



Actuaries  
Institute.

# Whole person. Whole system.

IDSS 2023

12 – 14 November  
Hobart

# Righting the Wrongs of the Past

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# Support available



## 1800RESPECT

offers confidential counselling and support, 24/7

Phone: 1800 737 732

Website: [1800respect.org.au](https://1800respect.org.au)



## Lifeline

offers 24-hour crisis support and suicide prevention services

Phone: 13 11 14

Website: [lifeline.org.au](https://lifeline.org.au)



## 13Yarn

offers 24/7 culturally safe crisis support for Aboriginal and Torres Strait Islander people

Phone: 13 92 76

Website: [13yarn.org.au](https://13yarn.org.au)



## Beyond Blue

offers confidential counselling and support, 24/7

Phone: 1300 224 636

Website: [beyondblue.org.au](https://beyondblue.org.au)

# Agenda

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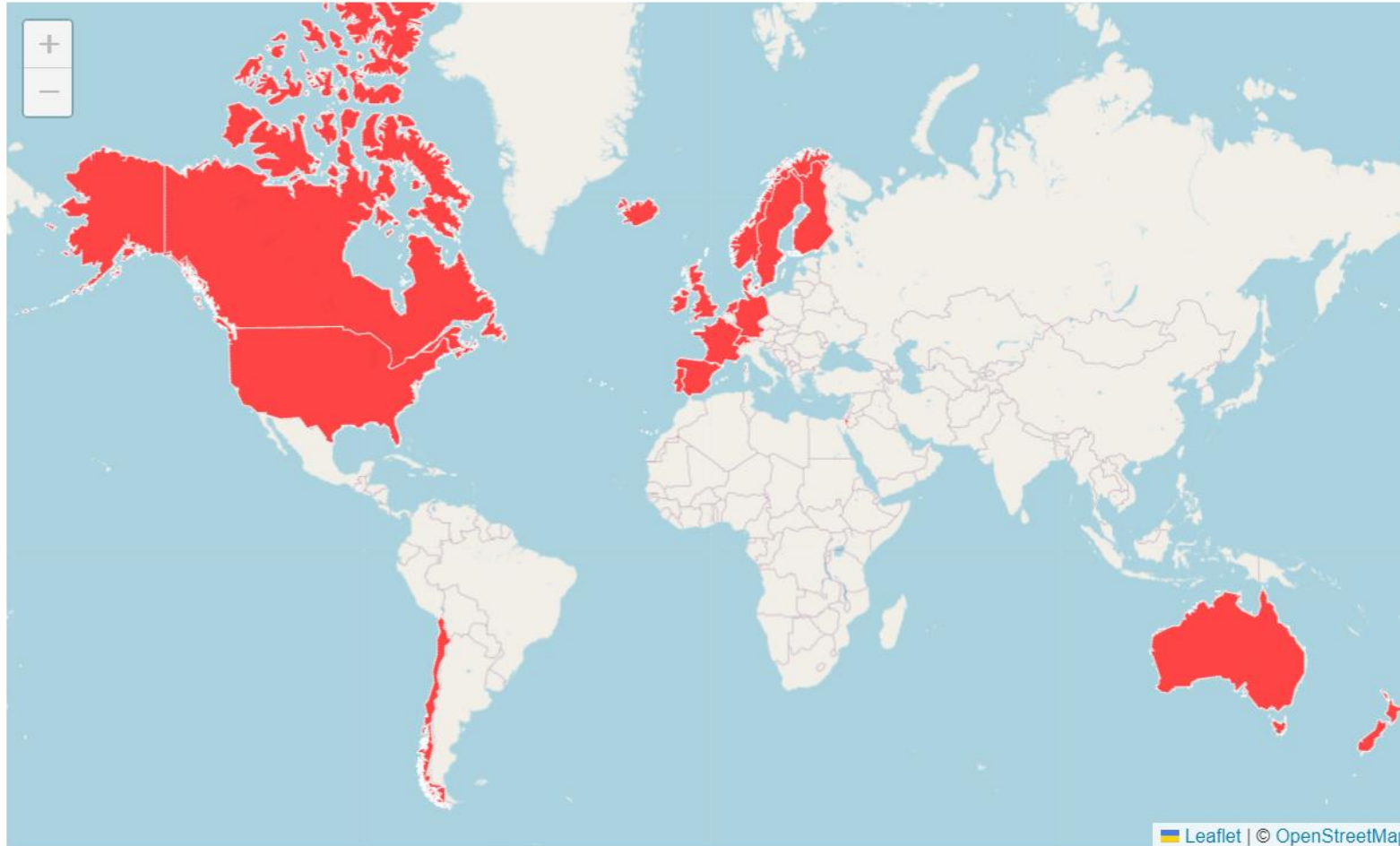


