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THE PARLIAMENTARY JOINT SESSIONAL COMMITTEE ON GENDER AND EQUALITY MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON TUESDAY 28 JANUARY 2025

Expungement of Historical Offences Amendment Bill 2024 Inquiry

The committee met at 8.44 a.m.

CHAIR (Ms Forrest) - Thanks for joining us, Attorney-General. I know you've had some technical problems getting in. I'll ask each of you to swear individually. I'll read the statement to you, assuming all your team might be speaking - is that the case?

Mr BARNETT - Yes, I think so. Let's swear them all in.

Mr BRUCE PATERSON, DIRECTOR STRATEGIC LEGISLATION AND POLICY, **Ms MEEGAN ESSEX**, PRINCIPAL LEGISLATION AND POLICY OFFICER, AND **Mr BRAD WAGG**, DIRECTOR POLICY AND STAKEHOLDER ENGAGEMENT, DEPARTMENT OF JUSTICE, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED VIA WEBEX

CHAIR - Thanks, Attorney-General, for your appearance today and the government's submission. The purpose of this inquiry is to consult a bit more broadly on the best mechanism for redress/compensation/ex gratia payment - whichever term is deemed most appropriate - for those with expunged homosexual crimes as per Recommendation 13 of the TLRI [Tasmania Law Reform Institute] report. We have your submission. We have also received a couple of later submissions which you and your team will not necessarily have had a chance to look at. We may ask you questions for those. If we do, we'll read the sections of those submissions to you. We haven't had time to publish them, they've just been received.

I invite you, if you wish, to make some opening statements, and then we'll have some questions for you.

Mr BARNETT - Thanks very much, Chair and Committee members. I think everything we'd want to say is obviously in the second reading speeches in the Parliament, but also in the submission of 20 January [2025], which you've acknowledged. Thank you for that. It's quite an extensive, comprehensive submission. I don't wish to go into that in any further detail, other than to say that no other jurisdiction in Australia has provisions set out in Recommendation 13. If we do progress with Recommendation 13 - to which we've tried to be accommodating, as a government, to meet the needs of the Parliament. We recognise we're a minority government, but we want to collaborate and work with the Parliament.

Hence, we have responded to Recommendation 13, and provided that recommendation for a one-off ex gratia payment of a fixed amount as acknowledgement and redress for applicants who have charges and convictions expunged under the act. You would be aware of the number of 15 applications for expungement, 14 of which were for offences that were not homosexual or cross-dressing offences and that were therefore outside the scope of the act.

You would also be aware of the difference between an ex gratia payment and a compensation model. We don't support the latter. We are happy to support the former if we go down the track for an ex gratia payment. The department's done some very good research

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in terms of New Zealand, and then European countries. That's helped us to land on that figure of \$5000 and \$2500. You would also note in terms of the timeframes and the 96 people that were convicted, that was before 1984, is my understanding. Of course, this left the bulk of the convictions occurring prior to the late 1970s, so 55 plus years ago.

We make reflections in our submission on the Greens' compensation amendments. We respect the right of another party and Members of Parliament to put forward other amendments, of course. We've reflected on that and indicated that we think they are clumsy and not appropriate, and also could cost more than the actual payments themselves.

Having said that, I think the research done by the department is very significant. I'm very thankful that Brad and, of course, Bruce and Meegan, are here today, who can speak to the operational parts of that. I again confirm that no other jurisdiction has such provisions in Australia, but if we do go down this track, there are some European countries that have progressed, including Germany. That is the reason that we've landed on the ex gratia payment figures as set out in the submission. I might hold it there. Happy for questions, and thank you, Chair.

CHAIR - Thanks, and my apologies - I did forget to remind members of the nature of the hearing being a public hearing with parliamentary privilege prevailing. I am sure your team are aware of those provisions anyway. It is being recorded, obviously, and we are broadcasting as well.

I want to start initially with a question, whether it is to you or one of your team. This sort of came quite quickly to the Legislative Council in the end, with an amendment passed in the Lower House that was put forward by the Greens, then the Government introducing a competing amendment, if you like, in our House. What consultation was undertaken by yourselves, the government, with regard to your proposed amendment?

Mr BARNETT - My understanding is that the Leader for the Government in the Upper House obviously progressed that amendment. We have tried to be accommodating. We are fully aware of the Greens' amendment, which did get support in the Lower House, which we obviously didn't support. However, we recognise that it was supported, so we have tried to be accommodating and collaborative and tried to respond and to provide - if the Parliament wishes to go down this track - which we didn't support in our second reading speeches, et cetera.

No other jurisdiction in Australia has progressed this way, but if the Parliament wishes to go down this track, we wanted to try to work up a more streamlined, appropriate, balanced and sensible payment, as in ex gratia payment. That's the reason that we've done what we did. We had to obviously respond reasonably swiftly. That's why we are willing to be here today and to try to work through with this Committee and other Members of Parliament to land something that people see that is sensible, balanced and appropriate.

CHAIR - To repeat my question, did you or any of your team reach out to organisations who put submissions in to the Bill that we are dealing with? Did you talk to Equality Tasmania? Did you talk to TasCOSS (Tasmanian Council of Social Services)? Did you talk to Community Legal Centres [Tasmania], for example?

Mr BARNETT - Yes, I understand where you're coming from and I have to check with the department. I am not sure they did, because we had to move swiftly. It was either progress

with the Greens' amendment, which we did not support, or come up with - as quickly as possible - a more balanced, refined approach. Or, the other option was simply to oppose, and then you'd only have one option on the table. We had to act as quickly as possible, but I am happy to check with Bruce or Brad on whether there was any other work done, because they worked so hard and so quickly to get this onto the table to give consideration for Members of Parliament.

Mr PATERSON - Thanks. Through you, Deputy, I'm happy to briefly answer that. We didn't consult external stakeholders during the development of the government's amendments. Our development of them was informed by a lot of consultation we did on the original bill. While the original bill didn't propose a compensation provision at that time, we did get a lot of feedback, obviously, from stakeholders. Many stakeholders thought there should be explicit provision for payment.

We had a meeting with the department's LGBTIQA+ reference group on the original bill. It was discussed in that meeting that most of the people there felt there should be compensation. The consistent theme was that no one identified what the amount of that compensation should be. We were aware, in creating these amendments, that there was support for the review's Recommendation 13 in a two-tiered amount, but we haven't had any submissions as to what that amount should be. As the Deputy mentions, because of the time frame, we therefore primarily focused our attention on what the European model, particularly the German model, was doing, and did some translation of value. I think that's the answer to that question.

CHAIR - Attorney-General, I am sure you and your team have looked at Equality Tasmania's submission, which is quite comprehensive in looking at some of the European, New Zealand and other models - acknowledging there aren't any other jurisdictions in Australia currently that provide some form of redress. Also looking at other redress schemes, which are all different, but can provide some guidance.

When we look particularly at one that was referred to in the Legislative Council - the model you or the Attorney-General might've referred to just now was in Germany - when you actually read through the Equality Tasmania submission and reference the Irish report that's quoted in their submission, it seems that it doesn't really reflect the reality - or it's not the same. It's taken basically the lower level and not considered the nuances of the German model. Is that a fair statement? We're not really comparing apples with apples here.

Mr BARNETT - I'll let Bruce speak to the detail of that provision, but you did make reference to the fact that no other jurisdiction in Australia has any provision like this in any of their legislation. I'm glad you've acknowledged that, which is the government's original position. We're trying to collaborate and be supportive and helpful as a government, in light of the numbers in the Parliament. That's what we're doing and we're using best endeavours to progress that. Bruce and the department have done a lot of good research and looked at other - obviously mainland - jurisdictions. I'll pass to Bruce to answer the detail in regard to Germany, Austria and other European countries.

Mr PATERSON - Thank you, Deputy, and through you. As the Government points it out in its submission, while Germany does have several different kinds of layers in its scheme, we did note during our research and previous briefings to the Legislative Council that, while the base is €3000, which is the amount we essentially based our number on, when they looked

at - from memory - 100 or 200 or possibly more German claimants, the average payment was about €3454. Yes, that is slightly more than the €3000 base, but not dramatically more.

I think the government's submission was that basing the amount on €3000 was a good starting point, and obviously the Government noted that further consideration could be given to that amount. Equality Tasmania is right, of course, to say that Germany has the multi-tiered scheme, but that's not what Recommendation 13 recommended. Recommendation 13 very explicitly recommended a fixed amount per charge that was expunged from a person's criminal record, and a fixed amount per charge that was expunged but didn't actually have to be removed from the criminal record. We based our higher amount on that kind of German entry point for expungement of a charge from a criminal record.

The Tasmanian reviewers didn't recommend that any other factors be considered, such as imprisonment or fines and the like. I'm assuming that that's because they felt that it was the fact of this charge on a person's criminal record that was a very significant impact on that person's life and possibly future employment or other social factors. They were very much focused on setting an amount based on the expungement of the charge. That's why the department suggested to government, and the government's amendments base its amount on the expungement per charge. In that sense, they are quite equivalent. They get the same amount of redress - €3000/\$5000 - for charges that are expunged.

In fact, I must say, I think that's the same as Germany - that it's per annulled conviction, which is the same as us. For example, with looking back at some of the case studies within the department's files, like in the police records - some people were charged once, some people were charged many times. If either of those people came forward and were successful, they would get \$5000 per charge - so either \$5000 for one charge or \$20,000 for four charges, and so on.

CHAIR - Isn't this the reason why the German model wasn't really a suitable model - because it didn't reflect the recommendation of the review? To use it as the principal model, if you like, when the German model did contemplate other mitigating factors, if you like, or other impacts on the individual - because they're not comparable in that regard. We're getting stuck on one jurisdiction here that is possibly an example that maybe shouldn't have been used, because it doesn't reflect the recommendation in the review. That's more a statement than a question, but you might like to respond as to acknowledging that there's a lot of other schemes around the globe. There's also other redress for, as you read in Equality Tasmania's submission, other redress schemes for victims of crime and other circumstances like that, which is different. There's quite significant differences between the payment to a victim of crime, potentially, and someone who's been the actual victim of an offence that should never have been an offence in the first place. I'm just trying to understand why we're getting stuck on the German model when it doesn't truly reflect the recommendation in the review.

Mr PATERSON - I could address that if you like, Deputy.

Mr BARNETT - Thank you.

Mr PATERSON - It is quite a complex landscape in a way. I don't want to appear stuck on the German model for expungements as such, but as I was saying, the German model did decide regardless of whether you're imprisoned or not imprisoned, we will give you an amount for expunged charges. So the reviewer's recommendation in Recommendation 13 was kind of

similar in that it didn't take into account whether there was prison or no prison, it said there should just be a fixed payment. That's why we thought it was sensible to look at Germany.

There are only, I think, four European jurisdictions that were raised in the Equality Tasmania's submission to compare it to. In Spain, quite a different historical setting of essentially concentration camps for all sorts of - as I understand it - victims of what they saw at the time as unacceptable behaviours. Even in the Spanish scheme it's not dramatically more. It's €4000 for people imprisoned between one and six months, but it does go up to €12,000 for people over three years in jail. The historical setting of the nature of the numbers of people that went into those camps and the variety of behaviours that put them in there does set that a bit aside from the German and Tasmanian context.

In Austria, which Equality Tasmania mentions, again, we've got a €3000 payment for expungement, but it does increase, according to the footnote. In France we've got a proposed €10,000 payment, but as Equality Tasmania states, it's not clear if that scheme has actually been passed through the final stages of the Senate, so it might get rejected. Then we have Canada. Canada, I must confess, is something I'm less across.

I know that Equality Tasmania refer to the UK scheme, which are higher payments, but were focused on veterans. There was a very strong connection in the UK scheme to veterans and was your employment terminated because of your sexuality. The Government was the employer at that time. For the public at large in the UK - they don't have compensation for people at large in the UK. I think the veteran example is - it's hard to find, as you say, an apples to apples comparison, so we have to work with the best we've got, I suppose.

Equality Tasmania, and obviously the department too, thought about broader kinds of redress and expungement models that are out there. I think the important underlying principle, at least in the department's mind, and as was mentioned in the New Zealand debate on compensation, is that it's an underlying principle of law that simply because a behaviour stops being illegal doesn't mean that everyone who was prosecuted and potentially imprisoned for that behaviour in the past should be fully compensated for all the effects that that may have had on their lives. That is a precedent that would be very far-ranging. At the same time, the reviewers were saying, clearly, and as the department of Government agreed, the impacts of prosecutions and convictions for homosexual offences were very profound and in retrospect should not have been happening at the time, so they recommended an ex gratia payment.

I think there is really an impossibility, to some degree, you might say, of a payment that truly reflects and compensates every individual for the impacts they might have suffered. It is a payment nonetheless that expresses - as the ex gratia term represents - the word doesn't seem quite right, but a gracious payment or a compassionate payment that recognises and expresses sympathy and regret to the victims of those crimes. I think it is actually quite difficult to find any apples and apples, which is partly why this Committee is now convened, of course, to look at the thinking of various stakeholders and the government's position, and consider it.

