



# **The Servite Response Guidelines**



## **1 Guidelines**

- 1.1 These guidelines are to be read in conjunction with The Servite Response.
- 1.2 In the event of any inconsistency between The Servite Response and these Guidelines, The Servite Response prevails.

## **2 Administration of The Servite Response**

- 2.1 The Servite Response is administered by the Administrator, who will deal with each Application in a timely and efficient manner, whilst displaying fairness, care and respect for the dignity of each Applicant.
- 2.2 A person may contact the Administrator with questions or concerns prior to lodging an Application.
- 2.3 Once a person lodges an Application, the Administrator will be the ongoing point of contact.
- 2.4 The Administrator's contact details are:

Address:	PO Box 287 MORLEY WA 6943
Email:	admin@servite.org.au
Telephone:	0435 673 238

## **3 Support**

- 3.1 If, at any point a person requires support, they may access 24-hour telephone assistance through: Beyondblue 1300 224 636; MensLine Australia 1300 789 97; Suicide Call Back Service 1300 659 46; 1800RESPECT 1800 737 732 or Lifeline 13 11 14.

## **4 Support Person**

- 4.1 If, in the process of making an Application, the Applicant feels distressed or in need of support, they may choose to nominate another person to be their support person.
- 4.2 If required, the Administrator will facilitate referrals to agencies which can provide appropriately qualified support persons.

## **5 Psychological/Counselling Support**

- 5.1 Upon request to and approval by the Administrator, support for psychological or counselling services will be provided on the following basis.
  - (a) Funding up to \$5,000 may be provided for each Applicant.
  - (b) The Applicant may nominate his/her preferred health care provider.
  - (c) Payment will be made directly to the health care provider by the Administrator upon the Administrator being provided with a copy of the relevant invoice.
- 5.2 A request for funding is to be made to the Administrator, in writing, nominating the health care provider.
- 5.3 The Administrator will provide a letter of authority to the nominated health care provider and to the Applicant on approval of the request.
- 5.4 An Applicant may make a request for funding for counselling above the monetary limit, which request will be assessed by the Administrator on a case by case basis.
- 5.5 Health care providers must be members of one of the following registered associations:
  - (a) The Australian Association of Social Workers;
  - (b) The Australian Psychological Society; or



(c) The Royal Australian and New Zealand College of Psychiatrists.

5.6 If the Applicant fails to attend a scheduled appointment with a health care provider, or cancels it without reasonable prior notice, any non-attendance/cancellation fee issued will be passed on to the Applicant for payment or deducted from future funding or payments to the Applicant.

## **6 Personal Response**

6.1 A personal response, if sought by an Applicant, may assist in the healing process.

6.2 The Servite Order offers to provide any of the following:

- (a) an apology, either verbally and/or in writing;
- (b) an opportunity for an Applicant to meet with a senior representative or representatives of the Servite Order;
- (c) access by the Applicant to their historical records, if the documents are held by the Servite Order.

6.3 The Administrator will liaise with the Servite Order to arrange the delivery of the personal response in a mutually convenient and suitable manner.

## **7 Financial Assistance**

7.1 The Applicant may seek:

- (a) funding up to \$3,000 for assistance with the preparation of the Application, including responding to any queries raised by the Administrator; and
- (b) funding up to \$2,000 for legal advice as to the effect of the terms of the Deed of Release recording the settlement offered to the Applicant.

7.2 A request for funding is to be made to the Administrator, in writing, nominating the provider.

7.3 Upon approval, the Administrator will provide a letter of authority noting the approved funding to the nominated provider and to the Applicant.

## **8 The Application Process**

8.1 The application process is set out below.

### **9 Step 1 Making enquiries**

9.1 An Applicant may prior to making an Application, contact the Administrator for pre-approval to source:

- (a) counselling and related services; and
- (b) professional assistance in completing the Application form.

See paragraphs 5 & 7 above.

### **10 Step 2 Completion and lodgement of an Application**

10.1 The Servite Response Application form and all other relevant information can be found at [www.servite.org.au](http://www.servite.org.au). The Application form is also attached to these Guidelines as Annexure "A".

10.2 Any person wishing to make a claim will need to complete the Application, provide supporting documents or information and sign the attached Statutory Declaration.

10.3 The Application form and any supporting information must be lodged with the Administrator either:

- (a) by way of post to PO Box 287, Morley WA 6943; or
- (b) by email to [admin@servite.org.au](mailto:admin@servite.org.au).