# The Need for Redress

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# A global mapping of institutional abuse inquiries

(2020)

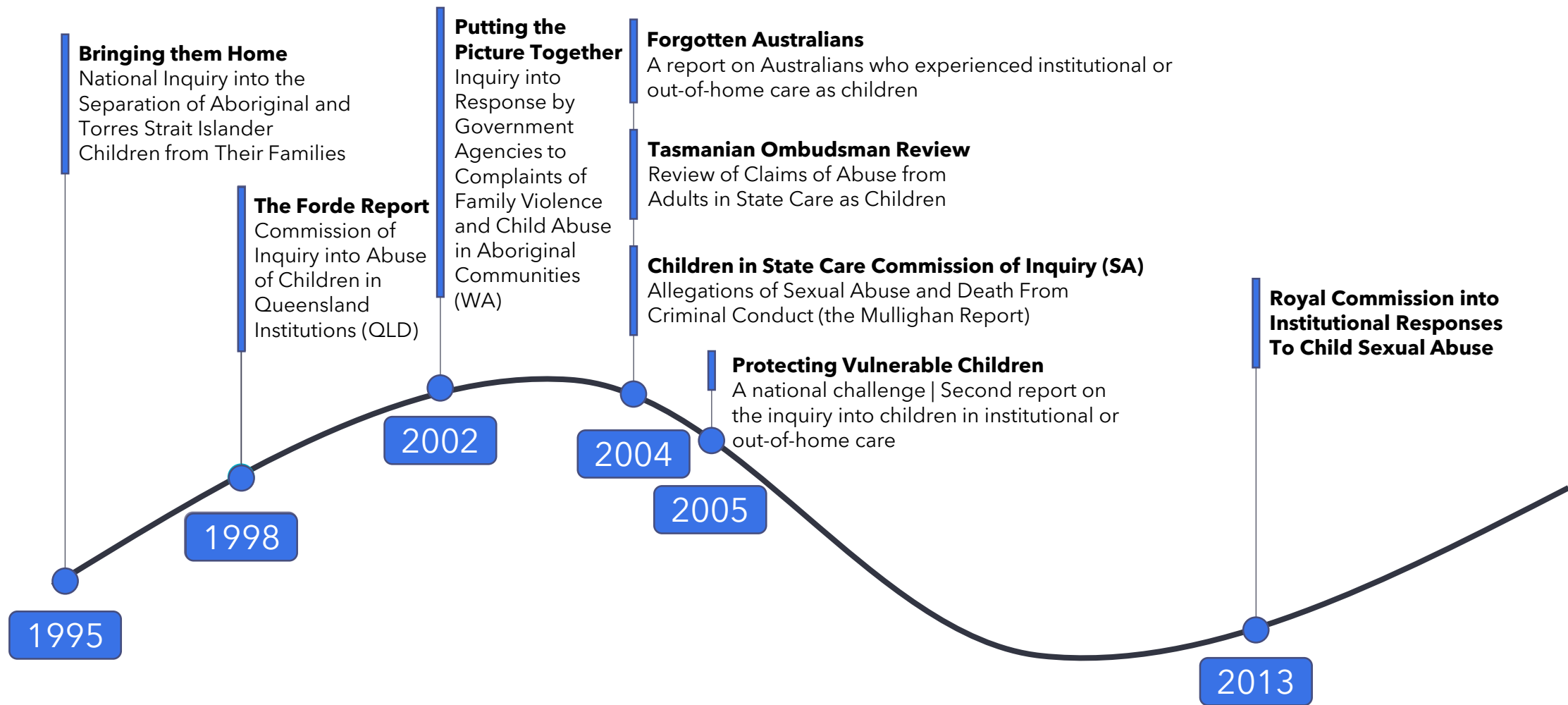


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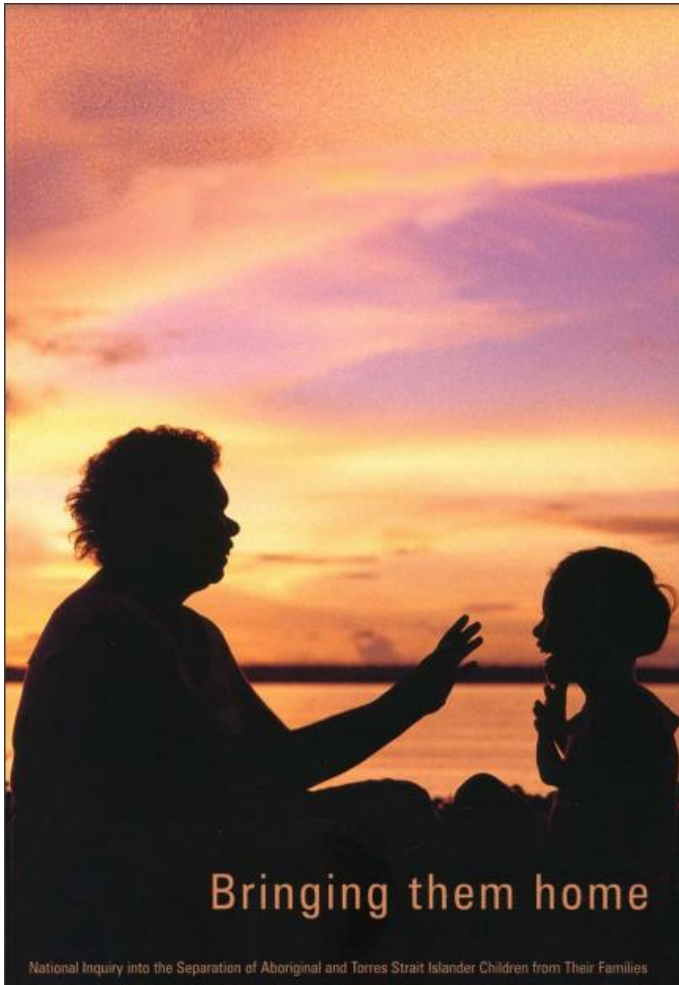
<https://www.lib.latrobe.edu.au/research/ageofinquiry/index.html>

Wright, K., Swain, S., and Sköld, J. (2020). The Age of Inquiry: A global mapping of institutional abuse inquiries. Second edition. Melbourne: La Trobe University. DOI: <http://doi.org/10.4225/22/591e1e3a36139>

# Inquiries into Abuse of Children in Care in Australia



# Government action in Australia



## **Bringing them home**

**National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families**

**May 1995 to May 1997**





In accordance with international law, States have the duty to adopt special measures, where necessary, to permit expeditious and fully effective reparations. ...Reparations shall be proportionate to the gravity of the violations and the resulting damage and shall include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

**van Boven 1996**

Bringing Them Home Report, Section 14 - Making Reparation

# Government action in Australia



## Royal Commission into Institutional Responses to Child Sexual Abuse

November 2012 to December 2017



The reality is that there is a significant group of people in our community who have been damaged by their sexual abuse in an institution and for whom there has been an inadequate response by both institutions and government. Public recognition of their suffering and a just response to their loss can only come if the Australian Government accepts a role in ensuring that there is a national response to the problem.