The Government does note in its submission that - one of the concerns of the Greens' amendments was that it is quite an elaborate process and potentially quite an expensive process to have a statutory scheme for an independent assessor to go out and talk to stakeholders and then come back to Parliament with a recommendation. If for some reason Parliament doesn't like and disallows that recommendation, then the whole process has to start again. You have to appoint a new independent assessor and they have to go out to the stakeholders and do a new

consultation, and come back to Parliament a second time. But I think the Government submission does acknowledge that if the Committee's view is that there should be more consultation, I think that can occur and, in consultation with the LGBT[IQA+] community, you could find a person to do more consideration of an amount. I don't think it would need to be in this kind of elaborate and more expensive and potentially repetitious kind of statutory scheme that we have in the amendments at the moment.

I think another thing I should say is that the amendments we have at the moment in the Bill before the Legislative Council, i.e. the Tasmanian Greens' amendments, if they are intended to reflect Recommendation 13, I think they clearly need some work to do that properly. Recommendation 13 is two fixed amounts, one for convictions that are expunged from the record, one for convictions that are expunged not from the record. Whereas the Tasmanian Greens' amendments unfortunately leave that quite open and they talk about compensation based potentially on all sorts of different factors and circumstances.

The word compensation, as the Deputy alluded to earlier, could be very broad and taken to include all those complex calculations about economic loss, general damages and wrongful imprisonment, which is not what Recommendation 13 was about and not what really all of the European schemes are about. They are about, at the end of the day, relatively small in the scheme of things - \$5000, \$10,000, \$15,000 numbers - that are tokens of regret and reparation and redress, I suppose, for these expunged convictions.

Ms THOMAS - Thank you. The submission from the Government does suggest that:

If the Committee disagrees with the amounts in the Government's amendments, the Government recommends that the Committee endorse the Government seeking further advice and input from an independent consultant with relevant expertise, who would also consult with stakeholders, on how to determine what those legislated amounts should be. This would be expected to cost less than the 'independent assessor' model while producing a similar result.

Have you done any modelling on the estimated cost of an independent assessor versus what the cost of an independent consultant might be?

Mr BARNETT - I might pass that to Bruce in one moment. Thanks very much through you, Chair, to Bec Thomas for the question and acknowledging that again, the government's just trying its very best to collaborate, to be cooperative, to try and come up with a way to land something that is agreeable to the Parliament as a whole, recognising the numbers in the Parliament. That's the point of the objective behind that recommendation. I will check with Bruce if he'd like to add to that answer.

Mr PATERSON - One of the things we had in mind, and the Government submission refers to, is that appointing statutory officers to do work such as the amendments require, particularly given that that work may lead to a disallowed answer which then requires the work to be repeated - we thought that that might potentially be up to - the submission mentions \$30,000 to \$100,000 or more. That's based on our experience with appointing people to do statutory reviews or perform independent statutory functions.

The government's suggestion is a more direct approach that would not necessarily trigger a repeat of that approach. We don't have a particular modelled figure in mind. We feel it would be cheaper because we would probably find someone who would work more collaboratively with the department, but also use the department's in kind resources for such things as renting rooms and running ads in papers and getting reference groups together. We thought - I'm thinking in my mind, potentially \$20,000. It's probably a process that we would involve, I imagine, discussion with community and the Deputy, and would potentially do some parliamentary briefings in that process. So that the consultant and ultimately the Government's recommendations to the Parliament are kind of informed by all those things, and doesn't run the risk of being disallowed, optimistically, and then have to repeat all over again, which is the model or the aspect of the Greens' amendments that we were concerned about.

The independent assessor, being totally independent, goes off and does their job, and the first thing really that the Parliament knows about it is having the independent assessor's report in front of it. If there's some aspect of that report that Parliament doesn't like, it disallows it, and then the work has to repeat all over again. That's the expense and time that we were trying to avoid.

Ms THOMAS - Okay. The Equality Tasmania submission reluctantly puts forward a range, if you like, an amount if there were to be an amount legislated that would perhaps be deemed more reasonable than the amounts put forward by the government. Do you believe there needs to be more work done by a consultant, further to the work that's been presented through the Equality Tasmania submission, who really are key stakeholders here?

Mr BARNETT - Thank you for the question, I will pass to Bruce, noting again that every other jurisdiction in Australia does not have any of these provisions. The ex gratia payment in Recommendation 13 is what the government's responding to, that recommendation, based on the research that the department's done through the good work of Bruce and others there, Meegan and others put forward in the submission. I'll ask Bruce to add to that answer, please, thanks, Bruce.

Mr PATERSON - Yes, I must say I haven't had a lot of time to read through the Equality Tasmania submission. I think it must have gone up fairly recently. Obviously, they are suggesting, you know, well in one part of their submission they -

CHAIR - \$25,000 to \$75,000, that's what it suggests.

Mr PATERSON - - yes. Although at the same time it does say in one part:

... we are not saying \$25,000 - \$75,000 should be the range of redress payments. We are saying that, when considering what a reasonable, fixed, pre-set, redress payment would be, this is the range it could be within.

I think this is a general comment. I can obviously understand that Equality Tasmania has taken a very broad view of broader schemes, as I mentioned earlier, including schemes that work quite differently to European schemes, and in my view work quite differently to what the reviewers had in mind, including, potentially, schemes that are more compensatory rather than ex gratia. From the department's point of view, I think we would just say that jumping from \$5000 to somewhere between \$25,000 and \$75,000 would need a lot more work. On the face of it, it just seems kind of out of kilter to me and really demonstrably different to what people

are receiving for expungement of homosexual offences in other jurisdictions in a roughly comparable kind of scheme to Tasmania. It might be consistent with the UK veterans, for example. As I mentioned earlier, the UK veterans is really a different kettle of fish. It's about essentially a Government taking responsibility for its own employment decisions in the armed forces in the past.

I think the short answer is, I can understand why when Equality Tasmania looks at a very broad range of compensation schemes and expungements schemes across a very broad range of settings, including victims of crime and stolen generations and so on, that's why they've come to that amount. I don't think that would have been the amount that the independent reviewers would have had in mind. I think the government's amendments are more in line with that.

Ms THOMAS - It has been acknowledged that it's likely to be a relatively small number of people seeking redress here. Has the Government done any modelling on what a redress scheme would look like - sorry, what the cost of redress might be? Was that factored in at all to the government's proposal for the amounts put forward? What is, I guess, the worst possible outcome - does it come down to cost?

CHAIR - Financially?

Ms THOMAS - Yes, financially what is the fear here if there are higher redress payments proposed or decided on rather than lower? Is it really going to be so terribly detrimental that it's not worth signalling the intent here to properly redress the harm that has been caused?

Mr BARNETT - Thank you for the question. I think Bruce summarised that pretty well, earlier in the hearing and I indicated in my opening remarks the 15 applications, of which 14 were not relevant. I mentioned - this obviously goes back to the 1970s and before, so I think there's an understanding there. But, as I've said, no other jurisdiction in Australia is doing this, but if we were to do it, we've done the research in Europe. We think we have the balance right in terms of ex gratia. Bruce said, and I think described it very well, in an expression of regret, every parliament has to be very careful when reflecting on the criminal code of many decades ago and what impact that has on today.

The government's submission has the balance about right, but it might be good if Bruce would like to add to that answer.

Mr PATERSON - Thank you, Deputy, and through you, to answer the question, there were a couple of questions in there. One was, in determining \$5000 as a good amount, I don't think there was any worry as to the - perhaps I should start from a different perspective. I think there've been different calculations as to how many people in the community might still potentially come forward and apply for expungement and how many might potentially be successful. It is very hard to assess that, there's probably only 100 people, as the review and I think Equality Tasmania mentioned, who have been charged in the history of the Tasmanian laws and, obviously, many of those people would have sadly passed on.

Equality Tasmania has, at times, thought that there might only be a very small number left with interest, potentially, in applying to the scheme, like a dozen or 10 or less. I'm not sure if I remember them exactly correctly, but that's also the department's view that the most it would seem there might only be 10 people in the community that might be interested or eligible

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for applying for the scheme. Of those 10, many or most, or perhaps all of them, never will apply. So, I think we probably have up to 10 successful applicants out there if they are motivated and interested to apply.

CHAIR - Before you go off there, Bruce. Of those 10, just to drill down into that further, let's say it's 10, roughly 10, have you looked at how many charges each of those individuals had that may be eligible? It's not just the 10 individuals, it's a number of charges, isn't it?

Mr PATERSON - Sorry, Chair, I dropped out momentarily.

CHAIR - Of the 10 - let's say it's 10 - of those 10. I think you've frozen again. You're probably not hearing us.

I don't know if anyone else can answer this, Attorney-General, but the 10, or thereabouts, people, or men, who may be eligible, do they have just one charge? Have some of them got 10 charges? Do we have any insight into that matter?

Mr BARNETT - Thanks, Chair. I'm not sure if Bruce heard that question?

Mr PATERSON - Sorry, I think I was getting the gist, that had we looked at, of those 10 people, how many charges have they faced?

CHAIR - Yes.

Mr PATERSON - The short answer is no, because we don't know which 10 might apply and, for confidentiality reasons, we don't drill into historical records looking for people who might be eligible and what the kind of numbers of charges were. The police conducted a couple of very targeted and de-identified case studies for us as part - during the amendments - and I think I mentioned earlier, they only range from one offence to four offences.

CHAIR - So it's not a huge number then, and that is what we are talking about.

Mr PATERSON - No. I was just going to go on to say, in determining the figure, I don't think it should be a question of what is the total going to be. I think the question should be what should the amendments set as an appropriate redress payment per individual, per offence, as recommended by Recommendation 13, in a way that's comparable to other schemes of a similar nature. So, the department, and I don't think Government is really worried as to - that we can choose \$5000 or recommend \$5000 because we wanted to keep the total low - we recommend \$5000 because it was a comparable and appropriate kind of point. And I think there's openness in the submission to essentially having a look at that number and with independent consultant and consultation with the community, I wouldn't have thought that in kind of maintaining the integrity of our scheme versus similar schemes, both in Australia and overseas, I wouldn't expect that the number would go from \$5000 to \$25 or \$75,000.

Ms THOMAS - If Tasmania's scheme ends up being far more generous than any other place in the world - noting that, as the Attorney-General has said a number of times, there's no other Australian jurisdiction that yet provides redress for these past historical offences - if Tasmania has the most generous scheme, what's the worst possible outcome that can happen? What do we need to be fearing here in establishing a more generous scheme? Because it seems that that is the concern. The submission does talk about cost, that the independent assessor

model will cost more, and you've mentioned the disallowance provisions that that model provides for, so those two things seem to be the key concern with that model for the government. I'm just trying to get really clear on what's the worst possible thing that can happen if that independent assessor model is the one that's decided upon?

Mr BARNETT - We haven't looked at it in terms of that perspective. We've looked at it in terms of trying to get the balance right and get a fair and reasonable redress payment as in terms of an *ex gratia* payment, and I should note that's already available in the *Financial Management Act* section 55. So, it does already exist there and I think Bruce and the department's research is very thorough and quite comprehensive. Of course, we respect and acknowledge other views, including those of Equality Tasmania, but we have to do what's right for the Parliament and for the public and to get the balance right. We think we have got the balance right, but that's a matter for the Parliament. I'll just see if Bruce wants to add to that.

Mr PATERSON - Yes, well, I think that neither department or Government is - as you say, Deputy, the focus is on what is the appropriate amount and not about, fear as such, as to how much the amount could cost. So, that was the main point I was going to make.

I think there is an apprehension from the legal policy point of view though, there is apart from cost, the implications partly of the Greens' amendments as they stand, which allow for this very broad compensation methodology, which could take into account economic loss and so on, so that's - that is a concern from a legal principled perspective because it would be a real departure from those kind of principles that I talked about earlier, which is that when you decriminalise conduct, you don't look back in time and look to fully compensate people for the impacts of being convicted of that conduct, you instead think in a more - you establish a redress type of model which is limited.

And I guess, as Equality Tasmania and everyone - I think everyone's now on the same page that it should be a fixed amount and it's more a question of what that amount is, that compensation amount, that's a good thing. I think if it is a very high fixed amount - and I think there is probably value in some further consultation because to ensure that if the amount is increased, it's not increased to an amount that seems disproportionate potentially to other, say victims of violent crime who get \$30,000 under the victims of violent crime scheme, for example, or victims of terrible historical child sexual abuse under the national redress scheme can go up to \$150,000. So, those are two very impactful events and I'm not saying historical convictions aren't impactful, they obviously are too, but I just think we have to keep in mind the potential balancing and not choose an amount for this scheme that potentially, or might be viewed as, out of balance of other schemes that involve very violent crime, for example.

