of Management has engaged Jewish Care Victoria (JCV), through its Individual and Family Services Program, to directly provide services including:

- Financial support services where a suite of services are available to appropriate persons including financial counselling and financial aid and financial relief for one off or short term assistance;
- Counselling services provided by psychologists and other clinical therapists; and
- Housing support services.

Where a particular service is not available directly through JCV, and where a person has a range of needs and/or added complexity, JCV will offer service coordination to ensure the clients were referred to appropriate services and are followed up to ensure that the connections were made. Examples of such services are a Centre Against Sexual Abuse Service (CASA); a specialist private psychiatrist.

6 MONETARY PAYMENTS

While the seriousness of every kind of child abuse must be acknowledged, it is recognised that certain abuse acts are more severe than others to the child, can have greater impacts and can increase the likelihood of adverse outcomes in life.

The amount of the monetary payment will be determined by a detailed assessment with an equal weighting given to:

- the severity of the abuse the abuse, and
- the severity of the impact of the abuse both while at Yeshivah and subsequently.

In determining the amount of monetary payment, the Panel will also take into account whether the Applicant has experienced other forms of abuse in conjunction with the sexual abuse, including physical abuse.

The amount of the monetary payment will be determined by reference to the following categories of monetary payment:

Category 1 – significant abuse: \$10,000 to \$20,000

Category 2 - severe abuse: \$20,000 to \$50,000

Category 3 – extremely severe abuse: \$50,000 to \$80,000.

The Categories recognise the seriousness of the allegations of abuse and their impact relative to other allegations of abuse which may be made to the Scheme.

Factors that will be considered when assessing the severity of the abuse include but are not limited to:

- the age of the victim at the time of the first sexual assault;
- the intensity of the abuse (for example, penetrative or non penetrative);
- the duration of the abuse (for example, whether there multiple occurrences over long period of time);
- use of physical force or coercion;
- the existence of multiple perpetrators; and
- the relationship of the perpetrator(s) to the victim.

Factors that will be considered when assessing the severity of the impact of the abuse include but are not limited to the extent of impact on:

- intrapersonal problems such as compromised self worth, deep feelings of guilt and responsibility for the assault;
- relational impairments including impaired relationships, trust and intimacy difficulties;
- mental health conditions such as depression; post-traumatic stress disorder; actions involving self harm or substance misuse; and
- Severely compromised life opportunities and earning capacity.

A monetary payment may comprise one of the amounts under Categories 1, 2 or 3, whether or not the Applicant may have allegedly experienced one or more instance of abuse.

The assessment of whether or not the person qualifies for a category of monetary payment is not to be undertaken by reference to the quantum of damages or compensation payable were legal liability to be established against YBRC Inc, Chabad Inc and Chabad Properties Inc, or the Colleges (past and present), for the Abuse.

A payment to a person under the Scheme is not paid as compensation or damages for any asserted, perceived or possible legal liability on the part of YBRC Inc, Chabad Inc and Chabad Properties Inc, or the Colleges (past and present), or for any injury, disease or impairment, and does not constitute an admission of liability on the part of Yeshivah.

If a monetary payment is made though the Scheme to a person or their Authorised Representative in accordance with the Scheme, it is not intended to affect the statutory, common law or other legal rights of the person.

However, a Court or Tribunal may, if it thinks fit, take the making of a monetary payment into account in assessing the quantum of any damages or compensation otherwise payable to a person under common law or statute.

7 REDRESS PROCESSES AND DECISION MAKING

Application

To qualify for Redress through the Scheme an Applicant must lodge an Application for Redress with the Panel during the operation of the Scheme. The application must be compliant and contain all the required information and documents.

An Application for Redress may be made by a person, or their Authorised Representative. It must be completed to the satisfaction of the Panel.

A person may only make one application for redress and a person can only receive one monetary payment whether or not they may have suffered abuse on more than one occasion.

The Application for Redress must include all allegations for which the Applicant seeks Redress. Separate applications for different allegations made by the Applicant will not be accepted by the Panel.

The Application for Redress must include a personal account to be provided by way of Statutory Declaration and should include:

- (a) The person's history of involvement at Yeshivah;
- (b) Details of the alleged abuse;
- (c) The approximate or actual date(s) of occurrence;
- (d) Where the alleged abuse occurred;
- (e) A description of the circumstances of the Abuse, including information about any connection between the Abuse and the person's involvement at Yeshivah;
- (f) Who allegedly perpetrated the abuse and their connection with Yeshivah;
- (g) A description of the injury or harm suffered as a result of the Abuse including any medical or other records in respect of the harm and/or treatment;
- (h) The names of any witnesses or third parties;
- (i) Information about when, how and to whom any complaint of Abuse was made, and any resultant actions taken; and
- (j) Proof of identity.

The Applicant's personal account will generally be regarded as the person's personal experience of Abuse unless there is evidence to the contrary.

