



## **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.**

November 2018

Submission to the Legal Affairs and Community Safety Committee;

A response to the Berkman Bill and Government Bill,

*"Civil Liability (Institutional Child Abuse) Amendment Bill 2018".*

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, support and advocacy for the National Redress Scheme, support at the Royal Commission, the Senate Inquiry, searching for family and graves, counselling, casework, records, and publishing Care Leavers stories in the national newsletter.

CLAN thanks the Legal Affairs and Community Safety Committee for the opportunity to respond to the below questions regarding the Berkman Bill.

1. Do you support equality of access to justice for victims of all forms of abuse and, consequently, should the reforms apply to victims of "serious physical" and "connected other" abuse, not only "sexual" abuse?

CLAN has and ALWAYS will continue to advocate for all forms of abuse.

There is more than one way to harm a child.

The Berkman Bill responds to the need for serious physical abuse and 'connected other' abuse, unlike the Government Bill. CLAN has supported Care Leavers for well over 18 years, and truly understands the impact that other forms of abuse have had on Care Leavers. To assume justice for other forms of abuse is unworthy of being recognised is completely unreasonable.

Care Leavers have often expressed how the psychological, physical abuse and neglect, was far more damaging than the sexual abuse. Other forms of abuse occurred DAILY for many Care Leavers.

"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!"

"The sexual abuse I suffered was horrific, but nothing compared to the psychological abuse. I still carry the scars, though they may not be visible."

Quotes taken from CLAN's Surveys and CLAN members messages to the Nations Leaders.

These children were kept against their will – many for their entire childhoods; starved, beaten, locked up and stripped of their human rights, dignity, families and their identity. Not all children in institutions were sexually abused, but all of them were harmed emotional and psychologically, and have lived their lives as damaged adults.

It is unjust to assume other forms of abuse are insignificant. Care Leavers have lobbied for many years to have their voices heard regarding the crimes committed against them.

The definition of child abuse in the bill MUST be altered to include all forms of abuse.

## 2. Should the duty of institutions be retrospective (as in WA) to ensure equality of access to justice for victims of past and future abuse?

CLAN feels very strongly about the duty of institutions being retrospective. Care Leaver are survivors of past abuse, no matter the time that lapses they also deserve justice and equality. This provides us with the opportunity to right the wrongs that Care Leavers have suffered and been unrecognised for many years.

CLAN is very supportive of the Berkman Bill as the reforms apply to child abuse that has occurred in the past, whereas the Government bill will only apply to future instances of child abuse. If the Berkman Bill is not adhered to, once the Government bill is passed, all Care Leavers who have already been abused will not be covered.

Care Leavers human rights are long over due to be respected. The Government again excludes the voices of Care Leavers, CLAN questions if anything has been learnt from the Royal Commission.

## 3. Should the ability to make associated trusts liable be applied equally to 'incorporated' institutions and 'unincorporated' institutions?

CLAN believes the ability to make associated trusts liable, be applied to both incorporated and unincorporated institutions.

CLAN has advocated for all Care Leavers that have suffered abuse by the Governments, Churches and Charities. If we follow the Governments bill to include

only incorporated entities, many unincorporated institutions may slip through the cracks.

## Conclusion

Overall CLAN is supportive of the Berkman Bill, and wishes to see urgent changes within the Government Bill. These changes are in the best interest of Care Leavers, a very under-supported group which need recognition in terms of:

- ALL forms of abuse and neglect being acknowledged,
- Retrospective laws that encompass Care Leavers historical abuse histories,
- Liability of associated trusts of unincorporated and incorporated entities and,
- Changing the definition of child abuse

Thank you for taking the time to read our submission.