**Redress and Civil Litigation Report**

Royal Commission into Institutional Responses to Child Sexual Abuse

# Transitional Justice

## United Nations Security Council S/2004/616

*..comprises the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.*

# Why Redress?

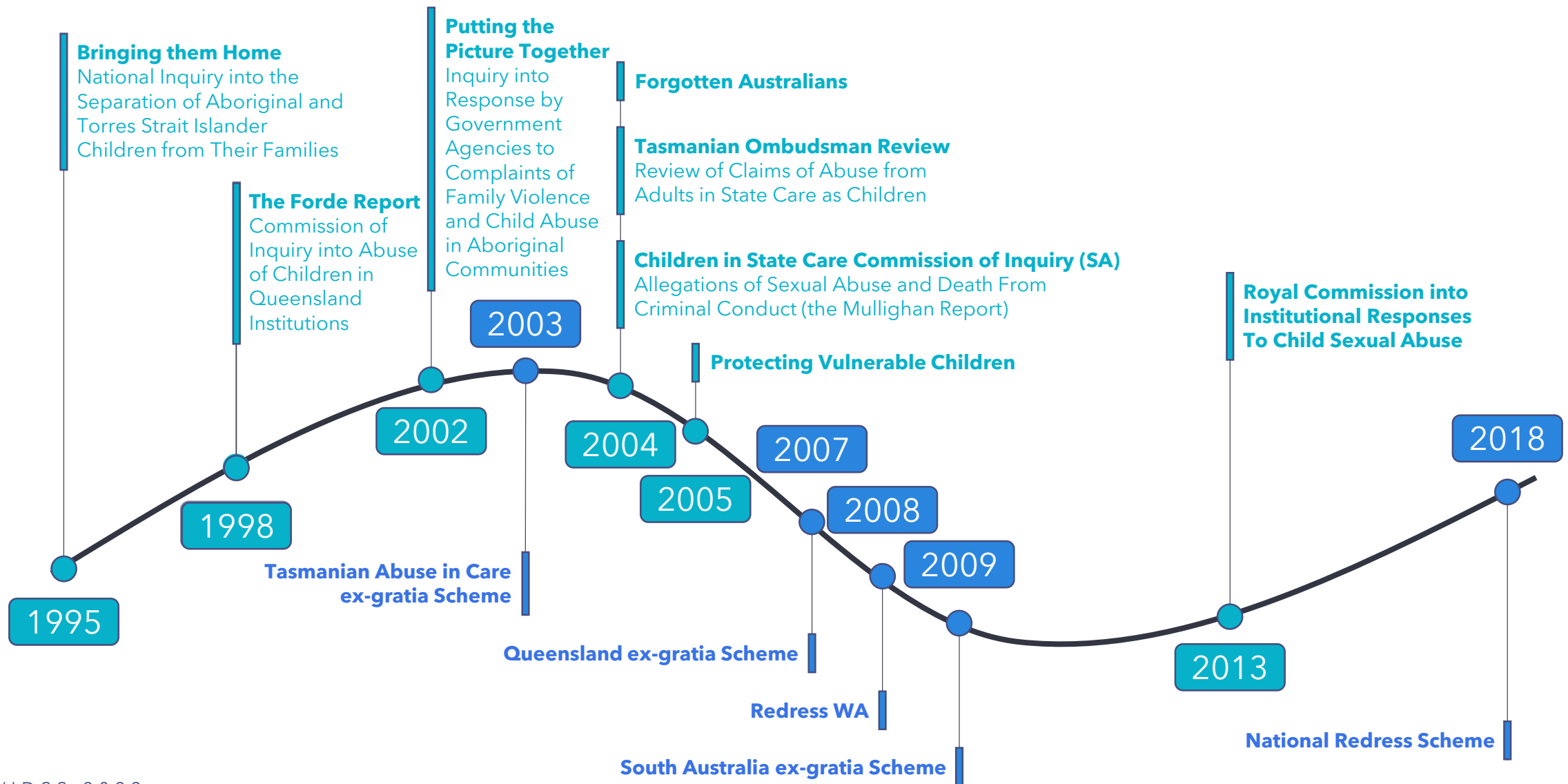
Civil Litigation	Redress
Higher standard of proof of the abuse	Lower standard of proof (reasonable likelihood)
Will be required to give evidence and may be cross-examined	
Will need to prove the institution was legally responsible for the abuse	
Adversarial and retraumatising legal process	Trauma-informed application process with counselling support
Requires the survivor to deal directly with the institution	No contact with the institution, unless a direct personal response is accepted
Higher settlement amount	Lower monetary payment
Higher legal costs	Lower legal costs - simpler process which can be undertake without legal involvement, but can receive support from advocacy groups and community legal centres