- 10.4 Supporting information may include the Applicant's personal statements, witness statements, photographs, hospital or medical records, psychologist and/or psychiatrist report, Police statements, Redress WA documentation and any prior Deeds or agreements reached between the Applicant, the Servite Order or any other party.
- 10.5 An Applicant is encouraged to provide a medical report in support of their Application. The Administrator can assist the Applicant to obtain a medical report, if necessary. The reasonable costs of obtaining the medical report will, by prior agreement with the Administrator, be met by the Servite Order.
- 10.6 An Applicant may add to or make changes to their Application at any time before the date specified by the Administrator in writing to the Applicant.
- 10.7 An Applicant may withdraw their Application any time prior to signing a Deed of Release.

### **11 Step 3 Confirmation of receipt of an Application**

- 11.1 Within 2 days of receipt of an Application, the Administrator will acknowledge receipt of the Application in writing to the Applicant.
- 11.2 Within 14 days of the receipt of an Application, the Administrator will:
- (a) notify Panel members that an Application has been lodged;
  - (b) ascertain the availability of Panel members to deal with the Application; and
  - (c) upon confirmation of the availability of Panel members, appoint two Panel members to assess the Application.

### **12 Step 4 Verification Process**

- 12.1 Within 14 days of receipt of an Application, the Administrator will:
- (a) verify the Application by:
    - (i) confirming the Applicant was in the care of the Servite Order or a Related Party at the time of the Sexual Abuse;
    - (ii) confirming the Servite Order or a Related Party had responsibility for the Accused at the time of the Sexual Abuse; and
    - (iii) gathering further information, if and when necessary,
- and
- (b) notify the Accused of the details of the Sexual Abuse and seek a response.
- 12.2 The Accused will not receive a copy of the Application or the supporting information. The Accused will only be advised of the date, location and nature of the Sexual Abuse, as alleged in the Application.
- 12.3 The Accused will have 14 days to provide a response to the Administrator.
- 12.4 Within a further 2 days of the receipt of the Accused's response (if any), the Applicant will receive a copy of any response by the Accused and will have a further 7 days in which to respond, if they so wish.
- 12.5 A bare denial by the Accused that the Sexual Abuse occurred will not defeat a Claim.
- 12.6 If the Application is unable to be verified, the Administrator will so notify the Applicant, and the Application will not be accepted.



### **13 Step 5 Referral to the Panel**

- 13.1 Within 5 days of completion of the verification process outlined in paragraph 12 above, the Administrator will:
- (a) forward all materials to the Panel;
  - (b) forward to the Applicant a copy of all materials provided to the Panel; and
  - (c) advise the Applicant of the anticipated timeline for the completion of the assessment process.

### **14 Step 6 Panel Assessment**

- 14.1 The Panel is not bound by the rules of evidence or any practices or procedures applicable to courts of record.
- 14.2 The Panel is to act according to equity, good conscience and the merits of each Application, without regard to technicalities.
- 14.3 The Panel may inform itself on any matter as it sees fit, including asking the Administrator to obtain further information as and when required.
- 14.4 If the Panel requires further information, it will advise the Administrator, who will:
- (a) seek to obtain the requested information;
  - (b) within 7 days of obtaining any further information, provide a copy to the Applicant and where appropriate, seek further comments (if any) within a specified time frame; and
  - (c) within 2 days of receipt of the Applicant's further comments (if sought), provide the Panel with the further information and the Applicant's comments.
- 14.5 The Panel will:
- (a) determine whether it is reasonably likely that the Applicant suffered the Sexual Abuse whilst in the care of the Servite Order or a Related Party; and if so,
  - (b) assess the amount of Monetary Reparation to be paid to the Applicant.
- 14.6 In assessing the Monetary Reparation to be paid to the Applicant, the Panel members will apply their professional knowledge, skills and experience to determine a sum that is fair and equitable compensation for the Sexual Abuse and the injury caused to the Applicant.
- 14.7 The Panel will use its best endeavours to make an Assessment within 42 days of receiving an Application.
- 14.8 The Administrator will advise the Applicant in writing if an Assessment is likely to take longer than 42 days.
- 14.9 If the two sitting Panel members cannot agree on an Assessment, the Panel will be dissolved and a third Panel member will be appointed by the Administrator to act on his/her own as the Panel and will make the Assessment.
- 14.10 Once an Assessment has been made, the Panel will appoint one Panel member to prepare a Report.
- 14.11 The Report is to be signed by each member constituting the Panel.
- 14.12 On completion of the Report, the Panel will forward it to the Administrator.

### **15 Step 7 Implementing the Assessment**

- 15.1 Within 5 days of receipt of the Report, the Administrator will forward a copy to the Applicant and the Servite Order and the relevant Related Party.



