



CARE LEAVERS AUSTRALASIA NETWORK

CLAN is a National, Independent, Peak Membership Body which supports, represents and advocates for people who were raised in Australian Orphanages, Children's Homes, Foster Care & Other Institutions.

July 2018

Submission to the Queensland Government in response to the National Redress Scheme for Institution Child Sexual Abuse Bill 2018.

Lets get Redress right the first time!

CLAN - Care Leavers Australasia Network is the national, independent, peak membership body which represents and advocates for Care Leavers who were raised in Australia's and New Zealand's Orphanages, Children's Homes, Missions and Foster Care. CLAN's main objective is to assist and support Care Leavers and their families through the wide variety of work we do including, but not limited to, advocacy for the National Redress Scheme, support at the Royal Commission, the Senate Inquiry, searching for family, counselling, casework, records, and publishing Care Leaver's stories in the national newsletter.

We have been helping Care Leavers for 18 years, and currently have 141 members from Queensland. More than 70 Care Leavers from Queensland Care have phoned out office in the past month. Not one dollar has been received by the QLD government to support or fund CLANS achievements and hard work. We could accomplish much more for Queensland Care Leavers if we were funded adequately.

CLAN would like to thank the Queensland Government for giving us the opportunity to provide our input and suggested provisions on the 'National Redress Scheme for Institutional Child Sexual Abuse Bill 2018.

Please see below CLAN's concerns and suggested amendments to the Bill.

- Inclusion of all forms of abuse

- The inclusion of other forms of abuse is CRITICAL, including physical, psychological, emotional abuse and importantly, neglect.
- For the Redress Scheme to truly serve the purpose of recognition and justice, it **MUST** include **ALL** forms of abuse.
- It is unreasonable to assume sexual abuse was the most damaging. Care Leavers often express how the psychological, physical abuse and neglect, outweighed/ was equivalent to sexual abuse.
- Children were kept against their will – many for their entire childhoods, and starved, beaten, locked up, and stripped of their rights, their dignity and their identity. Not all children abused in institutions were sexually abused but all of them were harmed and have lived their lives as damaged adults.

“Overall my experiences in Care have affected my life greatly, all types of abuse must be considered, they are just as important as sexual abuse.”

“I never fronted the Royal Commission on my sexual abuse, purely because they didn’t care about other forms of abuse!” - Care Leaver Responses

- Eligibility for Redress

- The purpose of this scheme is to recognise the wrong, and alleviate the impact of past institutional child abuse. This is untrue if the scheme chooses to make accessing redress if they have prison sentences longer than 5 years.
- Care Leavers with a criminal record are going to feel excluded and discriminated against if they are deserted from the scheme due to a history of crime.
- The Royal Commission called for **ALL** Care Leavers who were abused in the Child Welfare System, and it did not discriminate based on their lives after Care.
- The Royal commission heard 700 private hearings of incarcerated Care Leavers. This Scheme intends to prohibit those who are currently incarcerated from accessing the scheme. CLAN believes ALL Care Leavers in Prison must be able to apply, as their support systems are no different to when the Royal Commission went through.
- By not providing Redress to all Care Leavers who have been in prison, it is just as incriminating as the abuse they suffered at the hands of the system.
- SOME of the responsibility of why Care Leavers ended up in prison could be alluded as outcomes of Care experiences. Whilst not suggesting that these crimes are justifiable, we conclude that these criminal behaviours may or may not have occurred if they didn’t suffer abuse and mistreatment in the Care system.
- Those who neglected and didn’t Care for children appropriately must be held responsible, even if it results to a reduced monetary payment for Care Leavers who fall in this category. They were once a victim, later a perpetrator, we must respect that they too were young once, and abused.
- As stated in the explanatory memorandum, This scheme is to be supportive, survivor-focused and avoid re-traumatisation. If those who

have been in prison are excluded, the scheme will fail to meet these expectations.

If they were held responsible for their crimes, why should the Child Welfare System get away with it?

“I’m in prison, and there are many of us victims of abuse by the system, yet I feel that we are out of sight, out of mind, and forgotten. There truly is *NO* support for us in here.”