CHAIR - Can I just follow up on a couple of things? The question of compensation is a bit of a moot point, I think, because you can't really compensate people for a situation that happened many, many years ago because it could be a huge amount, if you really looked at the impact it had. I think we need to try to not look at it as a compensatory program because that's not what's really even possible and it would have to be individualised almost to make it meaningful for that individual. But when we talk about the consultation here, there's been some discussion about seeking an independent person who can conduct further consultation and engage with key stakeholders, which would be people like Equality Tasmania, perhaps the Community Legal Centres [Tasmania] and others. But the Committee is doing that; this is what the Committee is doing.

This is part of the process. It's a public process. We advertised, we sought public submissions and we've got them from the key stakeholder group. So, if the Committee was to determine, based on the evidence we've received, an amount, and I know you haven't seen this submission yet - the Community Legal Centres' [Tasmania] submission. I'll just read part of this one to you. It refers to other redress schemes and some of them you've mentioned, Bruce, in your comments. It says:

In the event the Gender and Equality Committee prefers the independent review's two-tiered redress scheme, we recommend that a range be adopted such as \$15,000-\$25,000 for applicants who have a charge expunged which do not appear on their criminal record and \$25,000-\$100,000 for applicants who have conviction/s or charge/s actually recorded on their official criminal record which is or are expunged.

So, there's another range that's somewhat in line with what Equality Tasmania is saying, slightly higher at the upper end there, but is there a major problem with the Committee hearing from these direct and key stakeholders here? We're not actually hearing directly from the victims of these criminal charges themselves, but we are hearing from their representatives, if you like, through Equality Tasmania.

This is perhaps to you, Attorney-General. What would the government's view be if the Committee came up after consulting with the key stakeholders and with the Government obviously here with an amount? Would the Government likely accept that? As you know, it's a Committee. I'm not saying that's what the Committee is going to do. I'm just trying to understand what the government's response would be.

Mr BARNETT - Well, thanks for the question. It's perhaps somewhat hypothetical, but notwithstanding, we support the Committee undertaking any and all measures that the Committee deems appropriate and sensible. So, we welcome the Committee's work, that's why we're sitting here and we've put in a comprehensive submission to this Committee and we thank you for your work and the work that you're continuing to do.

I think the point that Bruce has made, and that I would emphasise, is that there are a range of redress payments around Australia. I'm on a number of national committees as Attorney-Generals consider redress. Bruce has mentioned, I think, child sex offences, but there are other redress payments for a range of actions: criminal convictions from years gone by, decades gone by. I think the point that Bruce has made is that we think where we've landed as a Government that the recommendation is balanced and fair and if it's beyond that or something significantly different to that, you have to sort of consider how it fits with those other redress payments around the country because you're creating a precedent.

That's what we would encourage Parliament to think about: the precedent that it sets with other redress payments. This is, as I say, an *ex gratia* payment and for which the *Financial Management Act* already provides that opportunity, but we certainly welcome the work of the Committee and we'll consider that in due course - obviously very carefully.

CHAIR - On that point, then, Attorney-General, you talk about it being a precedent, which we accept it would be, because no other jurisdiction has such a scheme. Tasmania was the last to decriminalise and it was after a pretty ugly debate and a lot of harm to the individuals that were subject to that debate. It must have been extraordinarily difficult for those individuals

at the time. That is an important consideration for Tasmania. Should we lead the way here and actually be the first jurisdiction to put in a scheme and then setting the precedent is what you do. It is the first one, so it's always going to be a precedent.

I think Bec was talking a little bit about this. If Tasmania is to do this - and I think there is a willingness to do it from the Government as well as from the Greens who put forward their amendment - then we need to be really conscious that we want to pitch it - don't we- at a level that actually does reflect the serious impact on the lives of those who were charged and convicted under these historical crimes?

Mr BARNETT - Yes, thank you for the question. I think our submission does cover off all of those matters. As you have indicated, no other jurisdiction in Australia. But if we go down to Recommendation 13 of the independent reviewer['s], which is an ex gratia payment and if you look at the other payments, obviously not in Australia but around the globe, which is in Europe and which is what the department has done, I think their research is thorough and we have landed on those two figures. But, if the Committee has further work to consider or further research, we are grateful for that and look forward to hearing any feedback. We will take seriously whatever the Committee comes back with.

CHAIR - To respond, and this is partly to comment on or ask a further question about what Bruce said earlier. This seems like a huge jump from \$5000 to \$25,000 or up to \$75,000. It is a significant increase in what's being suggested. I don't dispute that at all, but if we go down the pathway of the government's recommendation, if the Committee doesn't agree with \$5000 being an appropriate amount or \$2500, then we ask the Government to get an independent consultant. The independent consultant could hear the same information we are hearing now from Equality Tasmania, from the Community Legal Centres Tasmania and decide, 'well, actually we think it should be at least \$25,000'.

I find it difficult to accept that if we are hearing from the people who are the key stakeholders who have a vested interest in this matter - and I'm speaking on behalf of those men who may be able to have these offences expunged and these charges expunged - then surely they're going to be hearing for the same people, so the consultant could come back with a very similar approach, whether it's done through the Greens' amendment or whether it's done through a more targeted independent consultant approach that you have suggested in your submission.

Mr BARNETT - Yes, thank you again for the question. Again, the Government is trying to be cooperative and collaborative with this Committee and the Parliament. We recognise we are in minority, but we are trying to think of other ways to progress so that we can land something that the Parliament would be supportive of that is agreeable. We don't say that we have all the answers. We are putting forward what we think is balanced and reasonable.

I might let Bruce add to that answer in terms of the process for the independent assessment process.

CHAIR - I did want to know what the benefits are, than, the work that the Committee would do, above and beyond.

Mr PATERSON - Thank you. Through you, Deputy and Chair. At the time the submission was prepared, I suppose the Government was keeping its mind open. It wasn't sure

what approach the Committee would take, for example. It obviously is an option, as the Deputy mentioned, for the Committee to recommend a figure and that is a matter for Government to respond to. I suppose, at the time, we and the Government suggested it could do further work depending on whether the Committee got enough information to make a decision. It would be one factor. I mean, I had thought from my point of view, through that work we could seek out whether there are any other kinds of experts, kinds of jurisprudential or legal advice, as to the effects of expungement in a more academic or principled sense. I think on the submissions that I've seen from Equality Tasmania, they're making a strong case for the impact on people whose charges were expunged. I suppose I was just thinking the department's tried to reflect more independently, I suppose, to say, 'Well, we very much acknowledge those impacts and the aspirations of the community as to what they would like the scheme to look like. But how do we balance that against other schemes and precedent and future models?' Either the department could do more work on that or it could potentially find a consultant, to both discuss with community, but also potentially the jurisprudential experts or similar to think about what is the right amount or range. Obviously it is a matter for the Committee as to whether it thinks it has enough information to do that.

One thing I did want to add is that if some submissions are talking about \$25,000 to \$100,000, I would have thought they must be talking about that amount as a total rather than per expunged charge. I think possibly it's a bit unclear from the submissions, because I read them quickly, no criticism of the authors, but I would have assumed that if they're advocating for such a high amount, it must be as a kind of total or global payment rather than a payment per charge.

CHAIR - The Committee can clarify that.

Mr PATERSON - Obviously the Committee has to cast a critical eye both on the government's logic and also the other stakeholders' logic, and think critically about what the right approach is here. I don't think there's necessarily an assumption that any player has got it totally right, because I think it's actually a very difficult job to determine a figure. The department and Government therefore started with what it felt was comparable models elsewhere. I think as you start to step away from more directly comparable models to either quite different or very different other models, it becomes harder to know what is the right approach. I think obviously they've got four European jurisdictions that have given it a lot of time and attention and come out at somewhere between €5000 and €14,000. That would seem to be the kind of ballpark that's at least comparable to what the Tasmanian scheme is trying to do.

CHAIR - No, €3,000.

Mr PATERSON - Sorry, €3,000 to €14,000.

CHAIR - Yes, €5000 would be a bit more than what you're suggesting.

Ms ROSOL - Thanks, Chair. We've been talking a lot about the costs of these, focusing on comparing ourselves to other jurisdictions, that there's nothing like this anywhere else. There's been some talk about the harm that was caused to these men who were convicted under these unjust laws and charged under the unjust laws. In that context, the suggestion of \$5000 seems to be - to me it's a startling figure, startlingly low. I'm just curious what signal the Government believes that you're sending to people who have these convictions on their record

or charges that they've had. What signal are you sending to them with this figure, in your opinion?

Mr BARNETT - Through you, Chair, thanks for the question. I think, as I say, we're trying to get the balance right - the laws being passed in terms of the expungement of those offences - and the Parliament's made that decision and we support that. So now we are going through a process in terms of that independent review, which Ms Bartlett led. All of those recommendations we support and, apart from Recommendation 13, and now Recommendation 13 did support an ex gratia payment. The Government has agreed to support the ex gratia payment. Based on the research of other European jurisdictions and around the world it has come back with the numbers which I think Bruce is probably more of an expert on than me. We are trying to get something that's balanced and fair, noting again, other jurisdictions in Australia don't have any provisions whatsoever. I think Tasmania does send, and would be sending a message, if that's part of your question at least, in terms of going that next step with Recommendation 13. We realise we're a minority government and want to collaborate and cooperate with the Parliament, hence trying to be cooperative and coming forward with suggestions that may be amenable to the Parliament, but that we also believe are balanced and fair.

Ms ROSOL - I've got a question about the independent assessor suggestion recommendation, that's made in your submission. The Greens' amendment outlines a time frame that's very clear in terms of what needs to be done and when, so the process that's followed once an independent consultant is appointed. If an independent assessor model was used instead, what time frame would you be working to? What would be the process for setting it up? How would you appoint an assessor and identify an assessor?

Mr BARNETT - Thanks for the question, I will pass to Bruce on the detail of that proposal. Again, we've tried to be cooperative and collaborative and come up with a model which is different to the Greens' model, which we believe is elaborate but also clunky and expensive. Bruce, if you'd like to outline further detail.

Mr PATERSON - Our thinking was: we've got some past statutory reviews, much like this expungement review, we've been able to progress some quickly, like in two to three months. I think in terms of time frame from finding the right person, I'd say - obviously it's partly a consultation question with community in particular to identify a person who's both independent but also has the respect and trust of the of the LGBT[IQA+] community. We would go through that process and discussion with Equality Tasmania and others on some suggested people, and approach those people and make sure we've got the time and capacity. I would have thought from go to whoa, from start to finish, three months maximum to have a result, and hopefully quite a lot sooner.

Given we've already got a number of submissions coming into this Committee, they're obviously very helpful, and Equality Tasmania has got a clear view, for example. It might be more a question of is there any further context or analysis that we can find necessary for someone to have a look at for us. It might be quite a bit faster than two to three months, but I think that's the ballpark I would put.

Ms ROSOL - Just following up, what would be the process for appointing an assessor? Like how would you find them? Would it be merit-based? What would you do there?

Mr PATERSON - There are a number of options for government. I think the first step would be if that was the agreed way forward obviously, to talk to the Deputy and his office a little more as to their preferences. I think that an early and important step, is to discuss with Equality Tasmania and perhaps others, perhaps Community Legal Centres [Tasmania], who have obviously given the matter some thought, as to whether there is someone that they would agree would be a useful independent person - both independent but also with understanding and insight into the issues at hand, and to have a look at both their material, but more importantly, is there any other material or analysis that would be useful to bring to the discussion.

I think identifying potentially a few people in disclosed discussions of community, or if Government prefers seeking expressions of interest through some kind of national advertising process, that this is the kind of independent expertise we're looking for to have a look at this issue, could some people put their names forward. Then we could discuss those names with community. That's my suggestion. I'm not sure if the Deputy has a view, but there are obviously options that we could take.

Mr BARNETT - Yes, I think Bruce has summarised it reasonably well. I think the Government would need to consider who's available and who has the capacity to do that work. I think there may be other tertiary or research institutions, universities, and of course people with the history and background that could add value to the work that's already been done by, obviously, the department, but also this Committee. We consider any other working thoughts coming out of the Committee of course, and liaise with the relevant stakeholders, Equality Tasmania and the legal community, Community Legal Centres [Tasmania] and others. We'd have to take advice on that. I'd take advice from the department and others and, hopefully, land on somebody that is credit-worthy with that experience and background to provide that advice back to Government and back to the Parliament.

Ms ROSOL - I have one more question, which might come from me being fairly new to Parliament. If the independent assessor process was what was recommended and we went through, would it then come back to Parliament as legislation or - how would the figure that was recommended by the assessor, then be enacted? At the moment, we have an amendment that's been passed in the Lower House that outlines the process and makes the process for the figure coming back to Parliament for approval quite clear. Would that happen with the independent assessor?

Mr BARNETT - Bruce, did you want to add to that or answer that?

Mr PATERSON - Thank you, Deputy. It would come back to the Parliament in the sense, as I mentioned earlier, of Government reformulating its proposed amendments with new figures, for example. I imagine that the Leader of the House and the Leader of Government in the Legislative Council would discuss with other members what the advice of the independent assessor was that Government wanted to feed into its amendments. That is how it would come back in the form of amended amendments, so to speak.

