While human trafficking is a federal crime there is no federal compensation scheme for victims of human trafficking.

Australia is a signatory to a number of international conventions which require that we provide effective remedy to people who have been trafficked. In particular, the United Nations protocol referred to as the Palermo Protocol (2000), states in Article 6.2:

“Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.”

Australia’s National Action Plan to Combat Human Trafficking and Slavery 2015-2019 Principle 2 states:

“Australia provides holistic and victim-centred support to trafficked people…and affords them access to an effective remedy.”

The report of the Parliamentary Joint Committee on Law Enforcement – “An inquiry into human trafficking, slavery and slavery-like practices,” (July 2017) recommends,

“Recommendation 7
2.130 The committee recommends the establishment of a national compensation scheme for victims of trafficking, slavery and slavery-like offences to be funded by proceeds of crime.”

To seek compensation, people who have been trafficked into Australia need to apply through state and territory compensation schemes. These schemes are inadequate for the following reasons:

1. The eight state and territory schemes vary with respect to the categories of harm, the time limits for applying and the levels of award. For example the maximum compensation values range from $10,000 to $100,000.

2. Compensation must be applied for in the jurisdiction where the crime occurred. If a person has been moved across state and territory borders (as is often the case in human trafficking) they need to make multiple applications.

3. State and territory offences do not correspond exactly to the Federal offences of human trafficking, slavery and slavery-like practices and so it is not possible for a person to obtain compensation for the full harm they have experienced.

4. Not all federal offences have a relevant criminal offence in the State and Territory schemes. While a person who has experienced sexual exploitation can seek compensation for sexual abuse, people who have experienced the federal offences of slavery, servitude, forced labour, forced marriage and debt bondage are unable to access compensation in State and Territory jurisdictions and so they are denied an effective remedy.

People who have been trafficked have already experienced incredible trauma in experiencing the crime that was committed against them and in having to retell their story as they seek the support they need to recover. Compensation is their right not a privilege.

The current legislative framework for combating trafficking in Australia does not afford victims of trafficking adequate human rights protection. Australia requires a holistic human rights based approach to bring domestic laws in line with Australia’s international human rights obligations. A Federal Compensation scheme is one aspect of this.