

Catholic Church Ellis defence scrapped in 'momentous day' for abuse survivors

By [Michelle Brown](#)

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John Ellis, a former lawyer, tried to sue the Catholic Church for negligence (AAP: Paul Miller)

After an 11-year battle, survivors of institutional child abuse locked out of suing for compensation will be able to launch civil claims from today.

The so-called "Ellis defence", which prevented abuse survivors from suing unincorporated organisations including churches and other institutions, is today abolished after the NSW Government removed a legal road block.

The move came after recommendations from the Royal Commission into Institutional Child Sex Abuse.

John Ellis, whose failed Court of Appeal case against the Catholic Church in 2007 gave rise to the defence, has praised the Government's action.

"It's fantastic news," he told the ABC.

"It really is a momentous day to have those changes finally commence.

Key points:

- The Ellis defence prevented abuse survivors from suing unincorporated organisations including churches and other institutions
- The move to scrap it came after recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse.
- From today, an institution must nominate a defendant with sufficient assets to pay a survivor's claim.

"It will mean [survivors] are able to get recognition from the Catholic Church and other institutions that are set up in the same way, where they haven't had that opportunity before.

"Up until now people have been relying on the good will of the institution or the willingness of the institutions to take accountability, and if an institution decides, as they did in my case, that they don't want to take accountability, then they won't be able to put that roadblock in the way of the survivor."

A long road to redemption

Mr Ellis, a former altar boy, had waited years before deciding to sue the Catholic Church for abuse he had suffered at the hands of a priest.



The reforms will enable abuse survivors to sue for compensation (ABC News: Danielle Bonica)

However, the priest responsible for the crimes had died, and the Archbishop of Sydney was not considered responsible for the actions of his predecessor.

By the time Mr Ellis decided to take legal action, he had no-one to sue.

In 2007, on appeal lodged by the Catholic Church, the court found the church did not legally exist because its assets were in a legally protected trust.

A new era

From today, an institution must nominate a defendant with sufficient assets to pay a survivor's claim.

If not, the court can appoint associated trustees who can get access to trust property to pay the compensation.

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- [Lifeline](#) on 13 11 14
- [Kids Helpline](#) on 1800 551 800

NSW Attorney General Mark Speakman said the changes to the law were retrospective, making them accessible to survivors of past, present and future child abuse.

"This means all survivors of institutional child abuse in NSW will now have the same access to compensation through civil litigation, no matter what kind of organisation is responsible," he said.

John Ellis said his quest for redress took a heavy personal toll.

"We took the church on through the courts and we were unsuccessful," he said.

"Personally I thought I'd done a great disservice to survivors, because now it was in black and white that you can't sue the church.

"More recently, through the period of the royal commission, and through the recognition of the community [and] the support of the NSW Government in quickly implementing the changes that have been recommended, I've felt very supported.

"I've felt very grateful for living in a country where that's possible."

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- [Suicide Call Back Service](#) on 1300 659 467
- [Beyond Blue](#) on 1300 22 46 36
- [Headspace](#) on 1800 650 890