The current amendments are \$5000 and \$2500. It would be Government saying, well, we'd now like to propose different figures in our amendments based on the advice of this independent process and further considerations. And then it's a matter, as it always is, for the Legislative Council in this case, to consider those amendments and whether everyone agrees or not.

CHAIR - I will follow on from that, Cecily, being as it's sitting in our House, this Bill, which means it'll continue to sit there through this process and none of the other amendments will be passed unless some other action is taken. Which, in some respects, keeps the pressure on, but it also means that the other amendments aren't progressed, that are in the Bill as unamended, as it was presented in the House of Assembly.

In any event, if an independent pathway was taken, as being suggested through your question, Cecily, Bruce said that the Government would potentially bring forward a revised amendment based on the advice, but will the Legislative Council be able to see that advice or do we end up back here at this Committee because we need to unpick and understand how that amount's been arrived at? Are we going around in circles?

Mr BARNETT - Hopefully not, Chair. I've indicated the government's disposition to be collaborative, cooperative, and try to work with the Parliament across the board. That's certainly been my objective all along and remains the same. In terms of any feedback from this particular person or persons, I have no problem in providing some level of commitment to this Committee that we'd make that advice available to the Parliament.

Ms THOMAS - Is there any reason why, knowing that this was coming between 20 November [2024] and now, that advice hasn't been sought by the department?

Mr BARNETT - We made the submission on 20 January [2025], I think it was. It's quite a comprehensive one, which has done the research on the European models and other models and reviewed the other submissions, at least Equality Tasmania. Bruce and the department have done quite a bit of work over Christmas and New Year, for which I am very grateful as an Attorney-General. So, we have made a further submission to, what we've already said, to try to be cooperative and collaborative. We didn't have to put forward a further suggestion; we could have just left that for the Committee. So, we did put that forward, towards the back end of that deliberation to try to assist the Parliament and this Committee in its deliberation. So, we have at all times tried to be collaborative, cooperative, and to come forward with sensible suggestions, but we will take on board any feedback from the Committee and we will absolutely treat that feedback with utmost seriousness.

Mr PATERSON - If I may, Deputy. I agree, of course, with what you are saying and, as you say, it's just an option if the Committee feels that there are still issues to be explored further. As we mentioned in our submission, several governments have grappled with this issue and there was an Irish report referred to, which focuses in on the on the European models in particular. I think Ireland, in my memory, may have decided not to progress the compensation pathway. But I suppose it is true and, as reflected in our submission and in our discussion, a lot of jurisdictions have grappled with this and, in the sense of those jurisdictions that are expunging charges for members of the public more broadly - that come up with a range of compensation amounts from €3000 to €12,000, so that may be enough. The international kind of review and analysis and schemes may well be enough for the Committee, but it was obviously a suggestion, particularly if you have submissions that are suggesting a much, much, much higher amount of \$100,000, that suggests that they need more. I mean, potentially, the Committee might feel 'well, no, we don't have enough to - are we persuaded by that amount or not persuaded by that amount, or we feel that more analysis needs to be put into determining the right amount.'

Obviously, the Committee might -

CHAIR - It is difficult for anyone, even an independent person, I expect, to actually say 'this is an amount that reflects the harm and responds to that harm that some individual has suffered,' whatever the redress scheme is, and there are a number that've already been mentioned. I acknowledge that we're looking at the different jurisdictions. I think Bruce, yourself, said that in Spain it was quite a different circumstance, for example, it was under the Franco dictatorship - well, Tasmania wasn't a dictatorship at the time, but it was a pretty awful place for some people who were subject to these charges and these laws.

So, someone, whether it's the Committee or an independent person reporting back through the Government to the Parliament, will have to - and it seems that we agree that it's appropriate - that the review recommended a form of redress, whatever the term that we use is - that someone's going to have to put a number. And I would have thought the most appropriate people to put the number are those who personally understand the impact of these charges.

So, to suggest that there needs to be someone independent who can look at all this information again and go back to these same people who represent those who are directly impacted seems like - well, some might say it's a delaying tactic. Some might say it's just another step that's unnecessary but, again, how else do we make a decision? I guess, in terms of finding - Attorney-General, you spoke about finding someone suitable - I was just trying to find out which submission it was, one of our submitters suggested that the TLRI [Tasmania Law Reform Institute] could be tasked with looking at this? I'm not sure how quickly that could occur. Or is it appropriate that the reviewers be asked to focus in on that particular recommendation? I note that in the submission, from one of the authors, Taya Ketelaar-Jones, she says:

The intention of Recommendation 13 is clear: the state caused significant harm through the application of discriminatory laws, and while no payment can undo this harm, it is a concrete acknowledgement of the injustice suffered. The precise terminology is secondary to the broader intent of offering a meaningful response to those affected."

That's in terms of the terminology of redress compensation ex gratia payment.

She says 'Recommendation 13 provides guidance on the fundamental principles ... a one-off payment of a fixed amount (with the potential for two-tier payment) ... available automatically upon the expungement of a charge' - which removes it from the *Financial Management Act 2016* process, which requires a separate process. That's why this is important, and not relying on the FMA [*Financial Management Act 2016*]- correct me if I'm wrong - an amount determined by the Government to be appropriate. The Government will come up with an amount that some people, including those directly impacted, have said is inadequate to reflect the seriousness of this.

How do we get to an end point here? What's the most efficient way to get to an end point that the Government would accept? That's to you, Attorney-General, it's a policy question.

Mr BARNETT - Well, thank you for your observations and the end question, as I say, we've taken this very seriously. We have done a lot of work with our submission. We have put it forward to the Committee. The Committee, I am sure, will take further advice and other

witnesses. We take the report and recommendations of the Committee seriously. We've tried very hard to collaborate, cooperate, and will continue to do so. Bruce has put forward a range of suggestions in terms of how we can progress from here through that independent person and/or review, to then come back to the Parliament in a reasonably short amount of time.

Having said that, we do think, based on the research, that we have the balance right in terms of the ex gratia payment. If the Committee has other evidence, we would be very, very happy to have a look at it and take it seriously.

CHAIR - Can I just clarify, from your perspective, on behalf of the Government as Attorney-General, do you and the Government support an automatic fixed payment on the expungement of these historical criminal offences?

Mr BARNETT - That's the proposal that we've put, failing the Parliament supporting what every other jurisdiction has done, and that's not including Recommendation 13. The Government has now taken a position to support Recommendation 13 in light of the views of the Parliament. We want to cooperate and collaborate, and so we are trying to find a way forward to implement Recommendation 13 of the independent reviewers. That is what we have done and are trying to do, and will continue to do to support cooperative, collaborative Parliament working effectively.

CHAIR - To be very specific, the Government now supports the implementation of Recommendation 13 of the review?

Mr BARNETT - That's what the submission says, and the submission outlines the reasons for that.

CHAIR - Thank you. Any other questions from members?

Well, we are just about out of time. Unless there are any further closing comments you would like to make, I will thank you for your appearance and that of your team today.

If there is anything further you wish to provide to the Committee following the hearing - I'm not sure whether your team intends to continue to watch the hearing or whether they will review the transcript later. If there is anything that comes from that, we would appreciate that as soon as possible, because we are on a tight schedule with this Committee because of the requirement to report within 10 sitting days, as per the order that established this Committee.

I invite you to make any closing comment, if you wish. Otherwise, we thank you all for your appearance today.

Mr BARNETT - Thanks very much, Chair. Thank you to the Committee for the opportunity to present. I also thank my department for their work and support, and look forward to the further deliberations of the Committee.

CHAIR - Thanks, Attorney-General.

The witnesses withdrew.

The committee suspended at 9.59 a.m.

The committee resumed at 10.16 a.m.

CHAIR - Welcome, Rosalie and Thomas, to the public hearing looking into the redress scheme, or payment, for the expungement of historic criminal offences. This is a public hearing. As you're aware, it is being recorded and broadcast and it will form part of our public record. Everything that you say is covered by parliamentary privilege while you're before the Committee, but that may not extend beyond the Committee. I'm sure Rosalie knows all this, but do you have any questions before we commence?

Thomas, I will get you to take the statutory declaration, if you wouldn't mind, before we commence.

Mr THOMAS WHITTON, SENIOR POLICY ADVISER, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Thanks, and thank you for your submission to the Committee. We have received a couple of the late ones which haven't been published yet, so you may wish to review those as well.

Dr WOODRUFF - In addition to the ones that were already on the website?

CHAIR - Yes. One for the Community Legal Centres [Tasmania] arrived, so that will be published later today. If there's anything further you wish to add to the Committee after the hearing, following reading that, you're welcome to - as soon as possible, because of the timeline of the Committee.

I will invite you to make some opening comments, Rosalie, and speak to the submission, and then members will have questions for you.

Dr WOODRUFF - Thank you. I think you're very well versed in in the amendment that we made, and obviously the *Hansard* from the House of Assembly and the conversations that happened there, and I understand you've had a number of briefings from the Government. As such, I feel like I'm sort of restating the position that we presented in the House for this amendment, and that is that the recognition that an expungement is necessary came from the apology that Will Hodgman gave as Premier and from a long campaign to fight against the injustice of having ever had convictions for homosexuality and cross-dressing in Tasmania in the first place.

That's the history. When the expungement bill came to Parliament, there was a very strong view from stakeholders, and more widely, that expunging the conviction was important for correcting the historical record, but it wasn't enough to provide justice for people who had suffered very badly as a result of that. Therefore, we undertook to implement the final of the 13 recommendations from the independent reviewer, in the form of an amendment. We believe the amendment that we proposed is in good faith with the independent reviewer's views and in good faith with stakeholders who have spoken to us about people who are still living in Tasmania with a lot of shame, stigma and the ongoing trauma of things that were done to them. We don't believe that the Government's comments that were made in the House against bringing in this amendment were in good faith, because they were contradictory. They did argue, in the debate in the House on our amendment, that it was proposing a two-tiered system,

which in their view would be discriminatory, but in the amendment that I understand they've now proposed to the Legislative Council they're in fact proposing a two-tiered system.

We don't think a two-tiered system is discriminatory because there is always different levels that are provided [to] people in any form of redress or compensation because people's circumstances are different. People haven't suffered the same amount, they haven't been stigmatised in the same way, they haven't had all the other things that happened like loss of jobs, loss of friends and family and so on. So we think that's appropriate.

They also argued that an ex gratia payment would be something that they could do anyway, but the fact that they haven't done it and their lack of - they've never done that or proposed that - their lack of commitment to providing us any form of compensation for those harms doesn't give us any confidence that that would occur.

The submission from the independent reviewer to this Committee makes it very clear that that the conversation that the Government's had around the term 'ex gratia' is really neither here nor there. It's just a term. Compensation, redress, ex gratia can all be used in varying kinds of similar ways. As a Venn diagram, they sort of intersect in lots of ways. In their submission, I can't remember her name, one of the independent reviewers -

CHAIR - Taya Ketelaar-Jones.

Dr WOODRUFF - That's right. She makes it clear that people shouldn't get stuck on the word. The point is to provide some redress for injustice, and that the potential for a two-tiered system was what they recommended, but they weren't fully stuck on that either. They said a system of redress, potentially a two-tiered system. Even that they left open.

That brings us to the point that we made in our determination around the amendment. It's not correct and appropriate for us, who don't have experience, we're not experienced redress lawyers, and we took the advice of the of the reviewers in that recommendation, but the reviewers themselves would want to be - anyone should do an independent assessment of what the appropriate methodology would be to determine what redress should look like. Then we believe it's appropriate for it to come back to Parliament so that Parliament can have a look at that and Parliament can be satisfied with that methodology. It is on that basis that we prepared the amendment. We've prepared it in a way that gives Parliament the opportunity obviously to approve or disallow the methodology when it comes back as an instrument. If it were to be disallowed, then it would return for another assessment through the same process as the first time.

I think you could think about it hypothetically and think maybe that's a system that would never end and that could just go on forever - what's to stop it ending? Well - we think that's implausible because Parliament has already passed - the House of Assembly has already provided a commitment to providing some form of redress. If it was to pass through the Legislative Council, then there's already a commitment from both Houses to have a form of redress and we're not arguing about that matter. We, as members, would be looking at an instrument that comes back, and making an assessment about whether we think an appropriate process has been undertaken and whether it's a fair and reasonable methodology. I think that's probably not plausible to imagine that hypothetical scenario.

The final thing I'll say is there have been concerns that this would be a costly process, not the redress itself, but the process of having an independent reviewer rather than just coming up with a figure which the Government has proposed - \$5000 for a person who'd been convicted and \$2500 for a person who'd been charged.

There are other ends of that spectrum being proposed by Equality Tasmania. They have proposed a range between \$25,000 and \$75,000. That's the sort of matter that would be determined by an independent reviewer. The cost itself of going to independent review I think has been presented by the argument as unnecessary and costly. In our view, in things that we commonly do to make good laws in Tasmania, it comes at a cost. It does come at a cost. Every time we add a statutory review process into the end of a new piece of legislation, that's an independent reviewer and that's a cost. The cost of these committees and having these conversations, that's a cost. In the scheme of the work of Parliament to have fair and just laws, we think it's a very moderate and reasonable cost.