- 15.2 Where Monetary Reparation is assessed as being payable, the Applicant will also be provided with a Deed of Release.
- 15.3 The Applicant can accept the offer of Monetary Reparation by signing and returning the Deed of Release to the Administrator within 28 days of receipt.
- Note:** The Deed of Release if signed will finalise all and any claims the Applicant has against the Servite Order or a Related Party for the Sexual Abuse.
- 15.4 The Applicant should seek independent legal advice as to the terms of the Deed of Release prior to signing and returning the Deed of Release. The Servite Order will pay up to \$2,000 for the Applicant to obtain independent legal advice in relation to the effect of the Deed of Release.
- 15.5 Unless otherwise agreed with the Administrator, an offer of Monetary Reparation will be deemed to have been rejected if the signed Deed of Release is not returned to the Administrator within 28 days of receipt by the Applicant.
- 15.6 Payment of the Monetary Reparation to the Applicant will occur within 28 days of return of the signed Deed of Release to the Administrator.

## 16 Referral to police

- 16.1 The Servite Order complies with all laws relating to mandatory reporting of Child Sexual Abuse.

## 17 Personal information provided by the Applicant

- 17.1 Information that is provided as a result of participating in The Servite Response is subject to existing privacy laws and the Servite Order's Privacy Policy.
- 17.2 Other than for the purposes of and as outlined in The Servite Response, personal information will not be shared with any other person or entity.

## 18 Alternative options

- 18.1 At any time prior to signing a Deed of Release, the Applicant may:
- (a) discontinue their Application and commence a Civil Litigation Claim; or
  - (b) discontinue their Application and make an application to the National Redress Scheme.

## 19 Glossary

Term	Definition
<b>Accused</b>	means a person against whom an allegation of abuse has been brought by an Applicant.
<b>Administrator</b>	means a person appointed by the Servite Order to administer The Servite Response.
<b>Applicant</b>	means a person who seeks to participate in The Servite Response.
<b>Application</b>	means an application lodged pursuant to The Servite Response substantially in the form attached to the Guidelines.
<b>Assessment</b>	means the decision made by the Panel.
<b>Child</b>	means a person under the age of 18.
<b>Civil Litigation Claim</b>	means a claim for damages for personal injury arising from the Sexual Abuse commenced in an Australian court.
<b>Claim</b>	means the claim of Sexual Abuse being made by the Applicant in an Application.



<b>Term</b>	<b>Definition</b>
<b>Deed Release</b>	means the Deed in the general form of the document attached to the Guidelines.
<b>Guidelines</b>	means the guidelines set out in this document.
<b>Monetary Reparation</b>	means the sum of money, not to exceed \$400,000, to be paid to an Applicant as determined by the Panel.
<b>National Redress Scheme</b>	is the scheme established pursuant to the <i>National Redress Scheme for Institution Child Sexual Abuse Act 2018</i> (Cth).
<b>Panel</b>	means the independent panel appointed to assess an Application and to make an Assessment.
<b>Assessment Report</b>	means the written report produced by the Panel following an assessment of the Application.
<b>Servite Order</b>	means and includes: <ul style="list-style-type: none"> <li>(a) Order of the Servants of Mary - Australian Delegation (also known as Religious Congregation Order of the Servants of Mary Australia) [ABN 80 900 235 572];</li> <li>(b) The Order of the Servants of Mary Inc. [registration no. A0530002L];</li> <li>(c) past or present members of the above.</li> </ul>
<b>Related Party</b>	means and includes: <ul style="list-style-type: none"> <li>(a) Servite College, 134 Cape Street, Tuart Hill WA</li> <li>(b) Servite College Council Inc. [ABN 69 356 899 381];</li> <li>(c) The Order of the Servants of Mary Victoria Inc. [registration no. VIC A0008316U];</li> <li>(d) St Denis Parish, Joondanna, Western Australia;</li> <li>(e) any ministry established or operated by the Servite Order; and</li> <li>(f) any past or present members, servants, agents, employees or contractors of any of the above.</li> </ul>
<b>Sexual Abuse</b>	means and includes, in respect of a: <ul style="list-style-type: none"> <li>(a) Child, the involvement of that Child in sexual activity that is unlawful;</li> <li>(b) Vulnerable Adult, the involvement of that Vulnerable Adult in sexual activity that they: <ul style="list-style-type: none"> <li>(i) cannot understand, or</li> <li>(ii) did not consent to,</li> </ul> and which sexual activity is unlawful. </li> </ul>
<b>Vulnerable Adult</b>	means a person who is suffering from a mental impairment.