

Voices from the sector:

Lessons from Royal Commissions

Royal Commissions promise to provide policy and systemic change. But how can we ensure they live up to this promise and engender the changes necessary to improve people's lives?

Human Rights Law Centre Legal Director, Ruth Barson, and DVRVC's CEO, Emily Maguire, spoke at Australia's largest social change conference – Progress19 – where they discussed their personal involvement in two separate royal commissions. Here they reflect on lessons learnt and offer practical advice on how to effectively advocate and campaign to achieve the best outcomes for those whose lives have been affected.

Royal Commission into the Detention and Protection of Children in the Northern Territory

The Royal Commission into the Detention and Protection of Children in the Northern Territory was established to investigate the treatment of children in detention centres and look into discriminatory welfare practices. With the majority of recommendations not being implemented or revoked, the Royal Commission has been criticised as 'one of the most unsuccessful and ineffective in Australian history.'¹ Ruth Barson discusses her engagement in this Royal Commission and imparts lessons and advice on how to effectively campaign for change when a government is not responsive to implementing recommendations.

The racial discrimination of Aboriginal children and people behind bars is a critical issue in this country. It's important to say upfront that no one from the sector campaigned or asked for a royal commission into youth detention. We'd been working for about two years to expose the abuse happening in Don Dale Youth Detention Centre, and information had been slowly

dripping out and reported before the Four Corners exposé.² We were surprised at the enormous response, not because the outrage wasn't warranted but because those stories had been told before.

Campaigning for change

In our case, we wanted three things:

1. To raise the age of incarceration for children;
2. To close Don Dale Youth Detention Centre; and
3. Reform of the child protection system.

If we'd been able to be more organised as a sector to advocate for these then we'd have achieved better outcomes, rather than being put in a position to respond to a government announcement about a royal commission.

In terms of campaigning, a royal commission should deliver three main things: truth telling, accountability and reform. It's important for organisations campaigning to have that in your mind from the beginning and always ask: 'is this royal commission set up to deliver these things?' Another question to ask is: 'what are we going to put in place to ensure each of those deliverables – accountability, truth, reform – are given the space and ventilation they deserve?'

When advocating, ask the government to commit to the outcomes at the outset because

that builds in accountability. If reform and change are the goals, then keep that on the agenda. The history of royal commissions shows us you can have a perfect process, one that delivers everything a sector could ever want but a government may not commit to implementing the recommendations. It's also important to connect with the ministerial office before the recommendations are put on paper to ensure the government is bound by the agreed outcomes.

Implementation: prepare for the unexpected

In terms of implementation, the context is specific. The Northern Territory government didn't want a royal commission, and the kids that had been abused and imprisoned became contested victims. The government cross-examined them and questioned the very core of their experience: 'are you genuinely victims?' Given that, the context was never right for getting the Government to implement the reforms.

Be prepared for the unexpected. During the middle of the Royal Commission, there was an election with a change of government. The new government committed to implementing everything and set up a reform management system. This didn't work to our advantage. In retrospect, we should have said 'we don't care about the whole reform agenda, we just want three things – raising the age of incarceration, close Don Dale and reform of the child protection system'.

In the youth justice context, we got one piece of good legislation – no strip searching, restraints and solitary confinement. We got that legislation, but a year later it was repealed. So in retrospect, if we'd been organised and advocated just for those three things, we might be in a better place now.

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A royal commission is a process not an outcome. It's good to be clear about that. Getting a royal commission is not the win, it's about getting the changes you want.

1 John B Lawrence, The Guardian, Northern Territory's youth justice system is a theatre of the absurd and Australia's great shame, 18 June 2019

2 ABC Four Corners program aired Australia's Shame on 25 July 2016. The episode highlighted the mistreatment of children at the Don Dale Juvenile Detention Centre. The Australian government officially announced a royal commission into the Northern Territory juvenile justice system the day after the program aired.



Royal Commission into Family Violence (Victoria)

The experience of and lessons learnt from the Royal Commission into Family Violence (RCFV) in Victoria provided a very different experience to those outlined in the Northern Territory context. The RCFV was unique because all recommendations were accepted before they were offered. Three years into the implementation of the reforms, Emily Maguire reflects on her experience campaigning for reform during and post the royal commission. She also provides insight into the mechanisms of a royal commission and offers practical advice to those advocating for and preparing to participate in one.

Campaigning for a royal commission

It's a campaign that's unknown in the early stages and can be really difficult, but there are things you can put in place to achieve your goal. Our experience taught us that if you're calling for a royal commission, think realistically about who you'd like as commissioners. Governments rarely choose those with a lived experience, which means an immediate educative task needs to be undertaken about the realities of the lives and experiences of the people the royal commission will impact on.

Another learning for us was the importance of working strategically in collaboration across different sectors in the early stages of a royal commission. By that I mean, think about how to frame recommendations, as well as the non-negotiables, so all sectors benefit. Begin this early in the evidence gathering period, as you'll need to be clear about how your evidence might conflict with, adhere to, or support evidence from other sectors, and think about how to frame what your sector or organisation brings to the royal commission process.

Implementation: collaborating with government

As a sector we've spent lots of time campaigning, advocating and trying to support the most effective implementation of the RCFV recommendations. This has involved directly collaborating with government and we've learnt many lessons from that. From the outset understand what is driving a government in the context of a royal commission reform. For example, consider how to frame your submissions and evidence for both a Labor and Liberal government; think about the 'hook' for both parties and frame it accordingly. Whole-of-system reform is complex, and coordinating it is even more so. It helps to avoid a tick box exercise by campaigning for a whole-of-government response. You will be dealing with Ministers who may not see the reform as their core issue so it's imperative to ensure that you're drawing connections between the royal commission findings and particular Ministerial portfolios, and then taking this information to a range of ministers to support them to connect with the whole-of-government reform.

In Victoria, the Premier committed upfront to implementing all of the royal commission recommendations. This was an incredible show of commitment to ending family violence, but it also increases the risk for government, which often means they are likely to take a more hands on approach to implementation without necessarily having the technical practice capability. My advice then is to think carefully from the beginning about how you'll work with government and consider the following:

- be clear about the depth and limits of your expertise;
- articulate your approach to the work, and your projects and activities, remembering that Departments may need you to provide policy or program solutions that are aligned to recommendations;

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One of the biggest lessons we learnt was the importance of being clear about the purpose of a royal commission – “what is it you want to achieve?”

- have a vision for addressing the range of reforms and keeping this on the agenda; and
- continually work on relationship building, not only with Ministers but also public servants because you will be dealing with them on a daily basis in a reform context.

The Royal Commission and implementation process taught us so much. We were fortunate to have a government commit to implementing every recommendation from the outset. In saying that, no process is perfect and no two royal commissions are alike. Even if you get that commitment you will still have to advocate around governance, whole of government approaches and reform implementation – some of the most fundamental but complex areas of the reform. Because there are many ways to interpret a royal commission report, my final advice is to have a clear position, present your evidence with that position in mind, and advocate consistently to achieve your vision. ■