I'd be happy to take any questions.

CHAIR - I might pick up on a few of those points, Rosalie. We did raise some of these with the Government as well. You've made the comment that the amendment that was agreed downstairs, that was put forward by the Greens, requires an amount or a decision by an independent person to come back to Parliament. The Parliament's always the decision-maker here. In your submission you say you don't believe the Parliament should be directly setting the compensation amount, but ultimately you would be because you'd be either agreeing or not agreeing with the independent reviewer's proposal.

This is something we've raised with the Government, an independent reviewer - you would have read their submission saying to maybe let them do it with an independent reviewer, and just do it quickly that way, or more quickly. An independent reviewer is notionally going to look at schemes around the world, of which there are none directly comparable. There are none in the country that you can compare with, obviously, there are none at all. The independent reviewer would need to, one would expect, consult with the key stakeholders, which are Equality Tasmania, Community Legal Centres [Tasmania] and those people directly impacted. Most of the people directly impacted here are not young, anymore, and are being represented through their key stakeholder groups.

The Committee's doing that. We're hearing from those groups. What would your view be on the situation that if we're hearing the same thing from the same people that an independent reviewer was, that the Committee, through a proper parliamentary process, could consider what submissions are put forward and put forward an amount? Or would that not be appropriate? The Parliament ultimately makes the decision regardless.

Dr WOODRUFF - The independent reviewer would need to develop a methodology for determining what's fair and reasonable. You are right, there are, as I understand it, a limited number of places around the world that have enacted redress for these past laws. I don't imagine that would be the only place that you'd get information from. There is redress for other matters. There are issues of providing financial redress for injustices which aren't identical to the crime of homosexuality and cross-dressing, but similar.

CHAIR - Which are covered quite extensively in the Equality Tasmania submission.

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Dr WOODRUFF - It is far more appropriate when we're talking about - we wouldn't in any other matters have a parliamentary committee to determine an appropriate amount of compensation for a child sexual abuse, or for - we believe there should be some sort of compensation for people who are forcibly adopted - the Greens do. It doesn't seem appropriate for Members of Parliament to actually sit down and come up with a number, because we have lots of expertise and we can hear information, but we are not nonetheless experts in that area. So, I would expect that the Government would get a person who is an expert, independently capable of making an assessment of redress in matters like this. That would be an appropriate person to do that work.

CHAIR - So, even though the independent review would be considering the same information that notionally the Committee is, you still don't think that would be appropriate?

Dr WOODRUFF - Well, I'm not sure that they would just be considering the same information.

CHAIR - What else do you think they would need to consider?

Dr WOODRUFF - I think there are other areas which are, like I said, similar, not different. And when you say that that's mentioned in the Equality Tasmania-

CHAIR - Some of the other forms of redress are, yes.

Dr WOODRUFF - Yes, the ones in Spain and Austria and so on.

CHAIR - No, most of those are in relation to homosexual offences, but they also do talk about other redress, which are redress schemes, but not totally comparable. The numbers of impacted individuals is quite different in a lot of those, too.

Dr WOODRUFF - Yes. It just seems like a kind of a highly technical process to go through that, and do anything other than come up with a number, which is possibly a bit arbitrary. I just don't think - and it's no comment at all on the Committee - but I just don't know that independence and the skill set - not the independence; the skill set required to look through all those, as you say, quite different circumstances and different places, and to look at comparable situations that the Committee would have access to that information.

Ms THOMAS - Can I ask a follow up?

CHAIR - Just one moment and then I'll come to you, Bec, if that's alright. If you look at Taya Ketelaar-Jones' submission, one of the reviewers, she states the review did not make recommendations as to all amounts payable, compensation or redress, or as to the process for determining this amount.

She talked about the guidance on the fundamental principles, which is a one-off fixed payment, rather than using the ex gratia system under the *Financial Management Act*, which requires a separate application - so, removing that. Available automatically on the expungement of a charge, which is effectively removing the FMA [*Financial Management Act 2016*] provision for an ex gratia payment, and an amount determined by the Government to be appropriate.

So, how the Government deem it appropriate is the question here, it seems. The amount that the Government deem appropriate.

I don't think anyone's arguing about the one-off payment that you don't have to go through a separate process for. Once the person has had their charges or conviction expunged, they're automatically eligible. I don't think that's at odds - there's no question about that. It's about the amount we're talking about here, which is very difficult, because, you know, you can never compensate someone for such harm that was done, many years ago.

Dr WOODRUFF - Yes, that's right. What's your question?

CHAIR - The question is, if the recommendation from the review was that an amount be determined by the Government, the Government - you know how Governments work, they seek advice, bring forward a figure - which they've obviously done as \$5000 or \$2500, depending on whether it's a conviction or a charge. The reason we're here in this Committee is because there was concern in our House, in the Legislative Council, that that hadn't been properly consulted; there hadn't been discussions with the key stakeholder groups here, and this is what this Committee is doing.

I'm just seeing, the question goes back to the fact that if this is a process that can determine an amount, how different would it be for the Committee to do it than have an independent person who may come back with a higher amount, the same amount - I don't know, a lower amount? We don't know what the Committee is going to do yet. We will deliberate after we've had all the evidence. So, you just don't think it's appropriate?

Dr WOODRUFF - I don't know what difference it would be. You haven't done it and the independent reviewer hasn't done it. I'm just going from first principles. I think there needs to be two parts to that process. There needs to be independence and there needs to be expertise coming together.

The Committee is obviously independent, in terms of the matter from the Government. There are Government members here.

CHAIR - Every member of the Committee is a member of the Committee while they sit around the table.

Dr WOODRUFF - Yes, that's correct. The expertise is - I don't know what the Committee's expertise is in this area. From first principles, I would have thought a person who has some history or knowledge of preparing compensation claims or has been involved in redress, people who've been involved in arguing for levels in child sexual abuse and in many other forms of abuse or harm that's occurred to people, maybe somebody who's worked at the International Criminal Court, I'm not sure, but a person who would have independent expertise. Those two parts are important, I think, to make this assessment because I can see from the material presented that there's quite a lot of breadth in what's being proposed.

The Government's position, Equality Tasmania and all the other material that they're providing in there of other countries, there's a fair breadth in there and, just for the record, we don't think that the Government's amount of \$5000 and \$2500 is in good faith. That's why we wouldn't support the Government having the job of making the determination because their position is that they didn't want to provide a redress. That was their starting position. They

voted against it in the House. They don't want to provide it and now they've provided the lowest possible amount that they could.

I wouldn't have confidence in the Government having that job and although the independent reviewer might have thought that the Government could do that job, I don't think they've demonstrated their capacity to do that in a fair way.

Ms THOMAS - Thank you. I think you probably answered my question in part, which was what sort of experience, background or qualifications might the independent assessor proposed by the Greens amendments hold.

Dr WOODRUFF - Probably a legal degree, some practising in the law or a person who's argued for compensation for victims in related areas.

Ms THOMAS - Would you expect they would consult with people with lived experience to develop the proposed amount?

Dr WOODRUFF - Yes, I would because I think it is a particular case. There would be things that you could bring from other areas, but it's quite a particular experience that people have suffered.

Ms THOMAS - The model proposed by the Greens does have that the draft order determined by the independent assessor comes back to Parliament for, I guess possibly, disallowance if so desired by a member with the support of either House. Do you think there's a risk that we could end up in the same position again, given that the model proposed provides for that disallowance?

Dr WOODRUFF - I would hope that in the process of determining the methodology, that all members would work in good faith and it would be about the Government appointing a person who would be trusted and maybe they could speak to the Committee. I think having the trust in that person to be able to do a good independent job, there is will in the Parliament to provide redress. I think there is will in the Parliament to do that as quickly as possible because a lot of these people are really elderly. I think the will is to get something, to make it fair and to pass it as quickly as possible. That's my sense. I do think we need to get it done as quickly as possible in the first instance.

The reason that we propose that it come back to Parliament was to give all members an opportunity to get on board with it because it is a novel process that we're proposing. It seems, because it is a first process that it would be good for Parliament to have oversight of it and to feel confident that it was going to be done and done well. That was our thinking.

Ms THOMAS - You've touched a bit on terminology and I know you referred to the independent reviewers, mention of 'let's not get too hung up on whether it's ex gratia/ compensation/ redress'. In the Greens' amendments that passed through the Lower House it does refer to it as a compensation order. Did you give consideration to that terminology and whether it ought to be compensation order, redress or ex gratia?

I note the Equality Tasmania submission does say terminology is important and the term 'redress' is their preferred term because it does have that association of a moral injustice having occurred. I wondered what your thoughts were on that and why you landed on using

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'compensation' as the term, noting that it's very difficult, in fact probably near impossible to fully compensate someone for wrongs that occurred all those years ago.

Dr WOODRUFF - Totally, I 100 per cent agree. We're not, like I said at the start, attached to that term. If the Committee feels that it's more appropriate to change that term and to recommend that it be 'redress' for example, then we're very comfortable with that position. Do you want to speak about the - I can't remember our thinking about why we did choose compensation in that space. There was a particular purpose, wasn't there?

Mr WHITTON - There wasn't a particular reason for that choice of language.

Dr WOODRUFF - Equality Tasmania did have that in their submission, but in our conversations with -

CHAIR - Submission to the Bill?

Dr WOODRUFF - To the Bill, but in our conversation with stakeholders the term was being used interchangeably - to be fair. But I think they sort of landed on redress because it captures the moral injustice as well. It is probably the better term.

CHAIR - Can I just ask who you consulted during the development of the amendment?

Dr WOODRUFF - We spent a lot of time with Rodney Croome and other people from the Equality Tasmania group and through them heard - not directly but through them - of the stories of a couple of older people who have suffered experiences as a result of the convictions.

CHAIR - Was there anyone else? I'm just trying to understand, we asked the question of the Government too.

Dr WOODRUFF - We spoke to Community Legal Centres [Tasmania].

No, not on that.

CHAIR - There was Equality Tasmania, you didn't seek advice from someone who's an expert in the field, like whatever an expert looks like in this field in terms of developing redress or compensation schemes?

Dr WOODRUFF - I don't think so, not on this Bill.

Mr WHITTON - No.

Dr WOODRUFF - Hi Cecily, sorry, didn't see you on the wall.

Ms ROSOL - Hi, no questions. I think I did have one question but you've answered it already. It was your thoughts around the Government's recommendation if their ex gratia payments aren't accepted then the recommendation for an independent assessor rather than an independent consultant through a statutory process. I think you've answered that already, your thoughts on that, but if you wanted to add more that would be great.

CHAIR - Maybe, Cecily, if I can follow up on that a little bit. You would have read in the Government submission they're saying, 'Well, the Greens' amendment is clunky, it's time consuming'. There was a statement made in the hearing this morning that it doesn't truly reflect the Recommendation 13 in the Review. I'm just wondering what your thoughts are, Rosalie, on the Government's recommendation to the Committee that if we don't accept the number - \$5000 and \$2500 - that we urge the Government to establish an independent process that's potentially less time consuming because they would report to Government, Government would report to the Parliament, and particularly to the Legislative Council where the Bill is now sitting, potentially with an altered amendment.

Dr WOODRUFF - It is hard to imagine a genuine process that would be less than that. The independent reviewer doesn't have to take six months. The independent reviewer could take two weeks. You know, the Government has to choose an independent reviewer.

CHAIR - Under your amendment?

Dr WOODRUFF - Yes.

CHAIR - I am talking about what your thoughts are on the Government's proposal, if you like.

Dr WOODRUFF - To?

CHAIR - I will read it to you - maybe to help if that is all right.

The Tasmanian government recognises the importance of responding to recommendation 13 of the independent review to reflect that ex gratia payments of a fixed amount are appropriate to acknowledge and provide redress for those who have charges and convictions expunged under the act. In accordance with that recommendation, it is the government's view that it is preferable for the ex gratia amount to be specified in the act rather than creating a separate assessment process that is complicated and may lead to inconsistent outcomes and potentially require resources to establish and administer that are disproportionate to the benefit delivered.

That is the amount paid to the person.

The government also supports the independent reviewer's recommendation that these amounts relate to the number of charges that are expunged and not to whether or not imprisonment occurred.

Then, 'the Government strongly urges the Committee to support their proposed alternative amendments', okay, 'as a sensible and reasonable response to Recommendation 13'. They go on like that.

If the committee does not support the government's amendments, the government recommends that the appropriate pathway is for the government to seek independent advice from a person with appropriate expertise to consult and advise on appropriate amounts.

Dr WOODRUFF - Yes, we are sort of going around in circles.

CHAIR - Yes, we are.