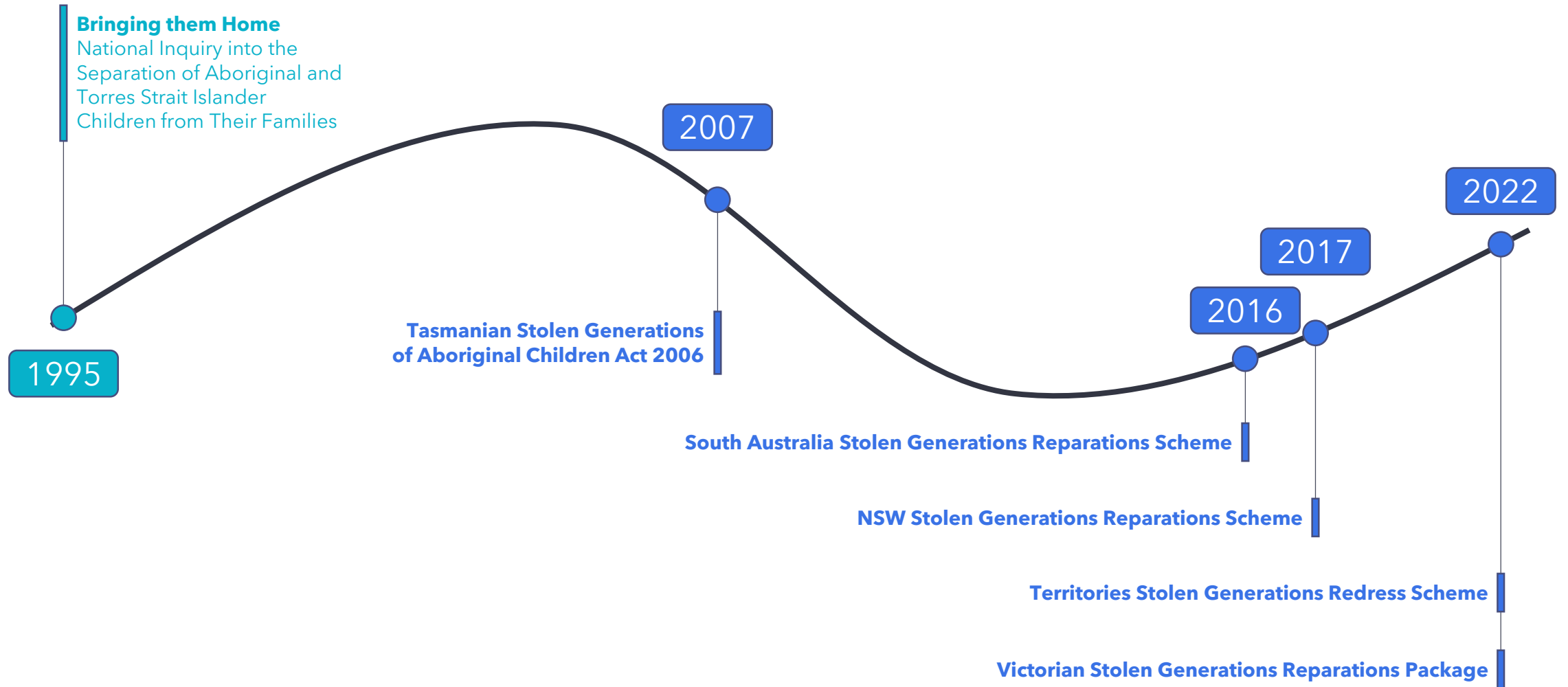
# Redress Schemes in Australia

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# For Abuse of Children in Care



# For the Stolen Generations





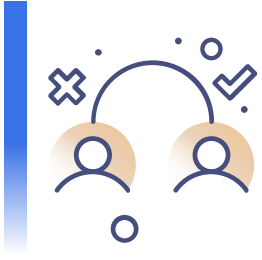


# The Role of Actuaries in Redress Schemes



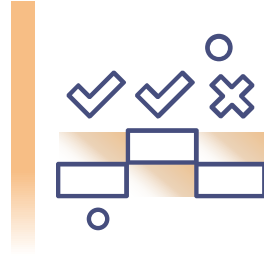
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# Challenges with Redress Schemes



## Understanding scheme demand

In light of incomplete historical records, long latency periods and potential applicant behaviour.