Where a person, or their Authorised Representative, has made an Application for Redress which in the opinion of the Panel is incomplete, reasonable attempts will be made by the Panel to assist the Applicant to provide any additional information until it is considered no longer reasonable to do so.

Assessment

The Panel will assess any Application for Redress made by the Applicant through the Scheme to ascertain whether:

- (a) The person has lodged a compliant Application for Redress;
- (b) The person has, plausibly, suffered one or more instances of Abuse;
- (c) The person is alive at the time their application for redress is lodged and does not die before Redress is made to the person;
- (d) The person has not previously received a monetary payment under the Scheme;
- (e) The person has not previously received any compensation in respect of any allegation of abuse suffered while being attending a service or activity of Yeshivah; and
- (f) The person qualifies for a category of monetary payment.

If the Panel is satisfied that the Applicant satisfies the requirements, it may offer the Applicant counselling or other support services, and assistance to make a report to police through the Scheme.

The Panel is not bound by the rules or practice as to evidence or procedure.

The Panel may require supplementary information or documentation to consider before completing an assessment including but not limited to:

- Further relevant information from the person or their authorised representative;
- A medical or psychological examination;
- Medical or psychological records; or
- Relevant records held by third parties, in which case the Applicant will provide such information, records or consent to obtain records as may reasonably and practicably be provided in the circumstances.

The Panel, through funds provided by Yeshivah, may pay the cost of the Applicant providing any supplementary information or documents as may be reasonably requested by the Panel.

Report

The Panel will prepare an assessment and Determination Report after receiving a compliant application and assessing it. The report will contain:

- The Application for Redress which will include the Applicant's personal account;
- Any relevant documents and information;
- Any corroborative or contradictory information;
- Medical and psychological reports, if any;
- A summary of evidence and outcome of the assessment; and the Determination.

Determination

The Determination is at the sole discretion of the Panel and is final. The Determination of the Panel will be made on the basis of the documentation which is before it and there will be no right of appeal or reconsideration from the Determination of the Panel.

Allocation of Resources

The Committee of Management may, at its discretion, limit the resources that are made available to satisfy the claims for support made through the Scheme.

Privacy and other safeguards

All materials received by the Panel from Applicants, and all records created as a result of an Application for Redress will be kept private.

An Applicant's identifying information or documentation will not be disclosed to any third party without the consent of the Applicant or their Authorised Representative unless the Panel is otherwise authorised or required by law to disclose the person's information.

In the event that a monetary payment is made, an Applicant's name, address and the amount of the payment will be provided to a third party contracted by Yeshivah to facilitate the payment.

The Panel will not be providing any of the records from the Scheme to Yeshivah. All records from the Scheme will be stored by a third party contracted by Yeshivah. The only exceptions to this are in circumstances:

- Where the Scheme is compelled by law;
- Where it is necessary for litigation or to provide advice about a claim for compensation involving Yeshivah, including to insurers of Yeshivah; or
- For a purpose of redress for an apology as deemed appropriate and consented to by the Applicant.

In the event that an Applicant subsequently seeks compensation through a Court, only details of the Determination will be made available to Yeshivah.

Details of any Determinations will not be provided to the Committee of Management unless specifically requested by the Applicant. Where an Applicant is seeking a direct personal response including an apology from Yeshivah and this is supported by the assessment of the Panel, some information will need to be provided to Yeshivah to facilitate this occurring. Any details provided to Yeshivah will be agreed with the Applicant beforehand.

Procedural fairness will be accorded in respect of an Application for Redress as required by law. No confidentiality obligations will be imposed on applicants for Redress.

A person is entitled to have a support person to be present at an interview. However legal and other costs may not be paid under the Scheme to a person, or their Authorised Representative in respect of any costs associated with making an allegation, or preparing, or pursuing an Application for Redress.

Reporting to police

While Yeshivah believes that allegations of criminal conduct should be reported to Victoria Police it also firmly believes that in this case it is for the individual to decide. Yeshiva Inc understands that, for many people, reporting to police can be a difficult decision.

The Panel will offer assistance to provide Victoria Police information received from the person about any allegation of abuse that discloses a criminal offence may have been committed, if the matter has not already been reported to the Police.

Every encouragement will be given to the person to consent to provide information to Victoria Police. However if the person does not consent, the Panel will only provide information about the allegation that does not disclose the identity of that person.

Whether a report to police has been made and whether a police investigation is commenced will not affect the processing of the Applicant's Application for Redress or the making of an offer of support for the person.

If an application through the Scheme discloses any allegations involving current staff or students, the Panel will have mandatory reporting obligations under law to notify Victoria Police. While the Scheme and the Panel seek to uphold all Applicants' privacy and confidentiality, the Scheme and Panel will ensure all compliance with the law in circumstances where it is necessary to do so. This is aimed at ensuring the safety and wellbeing of the Applicants, compliance with the law and ensuring the community and Yeshiva's views on offending of this nature is taken seriously.

December 4, 2015