Dr WOODRUFF - Yes, that is what the Government's proposing. They are proposing to do something - to do an assessment themselves, which means they'd have to find somebody to do that assessment. It sounds like they are proposing somebody internally because their second option is to go and get someone - if that fails - to get an independent assessor. Is that how you read it? Their initial process would be within the Government -

CHAIR - No. If we don't support the \$5000 to \$2500 figure - this is what they're saying to the Committee - which is ultimately saying it to Parliament, okay? That, if you don't accept that, the Government recommends that an appropriate pathway for the Government is to seek independent advice from a person with appropriate expertise. What they confirmed, this morning, was that they would seek independent expert advice, ask that person to consult with the relevant stakeholders, provide that advice back to the Government and that would then be provided. They did commit to providing such advice to the Legislative Council and, obviously, to the House of Assembly, should a different amendment be put - which is, effectively, to determine an amount.

Dr WOODRUFF - That sounds very similar to the process that we are recommending -

CHAIR - Except there's not the disallowance process in it. It just comes back to the Legislative Council. Then, obviously, depending on what the Legislative Council determines - if this was to happen - and say the independent advice came back and said 'well, actually \$5000 is fine' or it's \$10,000, \$20,000, or \$100,000, then one would expect the Government would support that. Not clear, but in any event, there would be a new amendment unless the amount was \$5000 and \$2500 from the Government.

Dr WOODRUFF - Look, we want an outcome for people who have had grave injustices and who are elderly. We want something that is as efficient as possible. The important difference in our amendment is that the Premier appoints an independent assessor, not the Government in that sort of general sense, which would be through the minister and the minister's department. We believe that's important and necessary in this particular matter. I just want to make that point. In any deliberations that the Committee has, I encourage you to draw your mind to that particularity of our amendment that it is the Premier who chooses who the independent assessor would be. But, notwithstanding that point, what the Government's proposed is essentially to do the same sort of proposal as we have - except, as you say, it doesn't have an independent assessor determine a methodology or an amount, and then we propose to Parliament as a disallowable instrument, but what the Government's proposing is directly to the Legislative Council.

CHAIR - Potentially a revised amendment, depending on what the independent advice was?

Dr WOODRUFF - Unless it was a process that was taken outside of the process which the Government has developed just now to give that figure. We would be very unhappy with that because we don't believe that the Government - the minister's department - has so far been acting in good faith on that matter, for the reasons I've already outlined. And so, it would just be - it's hard to imagine it would be different to what's being proposed because - that's why we

think it's important that it goes to the Premier and the Premier appoints an independent assessor, and then the process goes on from there.

Look, the Legislative Council has to be happy with whatever's proposed in order to pass it, and a disallowable instrument, if that was the pathway, would come both to the Council and to the Assembly. And so, either House could approve it or could disallow it.

CHAIR - In any event - I mean, I know you've talked about the time lines in this, but when you look at the time lines, it could take over a year. You know, within three months the Premier is to appoint an independent assessor, and then within six months of the appointment - I know these are the maximum amounts; it could be done more quickly. But then you remember- then, we all know what trying to fit things into the sitting schedule. And so -

Dr WOODRUFF - Look, we're quite comfortable if you want to change those times, if you think that they're too long.

CHAIR - Well, it's a bit - yes, it's a little bit hard for the Committee to know, I guess, what's a reasonable time in those things, without knowing who might be available to do the job, and how long that person might need.

I'm just saying that the way it's established, it could take less time, but it could be quite a lengthy process - particularly, if there was a disallowance. Say your independent assessor came back and said, 'well, we think the Government's figures are right'. Well, the Government will be quite pleased about that, but they're in a minority government, as the Attorney-General kept reminding us.

Dr WOODRUFF - Okay. Do you have any thoughts about that, the Government's process?

Mr WHITTON - I suppose I'd just add that, in the event that, under the process that's currently in the Bill, the Parliament disallowed the instrument and it went through another process, there is a process there for that to happen. But, under the Government's proposal, if there's an assessment and a number comes back that the Parliament, for whatever reason, isn't comfortable with, then there's still an impasse that needs to be resolved there, I guess.

CHAIR - But it goes back to a new assessor being appointed, so that - you know, it could take quite some time. I can sort of see why some might say that it's a little bit clunky because it - someone's going to make a decision at some stage. I think the Government has agreed now, according to its evidence - its verbal evidence today, that it does support Recommendation 13.

Dr WOODRUFF - Okay.

CHAIR - So, it comes down to - sadly, in some respects - a number. Okay? Which is a really hard thing because no number would actually fully compensate people in all these sorts of circumstances, whether it's this matter or other redress.

Dr WOODRUFF - Although I do think Equality Tasmania, has been advocating for people for years, has recommended a range - and I'm not proposing - I'm not supporting, or we're not supporting or not supporting that range - but they are recommending a bounded range that puts limits on an upper amount. So, I suppose they're saying varying circumstances within

that range, they would view that to be fair and just - given the circumstances in Tasmania, which are very novel.

CHAIR - And small in number.

Dr WOODRUFF - And small in number.

CHAIR - But still significant to those individuals. And, you wouldn't have seen this yet, so it's not a criticism because you don't know - the Community Legal Centres [Tasmania] proposed - this will be published later today if you want to go back and read it - they said:

... in the event the Gender and Equality Committee prefers the independent review's two-tiered redress scheme, we recommend that a range be adopted such as \$15,000-\$25,000 for applicants who have a charge expunged (which did not appear on their criminal record) and \$25,000-\$100,000 for applicants who have conviction/s or charge/s actually recorded on their official (criminal) record (which is or are expunged).

There's another range there which is similar, but different. These are the people who are directly engaged in advocating on behalf of the individuals who are impacted.

Dr WOODRUFF - That's right. Which are lawyers and people with that sort of expertise in these matters, who I think are better placed to have a fairer assessment. The most important thing is that as quickly as possible the Parliament of Tasmania determines the process to give redress and justice for people who are very elderly and have suffered their whole adult lives. That's what we're really keen on forwarding and doing what we can. I'm glad to hear that the Government has accepted redress. We think that amount that is proposed is manifestly unjust, and manifestly does not in any way respond proportionately to the scale of stigma, suffering and real-life changes that people experienced. It would just be kind of insulting to have a figure like that be a final figure.

We also recognise that there is a limit and, of course, there will be a limit. Nothing will exactly compensate people. We're in that space, as you said, in between. Working with the Community Legal Centres and Equality Tasmania, there's some sort of space of agreement there, and how we get an independent assessment, it could come back to Parliament as a disallowable instrument, or you've recommended that the Committee's thinking about the possibility of another process. Did you have any comments about either of those things? No.

CHAIR - What I was reflecting on was what the Government said if it did its own independent process, it would bring back that advice with potentially an altered amendment from the Government. That's what it was saying. That's the process that was put forward. The Committee hasn't made any deliberations yet. We've made no decisions about what we would recommend.

Dr WOODRUFF - As long as that process went through the Premier's department, which is what we're proposing anyway, then that would be fine. That's essentially what we're proposing, that the Premier appoints an independent assessor, that person goes off, makes an assessment and comes back in this instance to the Government to present to the Legislative Council as an amendment. That's what they're suggesting. But not with the Premier bit.

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CHAIR - Yes, basically.

Dr WOODRUFF - What can we say? We still would, on balance, support our amendment, but we are totally open to finding a way through.

CHAIR - Good. Any other questions from the members? No.

You're quite welcome to make any closing statements if you wish, Rosalie or Thomas. Once you've had a chance to look at the most recently received submissions, if you wanted to add any further in writing, we would welcome that, but encourage you to do it pretty promptly because the community needs to deliberate and report.

Dr WOODRUFF - Thanks. We'll go and have a think about the Government's proposal, and if there's anything else that we think about today, we'll get back to you with any comments that we've got on that, if that's okay.

CHAIR - Yes. The Government - it's referred to in its submission - elaborated more fully on it in the hearing this morning as to how it might see that occurring.

Dr WOODRUFF - Very good.

CHAIR - We'd also ask it about the Committee making a determination about the amount too and recommending that. There's a range of different options.

Dr WOODRUFF - What was its view about that?

CHAIR - You will have to read it. I don't want to verbal it. You'll need to read that directly.

Dr WOODRUFF - Yes, that's true. Is the Committee hearing from Equality Tasmania?

CHAIR - Yes, this afternoon - or now, shortly. This morning.

Dr WOODRUFF - Great, okay, good.

CHAIR - Thanks for your time.

Dr WOODRUFF - Thank you very much.

CHAIR - So tune in.

Dr WOODRUFF - We will.

The witness withdrew.

The committee suspended at 11.00 a.m.

The committee resumed at 11.30 a.m.

CHAIR - Welcome, Rodney, to the Gender and Equality Committee inquiry into the redress scheme, or compensation, for those impacted by historic homosexual offences. It is limited to that matter. We appreciate the submission you have provided to the Committee. As you are probably aware, everything you say before the Committee is covered by parliamentary privilege. That may not extend beyond the committee hearing. It is being transcribed and broadcast, so it will form part of our public record.

Thank you for your submission. It's been really helpful to have that level of detail about other schemes that are not necessarily comparable but do give some sort of picture. I will invite you to take the statutory declaration and then speak further to your submission. Particularly, you may like to address some of the other evidence we have received. Thanks.

Mr RODNEY CROOME, POLICY OFFICER, EQUALITY TASMANIA, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Mr CROOME - I will just speak briefly to our submission and, as you suggested, also to some of the points that have been made this morning. Particularly, the Government in relation to each submission.

I think the first point I'd like to make today is that in discussing redress - and we can talk about terminology in a minute - in discussing redress for those who were charged or convicted for historic crimes in relation to homosexuality or cross-dressing, we need to make sure that our deliberations are victim-focused. Obviously, it is important to get the law right and to get the process right, but we always have to keep in mind who we are talking about and what their experiences were.

In the briefing I gave to the Legislative Council before the debate there began in November [2024], I mentioned victims I know personally who spent time in jail in Tasmania, or were also subject to aversion treatment at the Royal Derwent Hospital. When I say aversion treatment, I mean injected with nausea-inducing drugs and then shown pictures of naked men. The idea was that would somehow curb their same-sex attraction, which, of course, didn't happen. It just inflicted deep trauma on the person who was subject to that, and also on the people who were doing it. That was as recently as 1974. The person who was subject to that is still alive and lives in Tasmania. The person who I know who was subject to a jail sentence is quite elderly now and lives in New South Wales.

After the Upper House debate in November [2024], I was contacted by another Tasmanian who wasn't aware that we had an expungement scheme and wanted to find out more about it. He had heard about it on the radio and found my phone number and gave me a call. Obviously, that's evidence of the need to promote the scheme more. His story, again, was a harrowing one, of being charged and convicted for his first sexual contact with another man when he was in his early 20s. Again, this was in the 1970s. The parents of his partner found out that these two were in a sexual relationship and called the police.

Imagine - when we talk about this, we have to keep in mind and we have to walk in the footsteps of those who were in Risdon Prison or were at the Royal Derwent [Hospital] or who were before a court because of the first sexual contact they had with their first partner. We have to keep in mind those experiences.

The other thing to say at the beginning is that it is really pleasing, I think, certainly for me and for other members of the LGBTIQA+ community that the Government now supports the principle of redress, even though we have differences about the amount and the process of determining that amount. The fact that this has cross-parliament support in Tasmania is a really big step forward and something that I could not have imagined when I sat here, or the equivalent, in the 1990s, trying to persuade the Legislative Council to support decriminalisation. I just could not have imagined it happening. So, we need to acknowledge that strong support from across Parliament, including from the Government.

Now, in our submission, we dealt with a number of issues, including, like I said, terminology. We have opted for the word 'redress' because that word carries a connotation of making amends for an injustice, and because the single amount recommended by the independent review of the expungement legislation is not meant as compensation for all of the harms that were done. It's not compensation in that sense; it's a redress for an injustice done. That's an important distinction. We're not - like everyone else, we're not saying that every harm to every person should or could be redressed at the current time. We're talking about a one-off payment to redress an injustice that was done to people in the past. That doesn't mean we shouldn't consider whether another scheme or approach might be useful, but at the moment that's what we're talking about. Whatever we decide to do, whatever process we decide to adopt or amount we decide to recommend, we need to do it quickly, because these men will not be with us for much longer - particularly those who are in their 90s.

As it says in our submission, we were very reluctant to nominate a figure, in part because it's not our area of expertise, and also in part because we want the process for determining the amount to be legitimate, to be seen as legitimate, and for people to have confidence in that process. So, us coming up with a figure is part of the debate, but it's not the final point. The Government coming up with a figure is part of the debate, but not the point we want to reach. Just as we have a vested interest in this, because we want to represent the people who were historically convicted and charged, the Government has a vested interest too - I mean, let's be honest, it was the perpetrator.

That's why we have all the way along supported an independent process. We supported the Greens' amendment, consulted with the Greens about their amendment and supported that amendment because it is a separate and independent process which would be seen as being legitimate, particularly given that we're setting a precedent here for the whole nation.