## Understand financial implications

Consideration of scheme parameters and balancing scheme design against funding envelope.



## Timing of demand

Timing of applications and utilization of services in order to inform operational design.



## Operational and financial information

As the scheme commences, collecting and interpreting operational and financial information for planning and accounting purposes.

# The Actuarial Toolbox

## Costing



- Estimation of costs
  - Lack of historical data
  - Long latency periods
  - Uncertainty in propensity to apply
- Scenario testing and sensitivity analysis
- Insight into the drivers of uncertainty in ultimate costs

## Reserving



- Accounting Standard AASB 137 Provisions, Contingent Liabilities and Contingent Assets
- Can a reliable estimate be made?

## Monitoring



- Data insights and visualisation
  - Profile of participants
  - Assessment outcomes
  - Average payment sizes
  - Utilisation of support services and restorative engagement processes
- Implications on scheme costs



# Our Learnings from Our Work

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# Learnings from our work with redress schemes

**The care needed in  
approaching work in this  
area**



**Modelling**



**Inter-dependences  
between redress and  
civil claims**



**Political nature  
of the schemes**



# The care needed in approaching work in this area



## Trauma-informed and culturally appropriate processes

- Great care in the design of communication and processes
- Recognition of the highly traumatic experience, and possible retraumatisation in the application process
- Counselling and support services available



## Scheme specific language

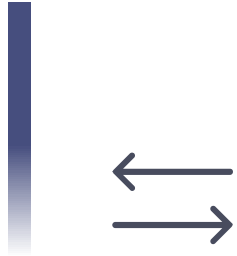
- Applications / participants / survivors / victims
- Scheme / package / fund



## Confidentiality and privacy

- Paramount, given the sensitive nature of the traumas suffered
- Collect as little personal information as possible
  - Year of birth information
  - Aboriginal or Torres Strait Islander identification

# Inter-dependencies between redress and civil claims



## Interactions between different pathways to justice and support

- Possible pathways include:
  - Through redress scheme(s) if one or more exists for the particular harm suffered
  - Through civil litigation or criminal prosecution
  - Through victims of crime compensation schemes
  - Through social services, including Disability Support Pension or Medicare
  - Through non-government organisations and victim advocacy groups



## Data sharing - useful but fraught

- There may be data in different jurisdictions from similar schemes which can assist with the parameterisation of key assumptions.
- But can be difficult to navigate permission for data sharing due to confidentiality and privacy reasons.

# Modelling



## Fledgling data

- Allow time to understand the data
- Data may be stored across a number of different sources and may require manual input
- Be clear on why you want the data, what checks you have performed and any limitations
- Iterative approach



## Estimation of numbers of applicants

- Exposure-based approach
- Comparable redress schemes from other jurisdictions
- Additional consideration such as mortality and application rate



## Benchmarking overseas

- Cultural similarities or differences
- Population differences
- Availability of other supports for applicants
- Timeframes and application complexity



## Judgement calls

- Scarce data
- Information gaps



## Uncertainty and scenario testing

- Deep dive into key reasons for uncertainty and explore the behaviours which impact them



# Political nature of the schemes



## Societal change over time

- Change in social norms and expectations over time
- Important consideration when using statistics or surveys from historic periods



## Scheme evolution

- Initiated by inquiries
- Interim or discretionary payments prior to the commencement of scheme
- Initial rush of applications
- Processing may be slower in the beginning
- Time limited, with rush of applications at the end
- Reviews and scheme extensions



## Funding envelopes

- Funding is an important factor which influences scheme design
- Updating cost estimates
- If different from expectations, may result in changes to scheme supports
- Awareness of potential political pressures
- Balanced view of the potential range of outcomes

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# Questions

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Thank you

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