“I started to live on the streets, and couldn’t trust anyone at all. To survive I would rob and cheat people to make money. I started going to juvenile prisons, and then gaol itself, and now I am in for murdering a paedophile. I realise I did the wrong thing, life didn’t go the way I wanted it to.”

- Financial Counselling

- It is vital Care Leavers receiving Redress have access to financial counselling if they wish.
- Large sums of money will be a foreign feeling. Ensuring Care Leavers don’t feel further guilt and shame, it is very important they are educated on the best ways to spend their money and receive assistance to make those decisions if they would like the assistance.
- Advice should be given to Care Leavers in early literature about the scheme including an opportunity to meet with a scheme-provided financial support worker to assist them, e.g. identify goals for payment, any vulnerabilities that may divert the payment away from their goals and protective measures.
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- Monetary Payment

- If an applicant declines an offer they deem too minimal, they are left with limited options. CLAN is concerned with the only option being an internal review. Internal reviews can be ineffective and sometimes biased. CLAN would like to see the alternative of an external review.

- CLAN questions the maximum payment of UP TO \$150,000 as a recognition payment. The intention of this scheme is to create an alternate method, less intrusive than a civil claim. This causes further risk and harm to Care Leavers, as the Royal Commission suggested up to \$200,000 to recognise the sexual abuse suffered.
- \$150,000 is insulting to Care Leavers, and does not reflect the long term legacy of abuse that Care Leavers carry.
- CLAN has seen many Care Leavers receive monetary payments of over \$200,000 through civil claims. The aim of the Redress Scheme is to be more viable and less traumatising, with a payment which truly recognises and alleviates their pain. Thus, many Care Leavers may choose to take the civil path considering the amount is capped to \$150,000. This Redress scheme must provide adequate justice for Care Leavers, and a maximum amount of \$150,000, is just not enough.
- Concerns with the calculation of a suitable amount to a survivor is evident in the Assessment Matrix. Abuse impacts different people in different ways, and if a 'hierarchy of abuse' Matrix is used, it is extremely simplistic, paternalistic, judgmental, and inaccurate, likely resulting in injustice and harm to Care Leavers. Different people have different innate resilience, or different background circumstances defining the context within which the abuse then occurs, that can shape the impact of that abuse upon the individual.

- Counselling

- The Bill mentions counselling being available throughout the duration of the scheme only. This is not suitable enough. If Redress was accessed in the last year of the scheme in 2028, this will limit their access to adequate counselling as it would cease once the Scheme is complete. Building rapport with a counsellor can be a timely process due to the many internal trust issues formed over years of being subjected to abuse.
- \$5000 is not a suitable amount for lifelong counselling. The effects of abuse do not just exist for the life of the scheme, they last a life time. Counselling must not be a fixed limit of \$5000.

- Indexation

- The idea of indexation must be abolished. Care Leavers don't deserve further disappointment because this scheme has been so long awaited.
- Has the Queensland Government agreed to this injustice by adopting the legislation as it stands?
- Furthermore, there is no clarification surrounding how the indexing will work if the scheme takes longer to process an application. If a Care Leaver puts in a claim this year, however it is not assessed until next, will another year of indexing be added to their payment?

- Prior Payments

- When deducting the prior payments that Care Leavers have received from an institution, it must be ONLY the amount deducted that they received in the pocket, not the inclusion of the amount the lawyers received.
- This has the potential to exclude a significant number of Care Leavers in an unjust manner and contrary to the policy objective of the bill to 'deliver justice'.
- By taking the 'grossed' amount of lawyers' fees and Medicare reimbursements, the Scheme becomes 'institution focused' as it would be focused on what the institution paid rather than what the survivor received.
- Care Leavers were only obliged to engage lawyers and in expensive litigation as a result of the misconduct of the institution in the first place, and the delay and concerns of a Redress Scheme never existing.

- Applications

- CLAN is also concerned about the responsibility that participating institutions will have. Once an institution has committed to the scheme, we question if they can retract their involvement at any point during the scheme. Again, Care Leavers may be feeling re-traumatised, as they may be waiting for one institution to opt in before applying, and consequently miss out on both.
- Applications must be restricted to a 6-month time limit for assessment. Care Leavers have waited long enough.