We also realised that this Committee would ask, 'Well, what do you think would be a good outcome for whatever independent process we have?' We were realistic about that. The independent assessor, if they're actually appointed, would ask the same thing. So, we should have some idea, and that's why we put forward a range, rather than a specific amount, a range, which as you know is from \$25,000 to \$75,000.

CHAIR - Is that per charge or conviction, Rodney? Just to be clear, because this is one of the points that the Government raised.

Mr CROOME - The amount for a conviction would be lower.

CHAIR - Higher? For a conviction.

Mr CROOME - Sorry, yes. The amount for a conviction would be higher than a charge.

When the independent report was done, it recommended that there be the capacity to expunge further convictions and charges that were in relation to the main conviction or charge, like for resisting arrest, or whatever. And we've said yes, we think there should be redress for that as well. If those charges and convictions are to be potentially expunged, then there should be recognition of the damage that those extra charges or convictions caused.

The independent assessor or this Committee or whomever might decide that that's a lesser amount, but if that's what the law says, that those convictions and charges can be expunged, then that needs to be recognised as well.

In that regard, another point that we made in the submission was that the current legislation allows families to apply. In the case of someone who was assessed who was convicted or charged being deceased, there's a capacity for family members to apply. Given that that's what the law says, then they should also be able to be eligible for some kind of redress. That was our recommendation.

Just to go back to the range that we set and why we set that. Now, as you know from reading our submissions and from hearing from the Government, the comparable – small 'c' comparable - schemes in Europe that address the same kind of issues allow for varying amounts to be given to those who successfully apply. There's a base amount, as we've heard, that in Germany is €3000. In other jurisdictions it's higher. In Spain and France it's higher, assuming that the French scheme is in place. Then from there, there are extra amounts for time spent in jail or fines that were levied against the person, or the harm that they experienced in terms of employment, income, health.

Our assessment - and we did this in conjunction with LGBT[IQA+] law academics here in Tasmania and in Victoria and NSW, in discussions with them - of what would be the reasonable amount that we could expect someone in Europe who's applying for this to receive, we looked at all those jurisdictions, not just Germany. If they lost their job or their income was reduced or if they had PTSD, or whatever, as a result of their mistreatment, the amount that we came up with was \$25,000.

When we did that, we also took into account the schemes that had been discussed here, that the Government mentioned - Tasmanian Victims of Crime scheme, which is \$33,000 or something, child sexual abuse schemes - up to \$150,000. There was a point at which Bruce Paterson said that we can't have a payment that's out of kilter with existing payments. It seems to me that their proposal of \$5000 is way out of kilter with \$30,000 for someone who's been the victim of a crime, or up to \$150,000 for someone who was sexually abused.

In saying that, I am not comparing someone who was historically charged, convicted and went to jail, or whatever, to someone who suffers child sexual abuse. That's a comparison that I don't think any of us can actually make. My point is that if we're talking about trauma in general and trauma inflicted by the state either deliberately, in the case we're talking about now, or by not protecting people, in the case of people who were sort of, let's say, abused in state care, then \$5000 seems begrudgingly, pettily low.

The higher end of the range we came to, again, based on the discussion of what we thought, given all of those factors that are taken into account in Europe, the highest amount that we would imagine people would receive in that situation.

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CHAIR - Is that a cumulative? Like, if they'd had four charges, say, it would be \$75,000?

Mr CROOME - Yes. If they've had a number of charges, if they've spent a significant time in prison, if they could show that there was lifelong health damage, the maximum amount that you might expect if you were in one of those European countries, if you had fulfilled all of those criteria.

CHAIR - Recommendation 13 just recommends a fixed one -

Mr CROOME - Which is what we're saying.

CHAIR - Somewhere between that range is what you're suggesting?

Mr CROOME - That's right.

CHAIR - To be clear - that's regardless of whether there was one or four charges - or convictions, sorry. Or not?

Mr CROOME - Yes, we're talking about one amount, so let's be 100 per cent clear that \$25,000 to \$75,000 is a range of where you choose that one amount from. I was just trying to explain where the \$75,000 came from.

CHAIR - Just to clarify, Rodney, some of these people who have experienced this trauma may - let's just pluck a figure: \$30,000, let's say. They had significant time in prison, they were subject to aversion therapy and a range of other things that had lifelong impacts on their health. They would still get the \$30,000, even though they'd had perhaps more trauma than someone who was convicted but didn't experience that level of - I mean, trauma is a very individual thing. It's really difficult here.

Mr CROOME - I know your point and it's a really important point. We discussed this in the submission. We say, if we are talking about a fixed amount, a fixed pre-set amount, which is what the independent review recommended, then we have to take into consideration the fact that while there may be someone who was just charged and the charge wasn't recorded and they just left and it hasn't affected them much in their lives. That might be someone who applies, and has their record expunged. There could also be someone who has experienced all of the things you just mentioned, with lifelong health consequences and lifelong consequences for what they wanted to do with their lives - their career and all the rest.

If we are only talking about one amount, the compassionate thing to do is to take that into account. Will this amount mean anything to someone who has gone through all of that? That is why we suggested in our submission that, if it's a one-off amount, it needs to be higher. It needs to respond to people in those circumstances - who lost their job, lost their partner, lost their family, moved interstate, may have attempted suicide, may have undergone some kind of archaic treatment. All of those things. They may have had lifelong PTSD. If it's a single amount, then the compassionate thing to do is to think, 'Well, what will this mean to that person?' They're the person we need to keep in mind most of all. That is why we suggested it be higher rather than lower.

That's the primary consideration if you are dealing with one amount. The other considerations, of course, are - the main consideration is the impact on the victim. Is it an amount that will mean anything to them, that will be able to help them now, late in life, to move

on and for their life to be improved? \$5000 doesn't feel like an amount that would help people improve their lives. They could buy a new TV or go on a holiday to New Zealand, maybe. However, is it an amount that will make them feel like, 'Oh yes, things have really changed. Yes, I can move on. It seems that everyone else has. Yes, I can invest this in something in my life that will make a real difference'. That is what we have to keep in mind. That's what the amount should be.

We also have to keep in mind the value of this amount for the expungement scheme itself. As the Attorney-General and others said, there haven't been any successful expungements yet - that's over the last eight years. Will this amount make the scheme look stronger and encourage people to actually apply for expungement? It needs to be an amount that will do that, and it needs to be an amount that shows the world that Tasmania has moved on, and that we are genuine about redress for the past injustices. Again, \$5000 doesn't really feel like it will do that. It may have the opposite effect, of sending the message that we are only begrudgingly dealing with the injustices of the past.

In terms of the scheme in Britain that Bruce [Paterson] mentioned, that was one thing that hobbled that scheme to start with - the amount originally assigned to people. I understand this is not people who had historical convictions for homosexuality, but for people who were dishonourably discharged from the UK military. The initial amount, I think, was £12,500. That was seen as an insult to veterans. Now that amount has been increased to £50,000, which is far in excess of what we are proposing here. That's like \$100,000. Then there is more on top of that if you can show that there were health consequences, et cetera. We don't want to be in the same situation Britain was in, where people turn around and go, 'Oh, how paltry is that, how mean is that?' and all our efforts in trying to redress injustice are seen as mean-spiritedness. That's how the initial amount was seen in the UK. We don't want to make that mistake.

I'm not saying that we need to pay as much as the UK government is paying. We've given what we think the range should be, based on the European schemes, but when we do choose an amount, it needs to be an amount that sends a message that we really do care and we want to make a difference.

CHAIR - On the amount, before you go on to something else, Rodney, you probably haven't seen the Community Legal Centre's submission? It is up on the website now. You did refer to that.

Mr CROOME - Yes, which was \$25,000-\$100,000?

CHAIR - Yes, that's for a conviction.

Mr CROOME - Yes, per conviction.

CHAIR - It was \$15,000-\$25,000 for a charge expunged that did not appear in the criminal record and \$25,000-\$100,000 for applicants who have a conviction or charge actually recorded on their official criminal record which is expunged. This is in the ballpark of what Equality Tasmania is saying. Do you want to make any comment about that? We're not actually directly hearing from them, other than by their submission.

Mr CROOME - No, that's roughly the same. I am pleased to see that there's some kind of consensus there. In terms of this point that you've asked, Ruth, about multiple convictions,

let's say someone is convicted for homosexuality and they're also convicted for resisting arrest because they didn't think that their arrest was fair, for whatever reason, at the time. The amendments being made to the expungement legislation will allow both of those convictions to be expunged.

We've got a choice, haven't we? Should there be a fixed amount that's paid out per conviction? Let's say it's \$30,000, so you'd get \$60,000. Or the other alternative is, no matter how many convictions, you only get one amount: \$30,000.

I would assume that, given the recommendations from the independent review, then it should be per conviction, but if it's not per conviction, then we need to take into account that there will be some people who have multiple convictions. Therefore, the single amount should be higher. My point is that if it's going to cover people who have multiple convictions, then that's an argument for making sure that the fixed amount - if there's only going to be an amount overall, regardless of how many convictions - that that amount is higher rather than lower. I believe our recommendation, from memory, was per conviction.

I'll just finish off by talking about some of the points made by the Government and its proposal for an expert to be appointed. The Attorney-General said, again and again, that no other state does this. I didn't quite understand why, because the Government's accepted that it should happen. As I've said before, and others have said, Tasmania was the last state to decriminalise, and our reputation was significantly marred by that debate in the 1990s. We were a decade later than the other states - two decades, three decades, in some cases - so, not only is it symbolically important for us to lead on this, but in terms of people who were arrested. In Germany, the law was changed in 1968, in South Australia in 1972. Our law wasn't reformed until 1997. There were people being arrested up until the 1980s in Tasmania. Not in South Australia, because the law had changed. Not in Victoria and NSW, because they changed their law about that time too. In Tasmania, we kept on going. People continued to be arrested. It's a more recent injustice in Tasmania - not just in principle or symbolically, but to real people.

CHAIR - There are more people alive that were directly impacted, too, I expect, Rodney.

Mr CROOME - Yes, more people are alive who are impacted because it is more recent. The Attorney-General is right, no other state does this. To me, that is an argument for why we are here now, why we should do it, not an argument for why we shouldn't.

Bruce [Paterson] made the point that the independent review recommended that redress be for convictions, not for the impacts of convictions. I think you mentioned this earlier, Ruth, but Taya Ketelaar-Jones, in her submission - she was one of the people who wrote the independent submission - she is very clear about this. She says:

The intention of recommendation 13 is clear: the state caused significant harm through the application of discriminatory laws, and while no payment can undo this harm, it is a concrete acknowledgement of the injustice suffered.

So, yes, the intention of Recommendation 13, that is, financial redress, was to address the significant harm. It wasn't just because there was a conviction, it was also because of the harm that arose from that conviction.

That might seem like splitting hairs, but it is a hair that has already been split by the Government. They made this point and it is important to realise that one of the people who wrote this is directly contradicting what the Government's saying. They are saying, 'No, it's only redress for the conviction', and Taya has said clearly here, 'No, that's not right. It's redress for the conviction and the harm that arose from the conviction'.

The final point, in terms of the Government, is the Government's recommendation for an appropriate expert to be appointed. Like I said, it's great that the Government has come on board with the principle of redress. It seems to me that the Greens' amendment, their appointment of independent assessor, is a stronger, more legitimate process. More politically independent than the Government just deciding, 'Hey, you do it or you do it' because of points like the fact that the Premier will do this and that there will be disallowance and that there is a process there for everyone to see. The process needs to be as transparent as possible because like I said, it needs to be legitimate. The victims need to see the process as legitimate, the LGBTIQ+ community, the Tasmanian community, and, more broadly, the nation. Because this will set a precedent for the whole country, it needs to be seen as good process. The first process must be the best process.

That is not saying that - you may decide that this Committee has enough evidence before it to determine the amount. That is why we put in our information about what we think that that would be. If you think that is the best process, then that is up to you. At the moment, well, up until now for us, the best process has been the one put forward in the Greens' amendment, the most transparent and the most legitimate process.

I think that is it. I will just end with the words of Will Hodgman, which, we probably all recall from when this expungement legislation was first passed in the House of Assembly in 2017. The then premier, Will Hodgman, said that 'the legislation is passed and the apology he gave was given not because homosexuality and cross-dressing are no longer against the law, but because they should never have been against the law.' We should call that the Hodgman Principle because it has a bearing on everything we are talking about. That is why we need redress and that is why we need redress that is just, in the circumstances.

CHAIR - Rodney, if I might, I just want to pick up on a couple of the things you said and just flesh out some of the same sort of questions I asked the Government and the Greens. You said when you prepared your submission, collated the information, then also with some level of regret proposed a range of the amount for the financial redress. You said you talked to law academics in Tasmania, Victoria and New South Wales. Is that right?

Mr CROOME - Yes, that's right.

CHAIR - Can you tell us a little bit more about who they were and what sort of expertise those people had that guided this submission?

Mr CROOME - I don't have their permission to give their names, sorry, because they said, 'this is a new area of law and if we wanted to give expert advice then we'd need to be asked directly and we'd have to consider this at greater length'. They were people who had some knowledge - or the person I spoke to who works at the University of Melbourne Law School has some knowledge of the European schemes, and that was - when I suggested a range based on what we understood from those schemes, the response was, 'yes, that sounds fair'.

And the point was made, similar to the point by Bruce [Paterson], that the schemes in Europe offer different base amounts. So, in Germany, it's €3000; in other countries it's higher. And it's almost impossible to imagine someone in Germany or any of those other countries receiving the base amount because there would be other factors on top of that. Just a quote from this person: 'The lower amount was never intended to be the entire amount' - when talking about Germany or Austria or Spain.

Other academics I spoke to talked about comparable Australian schemes that we've listed there -

CHAIR - For redress?

Mr CROOME - For redress, including stolen wages and stolen generation, et cetera.

I could ask these academics if they're willing to make a submission if you wish that to be the case, but I know that you haven't got much time.

CHAIR - Yes. I mean, I guess - well, that may be helpful. We'll think about that. But, in short, Rodney, then: you went to people who had some knowledge of these European schemes and that, and obviously a knowledge of the space generally.

Mr CROOME - And also knowledge about the Canadian and British schemes. It was from speaking to legal academics in Australia that I became aware that in Canada you can apply for redress for arrests under - no, sorry - convictions under their former anti-gay laws. I wasn't even - I didn't even realise there was a Canadian scheme. And, as you would have seen, the amounts in Canada are higher than Europe. It ranges from CAD\$5000 - that's the base amount - to CAD\$175,000, depending on the circumstances. And, again, the lower amount is not meant to be the only or the final amount.

So, it was through them that I became aware of the Canadian scheme, and also the scheme in Sweden for redressing forcible sterilisation of trans people, and the situation in the United Kingdom.

CHAIR - Rodney, then, if it's the Government - or even if there is a Greens' amendment, if the Premier was to appoint someone to look at these things, it'd be someone like these people that you've spoken to, wouldn't it? Would there be some -

Mr CROOME - Yes. Well, I'd hope so. Someone who has a background in compensation law, someone who's aware of how these schemes work and what the amounts are actually paid. I would hope that that would be the case. It might be difficult to find someone like that, who has all of those skills -

CHAIR - Because it's not something that we can directly compare with. What's been proposed in Recommendation 13 is not directly comparable with another scheme anywhere.

Mr CROOME - Not directly, because what we're talking about is a single one-off preset amount, and none of those schemes has that.

CHAIR - That's right, yes. The reason I asked that, Rodney, is if we - I take you back to the victim-focused approach here that a lot of the people who you are aware of are ageing - one

quite elderly, at least - and time is of the essence, if we were serious about this, then we should do it as quickly as we can.

The Greens' amendment looks to be quite lengthy in its process, potentially. It might not be, but it has the potential to be. As I put to the Government, we could agree with that amendment and it goes through the House, so then it's law because it's already been through downstairs and then we could find that it takes almost 12 months or more to get it in place. You could end up with the same outcome as what's being recommended by you - sort of suggested as a range by the Community Legal Centres [Tasmania] and yours has been guided by the evidence of some other people with expertise in this area.

I know that you and the Community Legal Centres [Tasmania] acknowledged that the Committee could make a decision about an amount, but they didn't see that as the favourable, preferred option. They preferred another separate process. Is there a harm of the Committee going down that path and saying, 'Well, we've got this evidence, we've heard from you, we've heard from others'. I'm just trying to understand whether this is an appropriate way forward because if it's not, we shouldn't do it.

But if it is an option, and the committee can make its own decisions, I'm just trying to understand from the perspective that you bring to the table, which is representing the people who are directly impacted by this, would they see that as an affront that the parliamentary Committee had the audacity to say, 'Well, actually we think we can make a recommendation based on the evidence we've heard'?

I know it's putting you in a difficult spot. I do appreciate that.

Mr CROOME - I can't pre-empt what people might think about that. That is not a question I've put to the people I know. Obviously, I haven't had a chance to do that, so I don't know what their thoughts would be. I can only suppose that their focus is on the outcome rather than the process and they want a just outcome.

I can't say what their thoughts would be on the process. I've had a chance obviously to discuss the situation with a couple of the people concerned, including the person who called me after the Legislative Council debate and the very elderly man in New South Wales and it was the Greens' amendment that was on the table and they supported whatever process would be independent of the Government. Let's be honest, that's what they really wanted.

They didn't want the Government to set the amount because like I said, the Government is the perpetrator, historic governments -

CHAIR - In any event, the Parliament has to make the decision because even with the Greens' amendment, it has to come back to the Parliament for its ratification. If the Government went off and did their own separate independent process as described by them in their submission and earlier today then it's still got to come back to the Parliament.

Mr CROOME - On the one hand, like I've said, we want a process that is independent of the government to the extent possible; a legitimate transparent process and that's why we have supported the Greens' proposal. That's on the one hand. On the other hand, we need a process that is going to expedite this because the longer we go on and we've gone on for a long

time, the more likely it is that people won't have redress of the injustices they faced. So there's that important consideration.

Of all the processes that are on the table, the Government's proposal for an independent expert sounds the least attractive because there are really no cheques or balances or guardrails on that one. It's like whoever they feel. Again, the Government shouldn't have so much power over that process.

Apart from that, I think it's for you to decide what you think is the process that's going to be the most transparent and separate from Government, seen as fair and just, versus one that's going to get this done as quickly as possible. I'm sorry that -

CHAIR - No, no, I know it was going to be a difficult question. You answer it as you feel comfortable. That's really important that you do that.

Mr CROOME - All I can say, like I said before, about those who have been through these injustices when I've discussed this with them is that it's not in the hands of the Government directly. Otherwise, they'll just get the price of a new TV.

CHAIR - I recall the 2017 debate. You'll probably remember, Rodney. Matt Groom was the attorney-general at the time and there were many a meeting that we had. Compensation, that's the word that was used, which was refused very quickly and so we had to focus on other things at the time. In 2017, it wasn't like it was not a consideration; it was a consideration of those of us who were trying to amend it.

Mr CROOME - It was.

CHAIR - But here we are so it's taken a while to get - that's eight years.

Mr CROOME - About that debate, when we were discussing that with the then attorney-general, Matt Groom, in terms of compensation in the classical sense that, you know, you compensate someone for everything that they've been through. We're not talking about that anymore. The independent review reframed that so that we're talking about a payment that will redress an injustice and acknowledge the harm - not compensate for all of the harm, but acknowledge the harm.

Because of that reframing, I think we're all at the table now able to deal with this because the government probably wouldn't be at the table if we were talking about compensation. I'm not saying there shouldn't be compensation. We should look at whether that works and whether that's a possibility. But at the moment we're discussing this and we know that we need to get it done quickly so that there can be justice for those who are still alive.

Have I answered your question about process?

CHAIR - Yes. We're putting you in the hot seat, literally, Rodney, because you're speaking on behalf of a number of people who have expressed a view. Perhaps to clarify, when you spoke to them directly about the options, if you like, for the process, at the time, was the only option, the Greens' amendment, or was it after the Legislative Council had the Government produce an amendment?

Mr CROOME - It was in the context of the Greens' amendment. The person I spoke to after the debate, obviously the matter had been referred then to the Gender and Equality Committee, but I don't think we discussed the Committee. My recollection is we discussed that the Committee inquiry would be about how we deal with this, not what or how much, but how we move forward. So really, it was the Greens' amendment versus the government's amount.

Ms THOMAS - Rodney, you mentioned the idea of the Government having someone independent look into this further, which is the option that the Government's put forward in its submission rather than an independent assessor.

Mr CROOME - An appropriate expert, I think, is the term the Government uses.

Ms THOMAS - Thank you, 'an appropriate expert'. You've talked about what's important to people who have suffered wrongs here is that the process is transparent and is separate from Government who was effectively the perpetrator. So that option really isn't one that is supported at all by Equality Tasmania.

Mr CROOME - Not really, no.

Ms THOMAS - It was least preferred, but if the Committee, being independent from the government, was to seek advice from an independent expert, and you've mentioned that you've spoken to a few who have suggested they would need to be formally asked and consider it further, more thoroughly if they were to provide expert advice and there may be other people as well.

If the Committee was, and I don't know about the capacity to do that, but to seek that advice and factor that into its recommendations, do you think Equality Tasmania and the people it represents would see that as being independent enough of Government informing?

Mr CROOME - I can't speak on behalf of the elderly men we're talking about. I assume so. I suppose that they would probably ask, you know, 'who's on the Committee?' and all those kinds of questions, but I can't really say.

I've listed the criteria for the process: independent from government; seen as transparent; and I'll add, informed in a way that you're just indicating there, actually getting that expert advice. Independent, transparent, informed - that's key to the process. The Greens' amendment does that and we've strongly supported that. If this Committee can fulfil that criteria, when you come to your deliberations you may feel that you're the body to do it.

Ms THOMAS - Thank you.

CHAIR - On that point, would you be willing to provide to the Committee the names of people who we may seek that advice from?

Mr CROOME - Absolutely.

CHAIR - We can perhaps do that afterwards. A point in your submission, Rodney, the last page of the submission, I found it a little bit contradictory, so I want to clarify what you're actually saying. If you go to the last page where it says 'end' down the bottom of the page.

The top paragraph says:

Assessing and providing redress on a case-by-case basis was not a recommendation of the Independent Review. It recommended a fixed, pre-set amount for everyone who successfully applied for their criminal record to be expunged. We support this recommendation.

You've spoken about that. Just before the conclusion you say:

We recommend that an appropriate body such as the Tasmanian Law Reform Institute be asked to investigate the legal and moral implications of individual assessment and to make recommendations to Government about whether individual assessment is desirable and how it be implemented.

Can you clarify what you're talking about there?

Mr CROOME - Two things, all of the schemes that we've spoken about, both Australian and international, they have a case-by-case basis, I'm not sure about victims of crime, but certainly child sexual abuse and stolen wages and the German and Austrian and French and Canadian, UK schemes. My point is that if it's thought that that is something worth investigating, then that could go to the TLRI [Tasmania Law Reform Institute] to look at whether that makes sense. We're not recommending that that happen instead of this process, absolutely not. This process should continue and should be expedited. That was just an acknowledgement that our scheme would be the only one to have a single payment.

Given that other jurisdictions have gone down different paths then maybe that's worth looking at.

CHAIR - To clarify, Rodney, we should deal with the redress matter now.

Mr CROOME - Yes, 100 per cent.

CHAIR - If there's to be further consideration of a stage or stepped process considering other matters, then it should be investigated by a body like the TLRI at a later time.

Mr CROOME - Yes, at a later time.

CHAIR - I was a little uncertain.

Mr CROOME - I understand that it is ambiguous and that is not meant to get in the way in any way, or to supplant in any way this process. We have our recommendation that an independent review came up with. That's what we're talking about. That's what we have to deal with.

The academics I spoke to also made that point that, that is the fact in other places, so that's worth looking at, but it's not part of this process.

CHAIR - Sure, that's fine. I want to be clear on that. Any other questions anyone? If not, Rodney, do you want to make any closing comments? We do appreciate your time today and the very real challenge it is for the Committee in some respects to do our work, but also to be

really victim-focused here and never lose sight of that because when you start talking about dollars, it's a very crass way to approach a real trauma that these individuals have faced.

I hope that anyone who may read or watch this would see that's absolutely not the intention of the Committee at all, or yours either, I'm sure, but to absolutely acknowledge the real harm that was done to those people, a lot of it should never have been a law.

Mr CROOME - That's a good point. That was probably the hardest thing for me and other people in Equality Tasmania. When looking at a range, and just a range, not even in a fixed amount, how do you come up with that amount, when you know of the harms that have been inflicted? I mean, I have a friend whose uncle was arrested and convicted and the outcome of that was suicide. So there's a personal connection there, for people who are still alive, for all his family. How do you sit down and go, 'Oh, is it \$25,000 or is it \$75,000 or ...' That's really hard.

It's wonderful, as I said at the beginning, that we've come to the point where we've decided we need to do that. We should be really proud of that as a parliament and as a state. We've set ourselves this task, and so we need to make sure that we do it in a way that is cooperative and compassionate. It was really good listening to the Attorney-General say similar things, saying we need to work together on this. Even though we disagree with the government's amount and with the process, it's a really important step that we're able to do this in a way that is consultative and compassionate, and whatever happens, we should stick to those values. We need to consult and we need to be compassionate and we need to do it in a way that's thoughtful and that's not politicised. At the moment, it's not really politicised, which is fantastic.

They're my final comments, that if we stick to that approach, then hopefully it will come up with a good solution to what is a difficult problem, and one that the rest of the nation will go 'Yes, well done, we'll do the same'.

CHAIR - Thank you very much, Rodney. We'll write to you about following up on whoever else we may be able to speak to, or at least get a written submission from.

Mr CROOME - That would be great.

CHAIR - Thanks very much for your time.

The witness withdrew.

The committee adjourned at 12.22 p.m.