- We are yet to see on the forms an indicative box allowing an application to be 'fast tracked' due to special circumstances.
- The Bill discriminates against survivors in rural/remote locations, indigenous communities and those in unstable housing situations by imposing unnecessary and draconian time limits to respond to requests for information, respond to the assessment offer, request a review etc. There must be longer time limits for these individuals to respond.

- Training

- This scheme must be Care Leaver-informed. It is vital that those who are involved in the scheme have a detailed knowledge and understanding of Care Leaver issues and their histories. Many support workers and counsellors claim to be trauma-informed but know nothing about Care Leavers and their experiences. What training has been provided to those working as a part of this scheme? Care Leavers have many in depth issues that must be understood, as they have suffered trauma upon trauma and often face a loss of identity. The scheme must adopt a Care Leaver – informed approach, as without this, we are certain the scheme will not be as effective and may cause more distress to Care Leavers.

- Miscellaneous

- We note that within the Bill it mentions the details of those that are eligible to receive redress. We are aware of a small discrepancy within the definition of a child. For a small number of Care Leavers, they were kept within the Care or Wardship of a state until 21. The definition of a 'child' in the Bill states a person under 18 years old.
- CLAN has the knowledge of Care Leaver experiences who were abused from 18 through to 21 years of age whilst still considered in Care. We raise the issue in the hope that those institutions who are still considered responsible for Care Leavers abuse histories are held accountable.
- Reassurance that Foster Care will be included in this scheme, unlike the prior Forde Inquiry.

- Push for legislation to be passed at a much faster rate. Care Leavers are dying. Many won't live another few years.
- The Direct Personal Response and Counselling MUST also be offered to families along with the Monetary payment if a person dies after their application has been submitted. Families also suffered the after effects of Care.
- 'Assessment Framework' and 'Assessment Framework Policy Guidelines' should be made available for public scrutiny and feedback.

We again commend the Queensland Government for taking place in the Redress Scheme which will hopefully allow Care Leavers who have survived horrific childhood abuse, to feel heard, recognised, and most importantly receive justice.

CLAN hopes this scheme will provide many Care Leavers with the justice they deserve and alleviate the impact that abuse has had on their lives. We commend the Queensland government for adopting a scheme that has the intention of being trauma-informed, but are adamant that they must also be Care Leaver informed.

For many, this will be a less invasive process than taking civil action, if our concerns outlined in this paper are modified. CLAN will continue to advocate and be the voice for Care Leavers who require our support or are no longer with us.

We thank Queensland for allowing us to provide our input in to this major milestone in Care Leavers lives.



Stop Taxing the Poorest of Abuse Victims

Care Leavers

Dear My Federal Politician

I am a member of CLAN – Care Leavers Australasia Network. CLAN is a national, independent, peak membership body which represents and advocates for people who were raised in Australian and New Zealand Orphanages, Children's Homes, Missions and Foster Care.

The National Redress scheme is due to commence on the 1st July. We commend the Liberal Government for introducing National Redress for those sexually abused in Orphanages, Children's Homes, Missions and Foster Care.

However, there are many Care Leavers who will be extremely depressed, angry and hurt on the 1st of July

- Because they were not sexually used/abused in an Orphanage, Children's Home, Mission, Foster Care, but like the Manus Island Refugees suffered great cruelty and brutal, physical and psychological damage as children.
- Those Care Leavers who have received as little as \$2,000 Redress from the Queensland, Western Australian and Tasmanian Governments Redress schemes will now be taxed on those payments at 1.9% per annum. None of these Care Leavers ever expected the Government to tax those paltry amounts decades later.

This is like robbing the poorest of the abuse victims, the Government's children.

- The Royal Commission listened to over 800 prisoners who were abused as children. Everyone who suffered a crime of being sexually abused as a child should be entitled to Redress, Apology and Counselling.
- The Prime Minister plans on issuing an Apology on behalf of the nation, this will be a hollow Apology when so many Care Leavers will be excluded, and re-abused and re-traumatized by this unjust Redress Scheme.

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Name:

Address:



**INDEXING THE
POOREST OF
ABUSE VICTIMS
CARE LEAVERS**